



सत्यमेव जयते

**POWERS, PRIVILEGES AND IMMUNITIES OF HOUSES,  
THEIR COMMITTEES AND MEMBERS &  
PRIVILEGE ISSUES SETTLED  
BY  
COMMITTEE OF PRIVILEGES**

**ASSAM LEGISLATIVE ASSEMBLY**

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OF HOUSES, THEIR COMMITTEES  
AND MEMBERS & PRIVILEGE  
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Assam Legislative Assembly.**

## **PREFACE TO THE SECOND EDITION**

During the 11<sup>th</sup> Assam Legislative Assembly, this Secretariat has published a book under the title “Powers Privileges and Immunities of House, their Committees and Members & Privilege issue settled by Committee of Privileges, Assam Legislative Assembly.”

In this book as many as 38th numbers of Reports of Privilege Committee of Assam Legislative Assembly have been included. Besides these Reports, some important Rules of Procedure and Conduct of Business in Assam Legislative Assembly, Lok Sabha, Rajya Sabha and also constitutional provisions relating to Privilege and immunities to members are incorporated in this volume. Topics like privilege, power of the House to punish for breach of privilege or contempt and commit to custody and prison are also included in this volume. Moreover, some important cases of Privilege of the Court are also included.

After the publication of the report two more privilege reports have been presented in the House. These two reports i.e. 39<sup>th</sup> and 40<sup>th</sup> reports have been included in this Second Edition of the book. It may be stated that this volume will now cover all the privilege reports that have been settled by the Committee of Privilege, Assam Legislative Assembly since inception of Assam Legislative Assembly upto 11<sup>th</sup> Assam Legislative Assembly.

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Secretary,  
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## **POWERS, PRIVILEGES AND IMMUNITIES OF HOUSES, THEIR COMMITTEES AND MEMBERS.**

In Parliamentary language the term privilege applies to certain rights and immunities enjoyed by each House of Parliament and Committees of each House collectively, and by members of each House individually. The object of Parliamentary privilege is to safeguard the freedom, the authority and the dignity of Parliament. Privileges are necessary for the proper exercise of the functions entrusted to Parliament by the Constitution. They are enjoyed by individual members, because the House cannot perform its functions without unimpeded use of the services of its members ; and by each House collectively for the protection of its members and the vindication of its own authority and dignity.

In modern times, parliamentary privilege has to be viewed from a different angle than in the earlier days of the struggle of Parliament against the executive authority. Privilege at that time was regarded as a protection of the members of Parliament against an executive authority not responsible to Parliament. The entire background in which privileges of parliament are not viewed has changed because the Executive is now responsible to Parliament. The foundation upon which they rest is the maintenance of the dignity and independence of the House and of its members.

In interpreting these privileges, therefore regard must be had to the general principle that the privileges of Parliament are granted

to members in order that **“they may be able to perform their duties in Parliament without let or hindrance.”** They apply to individual members “only insofar as they are necessary in order that the House may freely perform its functions. They do not discharge the member from the obligations to society which apply to him as much and perhaps more closely in that capacity, as they apply to other subjects.” Privileges of Parliament do not place a member of Parliament on a footing different from that of an ordinary citizen in the matter of the application of laws unless there are good and sufficient reasons in the interest of Parliament itself to do so.

The fundamental principle is that all citizens, including members of Parliament, have to be treated equally in the eye of the law. Unless so specified in the Constitution or in any law, a member of Parliament cannot claim any privileges higher than those enjoyed by any ordinary citizen in the matter of the application of law.

When any individual or authority disregards or attacks any of the privileges, right and immunities, either of the members individually or of the House in its collective capacity or of its committees, the offence is termed a breach of Privilege, and is any specific privilege. Such actions, though often called ‘breaches of Privilege’, are more properly distinguished as ‘contempts.

Each House is the guardian of its own privileges; it is not only the sole judge of any matter that may arise which in any way infringes upon those privileges but can, if it deems it advisable, punish, either by imprisonment or reprimand, any person whom it considers to be guilty of contempt. The penal jurisdiction of the House is not confined to its own members nor to offences committed in its immediate presence, but extends to all contempt’s of the House, whether committed by members or by persons who are not members,

irrespective of whether the offence is committed within the House or beyond its walls.

The power of the House to punish any person who commits a contempt of the House or a breach of any of its privileges is the most important privilege. It is this power that gives reality to the privileges of Parliament and emphasises its sovereign character so far as the protection of its rights and the maintenance of its dignity are concerned.

## 2. MAIN PRIVILEGES OF PARLIAMENT/STATE LEGISLATURE :

Some of the privileges of Parliament and of its members and committees are specified in the Constitution, certain statutes and the Rules of Procedure of the House, while others continue to be based on precedents of the British House of Commons and on conventions which have grown in this country.

Some of the more important of these privileges are :

### Privileges specified in the Constitution

#### Freedom of Speech in Parliament :

Immunity to a member from any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof :

Immunity to a person from proceedings in any court in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings :

Prohibition on the courts or inquire into proceedings of Parliament :

Immunity to a person from any proceedings, civil or criminal, in any court in respect of the publication in 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. This immunity is also available in relation to reports or matters broadcast by means of wireless telegraphy.

These privileges are mentioned in Art. 105 and Art. 194 of the constitution of India.

**(i) Art 105 :**

Power, privileges and immunities of Parliament and its Members and Committees thereof.

1. Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.
2. 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, 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.
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 that House and of its members and committees immediately before the coming into force of section 15 of the Constitution. (Forty-fourth Amendment Act, 1978.)
4. The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of a

House of Parliament or any committee thereof as they apply in relation to members of Parliament.

**(ii) Art. 194.**

Power, Privileges, etc. of the House of Legislatures and of the members and committees thereof :

1. Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State.
2. 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.
3. In other respects, the powers, privileges and immunities of a House of the Legislature of 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 that House and of its members and committees immediately before the coming into force of section 26 of the Constitution forty-fourth Amendment) (Act, 1978).
4. The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in and otherwise to take part in the proceedings of a House of the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature.

In *Kihoto Hollohow Vs Zachilla* (Nagaland case) AIR 1993 SC.412(CB) it was held that the provision of Tenth Schedule para 2 are not violative of Art 105 (1) or 194 (1).

**(iii) Art. 88 :**

Right of Ministers and Attorney-General as respects House :  
Every Minister and the Attorney-General of India shall have the right to speak in and otherwise to take part in the proceedings of either House any joint sitting of the House and any committee of Parliament of which he may be named a member but shall not by virtue of this article be entitled to vote.

**(iv) Art.361 (A)**

(Inserted by the Constitution, forty-fourth Amendment Act.1978)

1. 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 or the Legislative Assembly or as the case may be, either House of the Legislature of a State unless the publication is proved to have been made with malice :

Provided that nothing in this clause shall apply to the publication of any report of the proceedings of a secret sitting of either House of Parliament or the Legislative Assembly or as the case may be either House of the Legislature of a State.

2. Clause (1) shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station as it applies in relation to reports or matters published in a newspaper.

**3. RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN ASSAM LEGISLATIVE ASSEMBLY**

Intimation to Speaker of arrest, detention etc. and release of a member.

**(i) Rule : 177**

When a member is arrested on criminal charge or for a criminal offence or is sentenced to imprisonment by a court or detained under an executive order the committing judge, magistrate or executive authority, as the case may be shall immediately intimate such fact to the Speaker indicating the reason for the arrest, detention or conviction as the case may be as also the place of detention or imprisonment of the member in the appropriate form set out in the Third Schedule.

**(ii) Rule : 178**

When a member is arrested and after conviction released on bail pending an appeal or therewith released, such fact shall also be intimated to the Speaker by the authority concerned in the appropriate form set out in the Third Schedule.

**(iii) Rule : 179.**

As soon as may be the Speaker shall after he has received a communication referred in rule 177 or rule 178 read it out in the House if in Session, or if the House is not in Session direct that it may be circulated for the information of the members :

Provided that if the intimation of the release of a member either on bail or by discharge on appeal is received before the House has been informed of the original arrest, the fact of his arrest as well as or his subsequent release or discharge shall be intimated to the House by the Speaker.



**PROCEDURE REGARDING SERVICE OF A LEGAL PROCESS AND ARREST WITHIN THE PRECINCTS OF THE ASSEMBLY.**

- (iv) **Rule 180** : No arrest shall be made within the precincts of the House without obtaining the permission of the Speaker.
- (v) **Rule 181** : A legal process, civil or criminal shall not be served within the precincts of the House without the permission of the Speaker.

**PRIVILEGE OF FREEDOM OF SPEECH AND IMMUNITY FROM PROCEEDINGS CONSTITUTIONAL PROVISIONS (A) Art. 105 (1) AND (2) (B) Art. 194.**

This privilege was expressly granted to the member of the Indian Legislature for the first time under the Montague-Chelmsford reforms and given statutory recognition. There under, a member of the Legislature had the immunity from any proceedings in any court in respect of his "Speech or Vote" in either Chamber of Indian Legislature. In the Government of India Act, 1935, both as originally enacted and as adopted, and subsequently in the Constitution, the position was stated beyond doubt by using the words "anything said or any vote given".

**In Tej Kiran Jain Vs. N. Sanjiva Reddy (AIR 1970 SC.1573) it was held :**

The article confirm immunity inter alia in respect of "anything said in Parliament" the word 'anything' is of the widest import and is equivalent to "everything". The only limitation arises from the words "in Parliament" which means during the sitting of Parliament and in the course of Business of Parliament. Once it is proved that Parliament was sitting and its business was being transacted, anything said during

the course of that business was immune from proceedings in any Court. What they say is only subject to the discipline of the rules of Parliament, the good sense of the members and the control of proceedings by the Speaker. The Courts have no say in the matter and should really have none.

**Interpreting clause (1) of Article 194, the Supreme Court held in Searchlight Case (AIR 1959 SC 395 op cit).**

The words 'regulating the procedure of the Legislature' occurring in (1) of Art. 194 should be read as governing both 'the provision of the Constitution' and the rules and standing orders. So read, freedom of speech in the Legislature becomes subject to the provisions of the Constitution regulating the procedure of the Legislature, that is to say, subject to the articles relating to Procedure in Part VI, including Arts. 208 and 211 ; just as freedom of speech in Parliament under article 105 (1), on a similar construction will become subject to the articles relating to procedure in Part V, including articles 118 and 121.

"For his speech and action in parliament a member is subject only to the discipline of the House itself and no proceedings, Civil or Criminal, can be instituted against him in any court in respect of the same".

(as held by Supreme Court in M.S.M. Sarma- VS- Krishna Sinha AIR 1959 SC 395 Searchlight case):

Absolute Privilege has been given in respect of anything said or any vote given in parliament or a committee thereof so that members may not be afraid to speak out their minds and freely express their views. Members are, therefore, completely protected from any proceedings in any court even though the words uttered by them in the House may be false and malicious to their knowledge.

Though a speech delivered by a member in the House may amount to contempt of court, no action can be taken against him in a court of law as speeches made in the House are privileged. Anything said or done in the House is a matter to be dealt with by the House itself. On the same principle, Proceedings for breach of privilege have not been allowed in the Lok Sabha in respect of a speech, allegedly casting reflections on members of Parliament, delivered by a member of a State Legislative Assembly in that Assembly.

**4. Protection of Witnesses etc. Concerned in Proceedings in Parliament :**

Witness, Petitioners and their counsel, who appear before any House or any Committee thereof are protected under article 105 (3) from suits and molestation in respect of what they say in the House or a committee thereof. This privilege may be regarded as an extension of the privilege of freedom of speech of the House as its purpose is to ensure that information is given to the House freely and without interference from outside.

Any molestation of or threats against persons who have given evidence before any committee thereof on account of what they may have said in their evidence, is treated by the House as a breach of Privilege.

It is also a contempt of House to molest any petitioner or counsel on account of his having preferred a petition to the House or in respect of his conduct while discharging his professional duties as a counsel.

Similarly, the bringing of legal proceedings against any person on account of any evidence which he may have given in the course of any proceedings in the House or in a Committee thereof, is treated by the House as a breach of Privilege. Moreover and action for

slander based on statement made in evidence before a committee of the House will not be entertained by the courts.

**5. Right to Exclude Strangers :**

Each House has the right to exclude strangers and the debate within close doors. The right flows as a necessary corollary to the privilege of freedom of speech as it enables the House to obtain when necessary such privacy as may secure freedom of debate.

**Rule 188. (1) (Rules of Procedure and Conduct of Business in Assam Legislative Assembly.)**

On a request being made for a secret sitting of the Assembly by any member, the Speaker in consultation with the Leader of the House will decide necessity of such a sitting and if it is so decided fix a day or part thereof for sitting of the Assembly in secret.

2. When the Assembly sits in secret to stranger shall be permitted to be present in the chamber, Lobby or Galleries :

Provided that persons authorized by the speaker may be present in the chamber, Lobby or Galleries.

**Rule 189 :** The speaker may cause a report of the proceedings of a secret sitting to be issued in such manner as he thinks fit, but no other person present shall keep a note or record of any proceedings or decision of a secret sitting whether in part or full or issue any report of or purport to describe such proceedings.

As observed by **Supreme Court in M.S.M. Sharma-VS-Sri Krishna Sinha (Searchlight Case) AIR 1959 SC 395** it was observed : the freedom of speech claimed by the House (House of Commons) and granted by the Crown is, when necessary, ensured by the secrecy of the debate in its turn is protected by prohibiting publication of the debates and proceedings as well as by excluding strangers from the House. This right (to exclude strangers) was

exercised in 1923 and again as late as on 18 November, 1958. This shows that there has been no diminution in the eagerness of the House of Commons to protect itself by secrecy of debate by excluding strangers from the House when any occasion arises.

The object of excluding strangers is to prevent the publication of the debates and proceedings in the House.

#### **6. Right to Control Publication of Proceedings :**

The publication of report of debates or proceedings of parliament is subject to the control of the respective House which has the right to prohibit the publication of its proceedings. In this regard the **Supreme Court, inter alia observed (Searchlight case) :**

“Our Constitution clearly provides that until Parliament or the State Legislature, as the case may be makes a law defining the powers, privileges and immunities of the House, its members and committees, they shall have all the powers, privileges and immunities of the House of Commons as at the date of the commencement of our Constitution and yet to deny them those powers, privileges and immunities after finding that the House of Commons had them at the relevant time, will be not to interpret the Constitution but to remake it.”

Publication by any person in a newspaper of a substantially true report of any proceedings of either House of Parliament is protected under the Constitution from civil or criminal proceedings in court unless the statutory protection has also been given by the Parliamentary Proceedings (Protection of Publication) Act, 1977, to publication in newspapers or broadcasts by wireless telegraphy, of substantially true reports of proceedings in Parliament.

If a member publishes his own speech made in the House separately from the rest of the debate, it becomes a separate

publication unconnected with the proceedings in the House, and the member publishing it becomes responsible for any libellous matter contained therein under the ordinary law of the land.

#### **7. Right of each House to be the sole judge of the Lawfulness of its own proceedings :**

##### **Art.212 :**

##### **Court not to inquire into proceedings of the Legislature :**

- (1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.
2. No officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business or for maintaining order in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

##### **Scope**

Article 212 precludes the court from

- (a) interfering with the presentation of a Bill for assent to the Governor on the found of non-compliance with the procedure for passing Bills or from ;
- (b) otherwise questioning Bills passed by the House. Undermentioned cases may be seen :-
  - (i) Ramchandra V Andhra Pradesh Regional Committees AIR 1965 AP 305.
  - (ii) State of Bihar V Kameswhar Singh, AIR 1952 SC 252.
  - (iii) Indira V Raj Narain AIR 1975 SC 2299.
  - (iv) Jai Singh V State of Haryana AIR 1970 P & H 379

In Kihoto Hollohon VS Zachihu, Supreme Court held :

Proceedings inside the Legislature cannot be called into question on the ground that they have not been carried on in accordance with the rules of business.”

It was held in Raj Narain Singh VS Atmaram Gobind Kher (AIR 1954, Allahahade 319)

“It is well known that no writ, direction or order restraining the Speaker, from allowing a particular question to be discussed or interfering with the legislative processes of either House of the Legislature or interfering with the freedom of discussion or expression of opinion in either House can be entertained.”

The validity of any proceedings in Parliament cannot be called in question in any court on the ground of any alleged irregularity of procedure. No officer or member of Parliament in whom powers are vested for regulating the procedure or the conduct of business or for maintaining order in Parliament is subject to the jurisdiction of any court in respect of the exercise by him of those powers.

**The Allahabad High Court in this regard held :-**

“The court is not in any sense whatsoever a court of appeal or revision against the Legislature or against the ruling of the Speaker who as the holder of an office of the highest distinction has the sole responsibility cast upon him of maintaining the prestige and dignity of the House.

The Court has no jurisdiction to issue a writ, direction or order relating to a matter which affected the internal affairs of the House.”

**However, the Kerala High Court have, in their full Bench decision held :-**

“The immunity envisaged in article 212 (1) of the Constitution is restricted to a case where the complaint is no more than that the

procedure was irregular. If the impugned proceedings are challenged as illegal or unconstitutional such proceedings would be open to scrutiny in a court of law. (Raj Narain Singh VS Atmaram Govind Kher AIR 1959, Allahabad 319).

**8. Right of the House to punish its Members for their Conduct in Parliament :-**

Each House has the power to punish its Members for disorderly conduct and other contempt's committed in the House while it is sitting. This power is vested in the House by virtue of its right to exclusive cognizance of matters arising within the House and “to regulate its own internal concerns”.

It has been observed by the Allahabad High Court that “a Legislative Assembly would not be able to discharge the high functions entrusted to properly, if it had no power to punish offenders against breaches of its privileges, to impose disciplinary regulations upon its members or to enforce obedience to its commands.”

Again in a case which related to an action for contempt of court arising out of a speech delivered in the Orissa Legislative Assembly, the Orissa High Court held that “anything said or done in the House is a matter to be dealt with by the House itself” and that the Legislature or the Speaker had the power “to take suitable action against a member who, while exercising his freedom of speech under clause (1) of art. 194 transgresses the limits laid down in that clause.”

The Speaker, who preserves order in the House, has “all powers necessary for the purpose of enforcing his decisions”. The disciplinary powers of the speaker and the House are partly embodied in the rules which provide for the withdrawal or suspension of any member whose conduct is grossly disorderly or who disregards the authority of the Chair of abuses the rule of the House by persistently and willfully obstructing its business.

In a writ petition filed by some member of the Haryana Vidhan Sabha, the High Court of Punjab and Haryana observed inter alia.

That the power of the Speaker to regulate the procedure and Conduct of Business could not be questioned by the court and it was not competent to inquire into the procedural irregularities of the House.

### **9. Proceedings in Parliament**

The term "Proceedings in Parliament" or the words "anything said in Parliament" have not so far been expressly defined by courts of law. However, as technical term, these words have been widely interpreted to mean any formal action, usually a decision taken by the House in its collective capacity, including the forms of business in which the House takes action, and in the whole process, the principal part of which is debate, by which it reaches a decision. The term thus connotes more than mere speeches and debates.

The term "Proceedings in Parliament" covers both the asking of a question and the giving of written notice of such question, motion, Bill or any other matter and includes everything said or done by a member in the exercise of his function as a member in a committee of either House as well as everything said or done in either House in the transaction of parliamentary business.

**In this connection, the Orissa High Court, inter alia, observed :**

It seems thus a settled parliamentary usage that "Proceedings in Parliament" are not limited to the proceedings during the actual session of Parliament but also include some preliminary steps such as giving notice of questions or notice of resolutions, etc. Presumably, this extended connotation of the said term is based on the idea that when notice of a question is given and the Speaker allows or disallows

the same, of a nationally it should be deemed that the questions were actually asked in the session of Parliament and allowed or disallowed as the case may be.

Under the Constitution as already stated, the validity of any proceedings in parliament cannot be called in question on the ground of any alleged irregularity of procedure.

### **10. Evidence in Courts Regarding Proceedings in Parliament :**

**Constitutional Provision :-**

**Art. 122 :**

**Courts not to inquire into proceedings of Parliament :-**

- (1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.
- (2) No officer or member of parliament in whom powers are vested by or under this constitution for regulating procedure or the conduct of business or for maintaining order, in parliament shall be subject of the jurisdiction of any court in respect of the exercise by him of those powers.

Leave of the House in necessary for giving evidence in a court of law in respect of the proceedings in that House or committees thereof or for production of any document connected with the proceedings of that House or Committees thereof or in the custody of the Officers of that House. According to the First Report of the Committee of Privileges of the Second Lok Sabha," no member or officer of the House should give evidence in a court of law in respect of any proceedings of the House or any Committees of the House or any other document connected with the proceedings of the House

or in the custody of the Secretary-General without the leave of the House being first obtained”.

When the House is not in session, the Speaker may, in emergent cases, allow the production of relevant documents in courts of law in order to prevent delays in the administration of justice and inform the House accordingly of the fact when it reassembles or through the Bulletin. However, in case the matter involves any question of privilege, especially the privilege of a witness, or in case the production of the document appears to him to be a subject for the discretion of the House itself, the Speaker may decline to grant the required permission without leave of the House.

Whenever any document relating to the proceedings of the House or any committee thereof is required to be produced in a court of law, the court or the parties to the legal proceedings have to request the House stating precisely the documents required, the purpose for which they are required and the date by which they are required. It has also to be specifically stated in each case whether only a certified copy of the document should be sent or an officer of the House should produce it before the court.

In pursuance of the above recommendations of the Committee of Privileges and the discussion in the House thereon, the **Government of India requested all States to discuss the matter with the Chief Justices of their respective High Courts for issue of suitable directions on the following points :**

- (i) That when parliamentary records are required to be produced before courts of law, a proper form of address should be adopted.
- (ii) That in most cases it would be sufficient to call for only the certified copies of the documents, at any rate in the

first instance, and that the original documents might be called for at a later stage if the parties insisted upon their strict proof.

- (iii) That the courts should bear in mind the provisions of section 78 (2) of the Indian Evidence Act, 1872, under which proceedings of the Legislature can be proved by the production of the authorised parliamentary publications and ensure that Parliament is troubled only when unpublished documents in its custody are required in evidence.

A special form of letter of request is prescribed for use by the courts of law while requesting the House for the production of parliamentary records or for oral evidence of officers of the House in the Courts.

When request is received during a session of the Lok Sabha for producing in a court of law document connected with the proceedings of the House or Committees thereof or a document which is in the custody of the Secretary-General, the case is referred by the Speaker to the Committee of privileges. On a report from the Committee to the effect that the House agrees with the report, and further action is taken in accordance with the decision of the House.

#### **11. Typical Cases of Breach of Privilege and Contempt of the House :**

The power possessed by each House of Parliament and a House of the Legislature of a State to punish for contempt or breach of privilege is a general power of committing for contempt analogous to that possessed by the superior courts and is in its nature discretionary. It is not possible to enumerate every act which might

constitute a contempt of the House. However, some typical cases of breach of privilege and contempt are described below :

**(A) MISCONDUCT IN THE PRESENCE OF THE HOUSE OR COMMITTEES THEREOF**

**Disrespect to the House collectively is the original and fundamental form of breach of privilege**, and almost all breaches can be reduced to it. Any misconduct in the presence of the House or a Committee thereof, whether by members of Parliament or by members of the Public who have been admitted to the galleries of the House or to sittings of Committee as witnesses, will constitute a contempt of the House. Such misconduct may be defined as a disorderly, contumacious, disrespectful or contemptuous behaviour in the presence of the House.

Some typical instances of **misconduct on the part of strangers and witnesses** in the presence of the House or Committee thereof, which have been treated as constituting contempt of the House, are –

- (i) **Interrupting or disturbing** the proceedings of the House or of Committees thereof.
- (ii) **Impersonating** as a member of the House and taking the oath.
- (iii) **Serving or executing a civil or criminal process** within the precincts of the House while the House or a Committee thereof is sitting, without obtaining the leave of the House ;
- (iv) Refusal by a witness to make an **oath or affirmation** before a committee.
- (v) **Refusal by a witness to answer questions** put by a committee and refusal to produce documents in his possession.

(vi) **Prevaricating, giving false evidence, or wilfully suppressing truth** or persistently misleading a Committee ; and

(vii) Trifling with a committee, returning insulting answers to a committee or appearing in a state of intoxication before a committee.

**(B) Disobedience of orders of the House or its Committee:**

Disobedience to the orders of the House, whether such orders are of general application or require a particular individual to do or abstain from doing a particular act is a contempt of the House. Disobedience to the orders of a Committee of the House is treated as a contempt of the House itself, provided the order disobeyed is within the scope of the Committee's authority. To prevent delay, obstruct or interfere with the execution of the order of the House or a Committee thereof is also a contempt of the House. Examples of contempt are –

- (i) Refusal or neglect of a witness or any other person, summoned to attend the House or a Committee thereof to attend ;
- (ii) Neglecting or refusing to withdraw from the House when directed to do so ;
- (iii) Any stranger who does not withdraw when strangers are directed to withdraw by the Speaker while the House is sitting may be removed from the precincts of the House or be taken into custody.
- (iv) Disclosure of proceedings or decisions of a secret sitting of the House in any manner.
- (v) Disobedience to orders for the production before Committee, of papers or other documents ;

- (vi) Absconding in order to avoid being served with a summons to attend the House or a Committee thereof ;
- (vii) Offering to give money or a situation of profit to a person for him to procure a letter in the possession of another person which the latter had been required to produce before a Committee ;
- (viii) Endeavouring to persuade or induce a person to procure from another person a letter which such person had been required to produce before a Committee.

**(C) PRESENTING FALSE, FORGED OR FABRICATED DOCUMENTS TO THE HOUSE OR ITS COMMITTEE**

It is a breach of privilege and contempt of the House to present false, forged or fabricated documents to either House or to a committee thereof with a view to deceiving them. The necessary or preventing the production before the House of false or fabricated documents was emphasised by **Speaker Mavalankar in the Sinha Case** when he stated in Lok Sabha it is necessary in the first instance to examine the genuineness or otherwise of the documents laid on the Table of the House by Dr. Sinha such an examination is necessary to prevent the production before the House of any documents which are not genuine or are fabricated and to see that no member misleads intentionally or unintentionally any section of the House by referring to or placing on the Table of the House Documents which are not genuine and are ultimately found to be forged or fabricated.”

**(D) TEMPERING WITH DOCUMENTS PRESENTED TO THE HOUSE OR ITS COMMITTEES.**

It is a contempt of the House to abstract any document from

the custody of the Secretary-General or to tamper with documents presented to the House or Committee thereof.

**(E) SPEECHES OR WRITINGS REFLECTING ON THE HOUSE, ITS COMMITTEES OR MEMBERS.**

It is a breach of Privilege and contempt of the House to make speeches or to print or publish any libels, reflecting on the character or proceedings of the House or its Committees or any member of the House for or relating to his character or conduct as a member of Parliament.

Approaching an outsider against any decision of the House is tantamount to a reflection on the decision of the House and consequently a contempt of the House. If a member is not satisfied with a decision of the House, the proper course for him is to move the House itself to rescind its decision.

Speeches and writings reflecting on the House or its Committees or members are punished by the House as a contempt on the principle that such acts “tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them”. The House may punish not only contempts arising out of facts of which the ordinary courts will take cognizance, but those of which they cannot. Thus a libel on a **member of Parliament may amount to a breach of privilege without being a libel under the civil or criminal law.**

In order to constitute a breach of privilege, however, a **libel upon a member of Parliament must concern his character or conduct in his capacity as a member of the House and must be “based on matters arising in the actual transaction of the Business of the House”**. Reflections upon members otherwise than in their capacity as members do not therefore involve may breach



of privilege or contempt of the House. Similarly, speeches or writing containing vague charges in a strong language, particularly in the heat of a public controversy, without however, imputing any make fides are not treated by the House as a contempt or breach or privilege.

On a similar consideration, defamatory words against a particular section of the House or against a particular party in the House are not treated as constituting a contempt of the House, since the whole House is not affected. Thus in a case in the Lok Sabha, where one political leader was reported in a newspaper to have said in a public speech that the representatives of a political party in the Legislature were "people whom any first class magistrate would round up" and were "men without any appreciable means or livelihood." Speaker Ayyanger disallowed the question of Privilege.

It is considered inconsistent with the dignity of the House to take any serious notice or action in the case of every defamatory statement which may technically constitute a breach of privilege or contempt of the House.

Similarly the House may not necessarily take serious notice of defamatory statements made by irresponsible persons. In deciding such cases of libel, it is recognised that the extent and circumstances of the publication of libellous statement as also the standing of the person making such a statement should be taken into account in considering whether privilege should be asserted in a particular case.

**Example of speeches and writings which have been held to constitute breach of privilege and contempt of the House may be categorized as under –**

- (i) Reflections on the House.

- (ii) Reflections on the character and impartiality of the Speaker in the discharge of his duty.
- (iii) Reflections on members in the execution of their duties.
- (iv) Reflections on members serving on a committee of the House.
- (v) Reflections on the conduct of the Chairman of a Committee of the House.
- (vi) Statements made in Courts or in Writ petitions or affidavits filed in Courts are not immune from action for breach of privilege or contempt of the House.

**(F) PUBLICATION OF FALSE OR DISTORTED REPORT OF DEBATES.**

Each House has the Power to control and, if necessary, to prohibit the publication of its debates and proceedings. Normally, no restrictions are imposed on reporting the proceedings of the House. But when the debates are reported malafide that is when a wilful misrepresentation of the debates arises, the offender is liable to punishment for committing a breach of privilege and contempt of the House.

The publication of false or distorted partial or injurious report of debates or proceedings of the House or its Committee or wilful misrepresentation or suppression of speeches of particular members is an offence of the same character as the publication of libels upon the House, its Committees or members ; and the person who are responsible for such publication are liable to be punished for a breach of privilege or contempt of the House.

On 27 March, 1967, the Speaker informed the House that he had received notice of a question of privilege from two members against the **Hindustan Times** on the ground that the report published

in its issue of 24 March, 1967 was a misrepresentation of the proceedings of the House of the previous day insofar as a statement attributed by the Special Correspondent of the paper to one member cast reflections on one of the signatories to the notice. The Speaker observed that according to the practice would ask the Editor of the paper to state what he had to say before taking up the matter further.

On 29<sup>th</sup> March, 1967, the Speaker read out to the House the letter of apology received from the Editor of the Hindustan times to the effect that the publication of the news-items "was a genuine error". The House accepted the apology and directed that the letter of apology, together with the actual statement made by the member concerned in the House on 23 March, 1967 should be published on the front page of the Newspaper in its next issue. This was done by the newspaper.

However, the House may decide to refer the matter forthwith to the Committee of Privilege instead of the matter being first referred to the Editor of the Newspaper concerned.

Thus, the breach of privilege or contempt of the House in this connection would be.

(i) Wilful misrepresentation of the proceedings in the House, or of the speeches of particular members ;

(ii) Wilful suppression of speeches of particular members. It is not consistent with the dignity of the House to take too serious a view of every case of inaccurate reporting or mis-reporting. In most of the cases when an apology is tendered, investigation into the matter is not pursued but the matter is dropped by accepting the apology and asking the editor concerned to publish the apology in the subsequent issue of the newspaper.

### (G) PUBLICATION OF EXPUNGED PROCEEDINGS :

It is a breach of privilege and contempt of the House to publish expunged proceedings of the House. In this regard the Supreme Court has held :

The effect in law of the order of the Speaker to expunge a portion of the speech of a member may be as if that portion had not been spoken. A report of the whole speech in such circumstances though factually correct, may in law be regarded as perverted and unfaithful report and the publication of such perverted and unfaithful report of a speech i.e. including the expunged portion in derogation to the orders of the Speaker passed in the House may, prima facie, be regarded as constituting a breach of the privilege of the House arising out of the publication of the offending news-item.

The Editor, publisher, printer or correspondent of a paper in which the proceedings of the House, which had been expunged by the Speaker, have appeared may tender an unconditional apology and the House, if it accepts the apology may agree to drop the matter.

The House may require the Editor of the paper in question to publish the correction and apology in the next issue of the page and when he had done so, report the fact to the House through the Speaker.

### (H) PUBLICATION OF PROCEEDINGS OF SECRET SESSIONS

Disclosures of the proceedings of decisions arrived at in a secret sitting of the House by any person in any manner, until the ban of secrecy is lifted by the House, is treated as a gross breach of privilege of the House since the person concerned is purporting to disclose that which the House has ordered not be disclosed. In such

cases, the question whether the report or account is accurate or inaccurate is irrelevant.

**(I) PREMATURE PUBLICATION OF PROCEEDINGS, EVIDENCE OR REPORT OF A PARLIAMENTARY COMMITTEE.**

It is breach of privilege and contempt of the House to publish any part of the proceedings or evidence given before or any document presented to a parliamentary committee before such proceedings or evidence or documents have been reported to the House.

The position was stated thus by the Committee of Privileges of Lok Sabha in the **Sundarayya Case** :

“It is in accordance with the law and practice of the privileges of Parliament that while a Committee of Parliament is holding its sittings from day to day, its proceedings should not be published not any documents or papers which may have been presented to the Committee or the conclusions to which it may have arrived at referred to in the Press. It is highly desirable that no person including a member of Parliament or Press, should without proper verification, make or publish a statement or comment about any matter which is under consideration or investigation by a Committee of Parliament.”

Similarly, any **publication of draft or approved report of a Parliamentary Committee before such report has been presented to the House**, is treated as a breach of privilege of the House.

**(J) Reflection on the Report of a Parliamentary Committee:**

No reflection can be made anybody on the recommendation of a Parliamentary Committee. The Committees are entitled to the same respect as Parliament. Therefore, if anybody casts reflection on the decisions or conduct of the Committee, it is a breach of Privilege of the House.

Any person who is affected by the recommendation of a Parliamentary Committee can make a representation to the Committee and submit the true facts, according to him, to the Committee but he cannot ventilate them outside. Similarly, if the Government wishes to say anything and contest any finding or conclusion or recommendation of the Committee it has a right to put up its own case to the Committee direct or to the speaker who forwards it to the chairman of the Committee for reconsideration of the matter. In a case where a difference of opinion persists, both the statements are laid on the Table in a further report from the Committee.

**(K) Circulation of petitions before presentation :**

Circulation of a document purported to be a petition to Parliament before its presentation to the House may be treated as a breach of privilege of the House.

**On 2 August, 1966**, a question of privilege was raised in the House inter alia on the ground that a person had got **printed and circulated a pamphlet** purporting to be a petition to Lok Sabha **before its presentation to the House**. It was also mentioned that the printed matter bore no printer's line. On 23 August, 1966 the matter was referred to the Committee of Privileges for consideration and report.

The Committee concluded that there was no evidence in support of the allegation that the purported petition had been published and circulated by the person concerned except to the three members whom he had approached in connection with the presentation of the purported petition to parliament. Though the circumstances of the case were very suspicious, particularly in view of the fact that the name of the printing press was not published in the pamphlet in question the Committee recommended that in the

absence of any proof of actual distribution and also in view of the apology tendered by the person concerned no further action need be taken in the matter.

**(L) Premature Publication of various other Matters connected with the Business of the House :**

According to the parliamentary practice usage and convention it is improper, although technically not a breach of privilege or contempt of the House to give for any reason premature publicity in the press to notices of questions, adjournment motions resolutions answers to question and other matters connected with the business of the House. If this takes place, the Speaker may express his displeasure against the person responsible for it. The following are instances of such improprieties and breaches conventions :

- (i) **Publication of question before they are admitted by the Speaker and before their answers are given in the House or laid on the Table.**
- (ii) **Publication of answers to questions before they are given in the House or laid on the table.**
- (iii) **Publication of notice of adjournment motions or resolutions before they are admitted by the Speaker or mentioned in the House.**
- (iv) **Premature publicity of notice of motion of non-confidence against the Speaker.**
- (v) **Premature publicity of resolution regarding removal of the Speaker.**
- (vi) **Publication of the report of a Committee or Commission appointed by Government in pursuance of a resolution of the House or an undertaking given in the House.**

- (vii) **Making of important policy announcements by Ministers outside the House while the House is in session.**

**(M) Obstructing Members in the Discharge of their Duties**

**(i) Arrest of Members :**

Member of Parliament "should not be prevented by trifling interruptions from their attendance "on their parliamentary work. As ready noted, except on a criminal charge or under Preventive Detention Act or under Defence of India Act in the interest of Public safety. It is a breach of privilege and contempt of the House to arrest or to cause the arrest of a member of Parliament, during the Session of the Parliament, or during the forty days preceding or the forty days following a Session.

**(ii) Molestation of Members :**

It is a breach of privilege and contempt of the House to obstruct or molest a member while in the execution of his duties, that is while he is attending the House or when he is coming to or going from the House. Thus insults offered to members on their way to or from the House have always been deemed high breaches of privilege. Similarly to molest a member on account of his conduct in Parliament is a breach of Privilege.

In the following instances members and others have been punished for molesting members—

- (a) **Harassment and ill-treatment of a member while coming to or returning after attending the session of the House or a Committee meeting :**
- (b) **Assaulting members within the precincts of the House.**
- (c) **Using insulting or abusive language against members within the precincts of the House.**

- (d) Challenging members to fight on account of their behaviour in the House or any Committee thereof ;
- (e) Sending insulting letters to members in reference to their conduct in Parliament ;
- (f) Threatening to inflict pecuniary loss upon a member on account of his conduct in parliament.
- (g) Intimidating and causing obstruction to a member in the discharge of his duties as a member by an outsider in the precincts of the House.

The privilege against assault or molestation is available to a member only when he is obstructed or in any way molested while discharging his duties as member of Parliament. In cases when members were assaulted while they were not performing any parliamentary duty it was held that no breach of privilege or contempt of the House had been committed.

**(N) Attempt by Improper Means to influence Members in their Parliamentary Conduct :**

**(i) Bribery**

Any attempt to influence members by improper means in their parliamentary conduct is a breach of privilege. Thus the offering to a member of a bribe or payment to influence him in his conduct as a member or of any fee or reward in connection with the promotion of or opposition to any Bill, resolution matter or thing submitted or intended to be submitted to the House or any Committee thereof. The offence, it may be emphasized, lies in making an offer of bribe and it has always been considered a breach of privilege even though no money, whether for payment to an association to which a member belongs or to a charity, conditional on the member taking up a case or bringing it to a successful conclusion, is objectionable.

An offer of money or other advantage to a member in order to induce him to take up a question with a Minister may also constitute a breach of privilege, since it is mainly because a member has the power to put down a question or raise the matter in other ways in the House that such cases are put to him.

It will, however, not constitute a breach of privilege or contempt of the House if the offer or payment of bribe is related to a business other than that of the House. For instance, in the Import Licences case it was alleged that a member of Lok Sabha had taken bribe and forged signatures of the members for furthering the cause of certain applicants. The question of privilege was disallowed since it was considered that the conduct of the member, although improper was not related to the business of the House. But at the same time, it was held that as the allegations of bribery and forgery were very serious and unbecoming of member of Parliament, he could be held guilty of lowering the dignity of the House.

(ii) Any attempt to influence a member otherwise than by way of argument which has as its motive the intention to deter him from performing his duty, constitutes a breach of privilege. Thus an attempt to intimidate members by threats with a view to influencing them in their parliamentary conduct is breach of privilege.

Officers of Government can see, approach or write to members with a view to explaining to them the Government policies and administrative matters. But bringing pressure on members, obstructing them, impeding them or using means which might restrict their freedom to work in the House is objectionable and would led to contempt of the House, depending upon the facts in each case.

In case, the members in their capacity as journalists editors or practising lawyers are approached for professional work, that

would not amount to influencing them in their work as members of parliament.

While there was no evidence to show that the then chairman of the State Trading Corporation had attempted to influence the conduct of a member as a member of Parliament, by threats or any other improper means which might constitute a breach of privilege and contempt of the House, the Committee of Privileges felt, however, that the conduct of the Chairman in approaching the member and another with a view to influencing the member to stop writing articles or speaking in parliament about the alleged irregularities and suspected malpractice of the State Trading Corporation was not proper. While the Committee were satisfied that the Chairman did not employ any improper means which might technically constitute a breach of privilege, they were of the view that as a public servant in a responsible position, he should have acted with more discretion.

**(O) OBSTRUCTING OFFICERS OF THE HOUSE.**

The freedom from arrest and molestation in coming to, staying in and returning from the House is also extended to officers of the House in personal attendance upon the service of the House. It is consequently a breach of privilege and contempt of the House to arrest or to cause the arrest except on a criminal charge of any such person. Similarly it is a contempt of House to obstruct any officer of the House or any other person employed by the House or entrusted with the execution of the orders of the House, while in the execution of his duty. Following are the examples of this kind of contempt :

**Insulting or abusing or assaulting or resisting an officer of the House or any other person entrusted with or acting in the execution of his duty.**

**(P) REFUSAL OF CIVIL OFFICERS OF THE GOVT. TO ASSIST OFFICERS OF THE HOUSE WHEN CALLED UPON TO DO SO.**

In 1997, an important question arose as to whether a civil servant who is engaged in collecting information for answering a question in the House is protected by Parliamentary privileges and whether any punishment given to him by a Minister will amount to contempt of the House. This question came up for consideration before the Committee of Privileges, **Sixth Lok Sabha**, pursuant to the adoption by the House on 18 November, 1977, of a motion referring to the Committee, a question of privilege against **Shrimati Indira Gandhi**, former Prime Minister for allegedly causing obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in the House.

The Attorney-General of India whose opinion was sought by the Committee was of the view that it was the responsibility of the Minister concerned to collect the required information to answer the question put to him in the House. Any agency employed by the Minister of public servants or persons entrusted with the work could not be regarded as servants or officers of the Lok Sabha. Therefore the persons who suffered harassment were neither officers and servants of the House nor were they employed by or entrusted with execution of the orders of either House. There were no orders given by the Lok Sabha ; it was the Minister who had asked for material and no execution of any order of either House was involved. However, the question would remain whether the orders made by certain persons to carry out raids or arrests obstructed or impeded the Lok Sabha in the performance of its functions.

The **Committee of Privileges in their Third Report** presented to the House on 21 November, 1978, were of the opinion that although technically it was the responsibility of a Minister to furnish information to the House, **any obstruction or harassment to officials through whom he collects the required information either to deter them from doing their duty or to impair the will or efficiency of others in similar situations, would impede and stifle the functioning of Parliament. "Such officials should, therefore be deemed to be in the service of the House, and entrusted with the execution of the orders or the performance of the functions of the House, and any obstruction or harassment caused to them while doing their legitimate duties in collecting such information asked for by parliament can be treated as a contempt of the House."** In a broad sense, "all persons who serve or advance the purpose and functions of Parliament are deemed to be its officers for the limited purpose of the law of contempt".

The **sixth Lok Sabha** adopted a motion on **19 December, 1978** agreeing with the recommendation and findings of the Committee of Privileges contained in their Third Report.

The Seventh Lok Sabha, however, rescinded the above motion of the Sixth Lok Sabha by a **motion on 7 May, 1981**, holding that the findings contained in the Third Report of the Committee of Privileges of Sixth Lok Sabha were in **total contravention of Parliamentary rules, precedents and conventions and they unduly extended the immunity enjoyed only by the officers of Parliament in the discharge of their duties to an indeterminate number of persons totally unconnected with Parliament.** The House resolved that House were inconsistent with and violative of the well accepted principles of the law of parliamentary privilege

and the basic safeguards assured to all and enshrined in the Constitution.

#### **(Q) MOLESTATION OF OFFICERS OF THE HOUSE.**

Besides, acts directly tending to obstruct officers of the House in the execution of their duty, any conduct which may have a tendency indirectly to deter them from doing their duty in the future may also be treated by the House as breach of privilege or contempt. Thus, **it is a breach of privilege and contempt of the House to molest an officer of the House for executing its orders or the orders of its Committees or on account of anything done by him in the course of his duty.** Similarly, vexation of officers of the House by proceeding against them in the course for their conduct in obedience to the orders of the House or in conformity with its practice is a breach of privilege.

The present practice is, however, that when an action is brought by a person in a court of law against an officer or servant of the House for his conduct in obedience to the orders of the House or in conformity with its practice, the House instructs the Attorney-General to arrange for appearance and representation in the court on behalf of the Officer concerned.

#### **(R) OBSTRUCTING AND MOLESTATION OF WITNESSES**

It is a contempt of the House **to arrest a witness summoned to attend before of House or its Committees.** Similarly, it is a contempt of the House to molest any witness during his attendance in the House or any Committee thereof, or later on account of his attendance or evidence as such witness. Examples of this kind of contempt are-

- (i) **Assaulting a witness in the precincts of the House ;**

- (ii) **Using threatening, insulting or abusive language** to a witness in the precincts of the House ;
- (iii) **Calling any person to account or censuring him for evidence** given by him before the House or any Committee thereof ;
- (iv) **Assaulting persons for having given evidence before Committee or on account of the evidence which they have given before Committees ; and**
- (v) **Bringing of legal proceedings against any person on account of any evidence** which he may have given in the course of any proceedings in the House or before any Committee thereof.

**(S) TAMPERING WITH WITNESSES :**

It is a breach of privilege and contempt of the House to **tamper with a witness** in regard to the evidence to be given before the House or any Committee thereof, or to attempt, directly or indirectly to deter or hinder any person from appearing or giving evidence before the House or any Committee thereof.

**(T) NO PROTECTION TO CONSTITUENTS AND OTHERS FROM CONSEQUENCES OF DISCLOSURE OF INFORMATION TO MEMBERS OF PARLIAMENT.**

Unlike witnesses who are protected by the House from the consequences of evidence given by them before the House or any Committee thereof, persons including constituents who provide information voluntarily to members of Parliament in their personal capacity, do not enjoy any protection apart from the qualified privilege available under the ordinary law of the land.

**12. MATTERS WHICH ARE NOT QUESTIONS OF PRIVILEGES :**

In the following cases, the Speaker has not given his consent to raise the matter in the House or has held that the matter did not amount to a breach of privilege or contempt of House or held that no further action was called for in view of the explanation/apology received.

Arrest/detention/release of Members :

- (i) Arrest of a member under J & K Public Security Act.
- (ii) Arrest of a member under J & K Preventive Detention Act.
- (iii) Arrest of member on a criminal charge in U.P. under s. 124A, I. P. C. which had been declared void by the Punjab High Court.
- (iv) Alleged non-production before magistrate of a member arrested and detained on criminal charge.
- (v) Non-intimation to the Speaker by authority concerned about place of imprisonment transfer from jail to another and release of a member.
- (vi) Arrest of a member on criminal charge.
- (vii) Alleged illegal detention of a member by police authorities.
- (viii) Detention of a member on ground of being likely to act prejudicially to defence of country although he voted for a resolution in LS solemnly pleading to resist Chinese aggression.
- (ix) Alleged delay in releasing a member from jail after Supreme Court had ordered his release on bail.
- (x) Arrest of certain members under section 188 IPC when they were allegedly coming to attend LS.
- (xi) Non-intimation to Speaker by authorities concerned about



- arrest and release of a member (**Indrajit Gupta**) in Calcutta on 3 Oct. 1972. Commissioner of Police, Calcutta, intimated facts through Home Ministry and tendered unqualified apology. Copy of explanation shown to Member. Para published in Bn. II Matter closed.
- (xii) Non-intimation of detention and wrong information about release of member (**Ishwar Chaudhury**) sent to the Speaker on 14 Aug. 1972. Concerned authorities expressed regret and sent clarification. Copies of communication given to member and matter closed.
- (xiii) Alleged arrest and detention of a member (**Saroj Mukherjee**) on 15 Nov. 1973 and non-intimation thereof to the Speaker. Home Minister explained position in House and stated that member had not been arrested. Disallowing qn. Of privilege on 21 Feb. 1974, the Speaker (Dr. G. S. Dhillon) observed : "They say, he was not arrested. If he had been illegally detained, he can go to the Court I have no powers to judge whether it was an arrest or he was in illegal custody - The Speaker cannot perform the functions of the Court.
- (xiv) Non-intimation of complete information about arrest of a member (**Rasheed Masood**) at Baghpat, later sent full information and expressed regret. Details of arrest and regret published in BN II and matter was closed.
- (xv) Alleged ill-treatment meted out to a member (**Rasheed Masood**) while in police custody at Baghpat (Meerut), Copy of factual note received from Home Miny. Given to member and matter closed.
- (xvi) Alleged non-intimation of offence by police to two members (**Jaipal Singh Kashyap** and **Chandra Pal Shailani**) when

- they were arrested and alleged ill-treatment meted out to them while under arrest. Intimation of arrest of members received from police authority published in Bn II.
- (xvii) Alleged ill-treatment meted out to a member (**Mangal Ram Premi**) by police during his detention at Baghpat (Meerut) on 15 July 1980.
- (xviii) Non-intimation of place of detention of a member (**Swami Indervesh**). On 6 Aug. 1980, Dy. Speaker observed inter alia "I regret that in spite of repeated instructions, complete information has not been sent regarding the arrest of Swami Indervesh, including his place of lodgement by the District Magistrate, Meerut. I hope that such lapses will not be repeated in future."
- (xix) Alleged illegal continued detention of a member (**Smt. Indra Kumari**) in jail after she filed bail bonds. Home Miny. Issued instructions to all State Govts.. And Union Territory Admns to issue necessary instructions to the concerned authorities in the State to ensure that in such cases there is no delay in release of the Members of Parliament after bail bonds have been filed.
- (xx) Alleged delay in sending intimation about the arrest of a member (**Jagpal Singh**). Speaker observed that in view of the position explained and regret expressed by the District Magistrate, Patna, the matter might be treated as closed.
- (xxi) Non-intimation of alleged arrest of a member (**Prakash Chandra**) at Calcutta. Speaker (Dr. Bal Ram Jakhar) observed that he had received an ambiguous communication in this regard but no notice of the could be taken as it was unsigned. The Speaker informed the House that the member

concerned had categorically denied his involvement in the alleged incident and that the whole matter including that of the question of the identity of the person involved in the incident was sub judice. The Speaker observed : "no further action is called for at this stage."

Giving of premature publicity to various matters connected with the business of the House is an act of impropriety but not a breach of privilege or contempt of the House. There are certain other actions which may be improper but they do not, technically speaking, constitute a breach of privilege or contempt of the House. **Some typical cases in this category are described below –**

If any statement is made on the floor of the House by a member or minister which another member believes to be untrue, incomplete or incorrect, it does not constitute a breach of privilege. If an incorrect statement is made, there are other remedies by which the issue can be decided. In order to constitute a breach of privilege or contempt of the House, **it has to be proved that the statement was not only wrong or misleading but it was made deliberately to mislead the House.** A breach of privilege can arise only when the member or the Minister makes a false statement or an incorrect statement wilfully, deliberately and knowingly.

When two members sought to raise a question of privilege against the minister of Food or Agriculture on the ground that he had suppressed the truth and misled the Public Accounts Committee; when he appeared before them, the **Speaker inter alia ruled :**

**"Incorrect statements made by a Minister cannot make any basis for a breach of privilege.** It is only a deliberate lie, if it can be substantiated, that would certainly bring the offence within the meaning of breach of privilege. Other lapses, other mistakes do

not come under this category, because every day we find that Ministers make their statements in which they make mistakes and which they correct afterwards".

**Leakage of budget proposals or official secrets does not form any basis for a breach of privilege.**

**On 3 March, 1956,** when notices of adjournment motions were given by two members in connection with an alleged leakage of budget proposals, another member contended that it constituted an express breach of privilege of the House. In this connection, the Speaker gave the following ruling :

"The precedents of the United Kingdom should guide us in determining whether any breach of privilege was in fact committed in the present case. So far as I can gather, only two cases occurred in which the **House of Commons** took notice of the leakage of the budget proposals. They are known as the Thomas case and the **Dalton Case.** In neither of these cases was the leakage treated as a breach of privilege of the House nor were the cases sent to the **Committee of Privileges for inquiry.** The prevailing view in the House of Commons is that until the financial proposals are placed before the House of Commons, they are an official secret. A reference of the present leakage to the Committee of Privilege does not, therefore arise".

**Statements made by Ministers at party meetings are not privileged.**

No privilege of parliament is involved if statements on **matter of public interest are not first made in the House and are made outside.** Such actions are against conventions and propriety but do not constitute any basis on which breaches of privilege can be founded.

**It is not a breach of privilege if documents intended for members are circulated to the Press and non-members first,** but such acts are deprecated.

A summary to the Bank Award Commission Report was laid on the Table. A question of breach of privilege was raised in the **House on 22 August, 1955.** Thereupon, the Speaker observed:

“Whenever a report is to be presented to Parliament, Government have to be very particular to see that a summary of or information therefrom is **not published in the press before the report is presented to parliament.** What has happened now is **very irregular practice** and I do not know who is responsible for it. The Minister has promised to inquire and let us await the result of his inquiry”.

**On 5 September, 1955,** the Minister expressed his inability in locating how the leakage had occurred. The member who had raised the question of privilege was not satisfied with the statement of the Minister and there was demand for reference of the case to the Committee of Privileges. The Speaker ruled inter alia as follows:

“It is equally the duty of the press to help observance of Parliamentary conventions, it is a wrong practice to obtain information in that manner and give publicity to it before a particular matter is placed before Parliament. **It was undoubtedly improper for that paper to do so”.**

When the findings and conclusions of the **Ganganath Committee** which had been appointed by the Government to inquire into the allegations regarding the **import of sugar** in pursuance of the assurance given by the prime Minister on the floor of the House on **17 November, 1950,** were released to the Press before the report was laid on the Table, a question of privilege was raised. **On 5 April, 1951, the Deputy Speaker ruled :**

“This was not a committee appointed by the House and it had no obligation to submit its report to the House – No doubt, if any committee is appointed by Government in pursuance of any resolution or wishes of the House and not independently, while the House is sitting, naturally the House would expect that such committee’s proceedings should be disclosed to itself first. Subject to this observation, there is absolutely **no breach of privilege in the present case”.**

Where the report of a committee has been presented to the House, **its publication by the press before copies of the report** have been made available to members is undesirable, but it is **not a breach of privilege** of the House.

**Breaches of rules, conventions and practices are not regarded as breaches of privilege.** If breaches of rules, etc., take place, they may invite the displeasure of the Speaker or censure of the House on a proper motion.

**No breach of privilege is involved if a member’s speech has not been covered in full or has been covered** in a summary form in the Press or over the Radio or T.V. It is also not a breach of privilege if a particular speech is not covered as adequately as other speeches, or is not given prominence.

**Seizure of a petition form addressed to the House** and intended to be presented to it through a member from a person arrested by the police on a criminal charge had not been considered a breach of privilege or contempt of the House.

**Undesirable, undignified and unbecoming behaviours on the part of a member at the time of President’s Address** to both the Houses of Parliament assembled the House but is one of conduct of members and maintaining decorum and dignity by them.

**Removal of offending members from the House under orders of the Governor at the time of his Address to members of the Legislature under Article 176** is not a breach of privilege of the House or its members.

A statement reported to have been made by a Chief Minister that **appointment of a parliamentary committee to study the situation in a part of his State would amount to interference in the affairs of that State has not been held to constitute a breach of privilege and contempt of Parliament.** Similarly, a statement reported to have been made by a Chief Minister opposing a suggestion made in the Lok Sabha for sending a parliamentary delegation to study the situation in his State has been held not to constitute a breach of privilege or contempt of the House.

**Non-implementation of an assurance** given by a Minister on the floor of the House is neither a breach of privilege nor a contempt of the House, for the process of implementation of a policy matter is conditional on a number of factors contributing to such policy. In the **Import Licenses Case**, the Speaker inter alia ruled that the House "has various remedies available to it to call the Government to account and secure compliance with its directions, but inadequate compliance of an assurance or delay in its fulfilment will not constitute a breach of privilege."

If the Appropriation Accounts are laid on the Table of the Legislative Council before they are so laid on the Table of the Legislative Assembly, there is no breach of privilege, though it would be more appropriate if they were first laid before the Assembly which votes or grants moneys to the Governments.

No question of privilege is involved if **letters of members are intercepted by censor** because censorship is provided under the law. Section 26 of the post office Act, 1898, authorises censorship

on the occurrence of any public emergency or in the interest of public safety or tranquility. No. question of privilege is likewise involved if **the telephones of members are tapped.**

**Curtailement of time** allotted for discussion of certain business in the House by the Speaker is not breach of Privilege. The Speaker is free to fix any time. **The Speaker cannot be the subject of any breach of privilege motion since he is the protector of privileges.**

If the correspondence of a member under detention, addressed to the Speaker, reaches him through the Secretary, Home Department, it does not involve a matter of privilege.

No question of privilege arises when a **Minister decides not to make a statement in the House giving reasons for his resignation.** However, if he releases such a **statement to the Press without first making it in the House**, it would amount to contempt.

**Alleged use of forged signature of certain members** on a telegram or by a news agency, not being a reflection on parliament as a whole is not a breach of privilege. Though it is a serious matter, the remedy lies not with the House but outside it.

Reflection on the **conduct of members** of a Legislature as members of an when the draft report of parliamentary committee has been presented to the House, though not yet available to members in printed form, it is no offence against the House to publish the findings of the Committee.

There is no breach of privilege if a member goes on tour and is **not received by some officer.**

**Refusal by a Government Official** to show to the members of Parliament files of his department is not a breach of privilege.

Announcing **increase in levies** by the Government on the eve of the Budget Session has been held not to be a breach of privilege.

#### **Complains against Members or Officers of the Others House.**

Neither House of Parliament can claim or exercise any authority over a member of the other House. Consequently, neither House can take upon itself to punish any breach of privilege or contempt offered to it by a member or officer of the other House.

No case of breach of Privilege or contempt of the House can be founded on a **speech made by a member in the other House** or in any **State Legislature in India**, because the proceedings of each House of Parliament and all Legislatures are privileged and no action can be taken in one House for anything that is said in another House.

**On 26 March, 1959**, a member drew the attention of the House to a news item appearing in Samaj, an Oriya daily of Bhubaneswar in its issue of 18 March, 1959, wherein the **Chief Minister of Orissa** was alleged to have cast sweeping and general remarks **against members of Parliament**. The member said that the Chief Minister of Orissa and the Editor of Samaj might be called to the bar of the House to explain their conduct or in the alternative, the matter might be referred to the Committee of Privileges for investigation and report.

While **refusing his consent** for the reason that each House is supreme as far as its own proceedings are concerned, the Speaker ruled :

“If really the Hon’ble Chief Minister has said what he is alleged to have said, it is regrettable..... if it is really true this ought not be

continued. I hope and trust that this wholesome principle will be followed everywhere-no House will cast any aspersion and no member will cast any aspersion on any member of the other House or any other House in this way.”

**On 30 March, 1970**, during the course of a debate in Rajya Sabha a member of that House made certain allegations against a member of Lok Sabha. After some discussion in the House, the Speaker addressed a letter to the Chairman, Rajya Sabha inviting his attention to the matter and observing, inter alia as follows :

“You will agree that it is not desirable for members of one House to make allegations or cast reflections on the floor of the House on the members of the other House.”

In his reply, the **Chairman, Rajya Sabha**, expressing his agreement with the Speaker, stated that the Deputy Chairman, Rajya Sabha and already expressed his disapproval of the member’s speech.

However, notice of the breach of privilege or contempt of the House can be taken if **the member of the other House or any other State Legislature has committed it outside the House** to which he belongs.

**On 11 May, 1954**, a member raised a question of privilege in Rajya Sabha Hindu Mahasabha, cast reflection of the proceedings of Rajya Sabha and requested that steps might be taken to investigate the matter.

On the following day, the member incriminated against, raised a question of privilege in Lok Sabha that on the previous night he was served with a notice issued by the Secretary of Rajya Sabha. The Prime Minister argued that there was nothing objectionable in the letter and pointed out that in the Sundarayy’s Case in 1952 a

member of Rajya Sabha had helped an investigation being conducted by Lok Sabha.

On 15 May, 1954, the Chairman informed Rajya Sabha that he had received a communication from the Speaker enclosing a statement by the member concerned. In his covering note, the Speaker referred to the suggestion which he had made in the House that the Privileges Committees of both the House should evolve an agreed common procedure for such matters. This was agreed to by the Rajya Sabha.

The Report of the **Joint Sitting of the Committees of Privileges of Lok Sabha and Rajya Sabha** was presented to both the House on 23 August, 1954, in which a procedure and laid down for cases where a member of one House Committee a breach of privilege of the other. The Report was adopted by Lok Sabha on 2 December, 1954.

Accordingly, when a question of breach of privilege or contempt of the House is raised in either house in which a member, officer or servant of the other house is involved, the procedure followed is that the **Presiding Officer** of the House in which the question of privilege is raised, refer the case to the Presiding Officer to the other House, only if he is satisfied on hearing the member who raises the question or on persuing any document where the complaint is based on document that a breach of privilege has been committed. Upon the case being so referred, it is the duty of the Presiding Officer of the other House to 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. Thereafter, that Presiding Officer communicates to the Presiding Officer of the House where the question of privilege was originally raised, a report about the inquiry, if any, and the action taken on the reference.

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 to the Presiding Officer of the other House to which the reference is made, usually no further action in the matter is taken after such apology has been tendered.

At a meeting of the Congress Parliamentary Party, a member had made some allegation against two Ministers. On 20 June, 1967, the Prime Minister made a statement in the House that the allegations had not been substantiated on the basis of the material furnished by the member.

On 21 June, 1967, a question of privilege was raised in the house that since the allegations against the two Ministers who were members of the House had not been substantiated, the entire House had been brought into disrepute. A motion was moved that the question of privilege be referred to the Chairman, Rajya Sabha, for action in accordance with the procedure evolved by the Joint Report of the Privilege Committees of both Houses.

The Minister of Law, participating in the debate, observed that “the statement was not made in public but at a party meeting and made to the leader of the party..... by a person who is a member of the party and therefore subject to the party discipline by the leader of the party “Prime Minister”. He opposed the motion for two reasons : “first because this is an **internal matter of the Congress Party**, and secondly, because if (such matters) are treated as breaches of privilege, **party functioning will become impossible in the country**”.

After a lengthy debate, the motion was put to vote and **negatived** by the House.

On 17th August, 1987, the Speaker informed the House that he had received a notice of question of privilege against the Minister

of State in the Department of Defence Research and Development (who was a member of the other House) for allegedly deliberately and knowingly misleading the House by making a statement in the House on 15 April, 1987. The Speaker also informed the House that after going through the comments received from the Minister and a further notice of question of privilege received from the member to whom a copy of Minister's comments was given, he proposed to refer the matter to the Deputy Chairman, Rajya Sabha, for such action as she may consider necessary and proper in view of the fact that Minister was a member of the other House and a question of privilege can, therefore, be dealt with only by that House in accordance with the procedure laid down in the Report of the Joint Sittings of the Committees of Privileges of Lok Sabha and Rajya Sabha. **On 25 March, 1988, the Chairman, Rajya Sabha, disallowed the question of privilege** and forwarded a copy of the ruling to the Speaker, Lok Sabha.

Where a contempt or a breach of privilege has been committed by a **member of Parliament against a State Legislature** or by a member of a **State Legislature against Parliament** or the **Legislature of another State**, a convention is being developed to the effect that when a question of breach of privilege is raised in any Legislature in which a member of another Legislature is involved, the **Presiding Officer refers the case to the Presiding Officer** to the Legislature to which that member belongs and the letter deals with the matter in the same way as if it were a breach of privilege of that House, unless on hearing the member who raised the question or perusing any document, where the complaint is based on a document the Presiding Officer 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. This procedure is being followed by those Legislatures which have adopted a resolution to this effect.

**On 4 October, 1982**, a question of privilege was sought to be raised in the House regarding reported proposed summoning of a member before a Legislative Assembly in connection with a question of alleged breach of privilege and contempt of that House by the member for alleging in a press statement that the candidate belonging to his party for election to Rajya Sabha had been defeated because **“some opposition MLAs had been purchased.”**

Similarly on **22 August, 1984**, the Speaker informed the House that a question of Privilege was sought to be raised regarding reference of a question of privilege against a member of the House (who was also the Union Law Minister) by a Legislative Assembly to their Committee of Privileges for allegedly turning down the resolution passed by the Assembly, proposing abolition of the Legislative Council of the State.

The Speaker, while informing the House that he had not received any communication in that regard either from the Legislative Assembly or the member concerned. It was observed that it was a well established convention that if a prima facie case of breach of privilege or contempt of the House was made out against a member. Who belonged to another Legislature, the matter was reported to the Presiding Officer of that Legislature for taking such action as be considered necessary.

The Speaker hoped that all concerned would take the relevant facts into account while dealing with this sensitive and important issue.

### **13. THE COURTS OF LAW AND MATTERS OF PRIVILEGE**

#### **CONSTITUTIONAL PROVISIONS :**

Powers, Privileges and Immunities of Parliament and its Members.

Art. 105 Powers, privilege, etc. of the Houses of Parliament and of the members and committees thereof.—

- (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.
- (2) 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, 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.
- (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 that House and of its members and committees immediately before the coming into force of Sec. 15 of the Constitution (Forty-Fourth Amendment) Act, 1978]
- (4) The provisions of Cls. (1), (2), and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

#### **Powers, Privileges and Immunities of State Legislatures and their Members.**

**Art. 194 : Powers, Privileges, etc. of the House of Legislatures and of the members and committees thereof.-**

- (1) Subject to the provision of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State.
- (2) No member of the Legislature of a State shall be liable to any proceeding 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.
- (3) In the 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,
- (4) And, until so defined, (shall be those of that House and of its members and committees immediately before the coming into force of Sec. 26 of the Constitution (Forty-fourth Amendment) Act, 1978).
- (5) The provisions of Cls. (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature.



The Courts of law in India have recognised that a House of Parliament or a State Legislature is the sole authority to judge as to whether or not there has been a breach of Privilege in a particular case. It has also been held that the power of the House to commit for contempt is identical with that of the House of Commons and that a court of law would be incompetent to scrutinize the exercise of the power.

As regards exclusive control of either House over its internal proceedings, article 105 (2) specifically bars the jurisdiction of courts of law in respect of anything said or any vote given by a member in Parliament or any Committee thereof. **The Orissa High Court in 1958**, held that “no law court can take action against a member of the Legislature for any speech made by him there” even when a member in a speech in the House casts reflection on a High Court. The Courts have also held that they have no jurisdiction to interfere in any way with the control of the House over its internal proceedings or call in question the validity of its proceedings on the ground of any alleged irregularity of procedure.

When some members of the House, including a former Speaker, were given notice to appear before the Supreme Court in a case relating to **Jagadguru Shankaracharya**, either in person or by an advocate, a question of privilege was raised. The members concerned were directed by the Speaker to ignore the notice and the Attorney General was asked to bring to the notice of the Court that “what is contained in the case is something which is covered by article 105 of the Constitution.

On some observations having been made by the Court with regard to the stand taken by the House in as much as the members had not been served with a ‘Summons’ but only a ‘Notice of

Lodgement’ had been sent to them, the matter was again discussed in the House. Thereupon, the Speaker ruled :

Whether the Court issues a summons or a notice does not make any difference to us. Ultimately, the privileges of the House are involved when members are asked to defend themselves for what they said in the House.

When one of the members who had been served with the notice of lodgement of appeal by the Supreme Court expressed a desire to go and defend himself in the Court, the Speaker observed.

If he appears before the Court, fully knowing article 105, I think we will have to bring a privilege motion against him.

Summons were received from the Court, requiring the Chairman, Public Accounts Committee, to appear before the Court to answer all material questions relating to certain observations made in the **71st Report of the Committee**. The Speaker, thereupon, observed :

As had been the practice of the House, he was asking the Chairman of the Committee to ignore the summons and not to put in any appearance in the Court. However, he was passing on the relevant papers to the Minister of Law for taking such action as he might deem fit to apprise the Court of the correct constitutional position in this regard.

On 11 April, 1979, a notice was received from the **Karnataka High Court** requiring the appearance of the Secretary, Lok Sabha, in person or through an Advocate, in that court in connection with a writ petition challenging the validity of a resolution passed by the Lok Sabha expelling a member from the House. The Speaker, Lok Sabha placed the matter before the House on 12 April, 1979 and observed that

the Secretary, Lok Sabha had been asked by him not to respond to the notice.

Similarly, a notice was received from the **Patna High Court** requiring the Chairman, Committee on Scheduled Castes and Scheduled Tribes to appear before the Court to show cause why the writ petition praying for the issue of a writ of mandamus for recognition of a community of Bihar as Scheduled Tribe be not allowed. The Speaker observed.

As per past practice of the House, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes has been asked not to respond to the notice. The Minister of Law, Justice and Company Affairs is being requested to apprise the Patna High Court of the correct constitutional position in this regard.

**On 6 November, 1987**, the Speaker informed the House that he had received a notice from the Assistant Registrar of the Supreme Court requiring his appearance before that Court in connection with a transfer petition seeking to transfer from the High Court of Delhi to the Supreme Court of India, a civil writ petition. The Speaker observed.

As per well established practice and convention of Lok Sabha, I have decided not to respond to the notice. I have passed on the relevant papers to the Minister of State in Ministry of Law and justice for taking such action as he may deem fit to apprise the court of the *correct constitutional position and the well established conventions of the House.*

**On 27th July, 1988**, the Speaker informed the House that *he had received* two notices from the Bombay High Court requiring his appearance before that Court for filing of an affidavit by him or by the Secretary-General, Lok Sabha, in connection with two writ

petitions alleging that there was 'a variance between the Bill (The Central Excise Tariff Bill, 1985), as passed and gazetted with regard to the rate of the excise duty on the goods-cranes-chapter sub-heading No. 8426.00'. The Speaker observed that as per well established practice and convention of the House he had decided not to respond to the notices and passed on the relevant papers to the Minister of Law and justice for taking such action as he may deem fit to apprise the Court of the correct constitutional position and the well established conventions of the House.

**On 27 December, 1990**, the Speaker informed the House that on 7 December, 1990, he had received a notice from the Registrar of the High Court of Delhi requiring him to arrange to show cause in connection with Civil writ Petition No. 3871 of 1990. The Writ Petition inter alia, sought to challenge the validity and constitutionality of Amendment Act), 1985. The Speaker observed that as per well established practice and convention of the House, he had decided not to respond to the notice and passed on the relevant papers to the Minister of Law and Justice for taking such action as he may deem fit to apprise the High Court of the correct constitutional position and the well established conventions of the House.

**On 4 March, 1992** a notice was received by Shri Rabi Ray, Member and former Speaker of the Lok Sabha, from the Assistant Registrar of the Supreme Court of India in the matter of Writ Petition No. 149 of 1992 requiring him to appear before the Supreme Court in person or through counsel on 10 March, 1992 to show cause to the Court as to why rule nisi in terms of the prayer of the Writ Petition be not issued. On the same day, the said notice, in original was forwarded to the Speaker, Lok Sabha by Shri Rabi Ray for his advice in the matter. On 9 March, 1992, the Speaker (Shri Shivraj

V. Patil) placed the matter before the House and observed inter alia as follows :

We had organised a meeting of the Presiding Officers of India and in that meeting nearly unanimously it was decided that the judgement given by the Supreme Court should be respected until the law is amended. We had also said in that meeting that the Hon'ble Presiding officers may not subject themselves to the jurisdiction of the judiciary. We, as a very responsible institution like to protect the prestige and dignity of judiciary as well as the prestige and dignity of the Legislature. Now here we have to strike a balance and that is very very important, I had expressed this point of view to the Hon'ble leaders and to Shri Rabi Rayji also. And I have said that the Speaker may not appear in the Court. The papers may be given to the Court and Court can decide in whatever fashion they want to. This matter can be brought to the notice of the Law Ministry also and the point of view of the Legislature can be presented to the judiciary through the Law Minister if it is necessary.

But on the one hand, we will give the papers and we would accept and respect the decision, but on the other hand, we would not except the Presiding Officers to go to the Court and subject themselves to the jurisdiction of the Court. This was the view I had expressed. And at the same time, I had said that I would bring this matter to the notice of this august House and with their agreement only we would come to a conclusion. So I have brought this view to your notice. And, I think, it is agreeable to us, we will follow this.

As regards privileges of Parliament vis-a-vis fundamental rights guaranteed to the citizen under the Constitution, the **Supreme Court, in 1959**, in a case involving freedom of speech and expression, held : **(MSM Sarma – VS-Krishna Saha) searchlight) Case, AIR 1959 S.C. 395.**

The provision of Cl (2) of article 194 indicate that the freedom of speech referred to in cl. (1) is different from the freedom of speech and expression guaranteed under article 19 (1) (a) and cannot be cut down in any way by any law contemplated by cl. (2) of article 19.

The **Supreme Court** also held that the provisions of articles 105 (3) and 194 (3) are constitutional laws and not ordinary laws made by parliament or State Legislatures and that, therefore, they are as supreme as the provisions of articles relating to fundamental rights.

**In 1964**, however, there arose a case giving rise to **“important and complicated questions of law regarding the powers and jurisdiction of the High Court and its Judges in relation to the State Legislature and its officers and regarding the powers, privileges and immunities of the State Legislature and its members in relation to the High Court and its Judges in the discharge of their duties”**. The questions of law involved were of such public importance and constitutional significance that the **President considered it expedient to refer the matter to the Supreme Court for its opinion**. The main point of contention was the power claimed by the Legislatures under article 194(3) of the Constitution to commit a citizen for contempt by a general warrant with the consequent deprivation of the jurisdiction of the courts of law in respect of that committal. **(Keshav Sing's Case, AIR 1965, Allahabad 349).**

The **Supreme Court**, in its majority opinion, **held that the powers and privileges conferred on State Legislatures by article 194 (3) were subject to the fundamental rights and that the Legislatures did not have the privilege or power to the effect that their general warrants should be held to be conclusive**. The Supreme Court held that in the Case of Sharma

the general issue as to the relevance and applicability of all the fundamental right guaranteed by Part III was not raised at all. Hence, it would not be correct "to read the majority decision as laying down a general proposition that whenever there is a conflict between the provisions of the latter part of article 194 (3) and any of the provisions of the fundamental rights guaranteed by Part III, the latter must yield to the former. The majority decision, therefore, must be taken to have settled that art, 19 (1) (a) would not apply, and art. 21 would". The Court further held :

In dealing with the effect of the provisions contained in clause (3) of art. 194, whenever it appears that there is a conflict between the said provisions and the provisions pertaining to fundamental rights, **an attempt will have to be made to resolve the said conflict by the adoption of the rule of harmonious construction.**

**The opinion of the Supreme Court was discussed by the Conference of Presiding Officers of Legislative Bodies in India held at Bombay on 11 and 12 January, 1965.** The Conference unanimously adopted a resolution expressing its view that suitable **amendments to articles 105 and 194** should be made in order to make the intention of the Constitution makers clear beyond doubt so that the powers, privileges and immunities of Legislatures, their members and Committees could not, in any case be construed as being subject or subordinate to any other articles of the Constitution.

In the meantime, the **Allahabad High Court upheld** the power of the Legislative Assembly to commit for its contempt. The Government, therefore, decided that an amendment of the Constitution was not necessary. **It was of the opinion that the Legislatures and the judiciary would develop their own conventions in the light of the opinion given by the Supreme**

**Court and the judgement pronounced by the Allahabad High Court.**

**In 1984, an Emergent Conference of the Presiding Officers** of the Legislative Bodies was called to consider the issues arising and likely to arise out of two writ petitions filed before the Supreme Court in connection with two privilege cases before two State Legislatures, viz. the Kerala Legislative Assembly and the Andhra Pradesh Legislative Council.

**In the Kerala Legislative Assembly case,** the press Gallery Pass of a press correspondent was cancelled by the Speaker, Kerala Legislative Assembly for casting reflections on the Speaker. The press correspondent filed a writ petition in the Kerala High Court challenging the cancellation of his pass which issued notices to the Speaker and secretary, Kerala Legislature. The Kerala Government filed an appeal against this order of the High Court. The full Bench of the Kerala High Court considered the matter and upheld the order of the single judge observing that no interference was called for in appeal. The Full Bench also observed that "the immunity envisaged in article 212 (1) of Constitution is restricted to a case where the complaint is no more than that the procedure was irregular. If the impugned proceedings are challenged as illegal or unconstitutional such proceedings would be open to scrutiny in a court of law. (**State of Kerala – VS-L. Sudersan and others I.L.R. (Kerala) 1983, P.661**)

Subsequently, the Kerala Government filed a special leave petition in the **Supreme Court** against the order and judgement of the Full Bench. On 7 February, 1994, the Constitution Bench of the Supreme Court admitted the appeal and stayed all further proceedings in the High Court.

In the **Andhra Pradesh Legislative Council**, the Editor of Eenadu allegedly cast reflections on the House and its proceedings in his newspaper dated 10 March, 1983. The Chairman referred the matter to the Committee of Privileges who in their report presented to the House on 27 February, 1984, reported that the Editor had committed serious breach of privilege and contempt of the House. The Committee recommended that the Editor be summoned to the Bar of the House and admonished. The Report of the Committee was adopted by the House without any discussion on 7 March, 1984. Before the House could take any action against the Editor, he filed a writ petition before the Supreme Court challenging the finding of the Committee.

**On 25 April, 1984 an Emergent Conference of Presiding Officers** of the Legislative Bodies in India was held at New Delhi to consider the issues arising out of the said cases pending in the Supreme Court. Addressing the Conference, the Chairman (Dr. Bal Ram Jakhar) stated inter alia as follows :

It was only in January this year that we had met in Bombay for our annual deliberations. Since then important developments of considerable constitutional importance involving the Legislature, the Press and the Judiciary have taken place. Two Privilege case relating to the Andhara Pradesh Legislative Council and Kerala Legislative Assembly are now pending before the Supreme Court. We have specially assembled here today to consider the issues arising out of these privilege cases which are likely to vitally affect the effective functioning of our Legislatures. We discussed this matter at our recent Conference of Presiding Officers in Bombay and, after a thorough consideration of all the aspects of the matter adopted a resolution on 3 January, 1984, affirming that the Legislatures are supreme in their affairs in the conduct of the Business of the House and their

powers, privileges and immunities granted by the Constitution of India and no other authority shall have jurisdiction or power to interfere in that respect.

After discussing the matter at great length, **the Conference adopted the following Resolution unanimously.**

“The Presiding Officers of Legislative Bodies in India assembled in their Emergent Conference in New Delhi on 25th April, 1984, while reiterating the supremacy of the Legislature under the Constitution and faith in the independence of the judiciary and the freedom of the Press, hereby unanimously resolve

- (a) That under article 105/194 of the Constitution, the Legislatures in India had and were intended by the founders of the Constitution to have, exclusive jurisdiction to decide all matters relating to the privileges of the House, their members and Committees without any interference from the courts of law or any other authority.
- (b) That rules framed under article 118/208 are not subject to scrutiny by any court of law and the provision regarding their being subject to constitutional provisions refers to only the provisions regarding rules of Procedure enshrined in the Constitution and not to all other provisions ;
- (c) That mutual trust and respect must exist between the Legislatures and courts, each recognizing the independence, dignity and jurisdiction of the other in as much as their roles are complementary to each other ;
- (d) That, if necessary an amendment might be made in the Constitution so as to place the position beyond all shadow of doubt and

- (e) That the Committee of the Presiding Officers: appointed at their Conference in Bombay in January, 1984 may continuously monitor further progress in the matter and from time to time make suitable recommendations to the chairman of the Conference and finally to the Conference itself at its Calcutta meeting in October, 1984.

This Conference authorises the Chairman to take such other steps as he deems fit to achieve the above objectives.”

Before however the writ petitions could come up for hearing before the Supreme Court, the Kerala Legislative Assembly was dissolved. The Andhra Pradesh Legislative Council was abolished on 1 June 1985 by the Andhra Pradesh Legislative Council (Abolition) Act, 1985.

#### 14. Procedure for Dealing with questions of privilege

The procedure for dealing with questions of privilege is broadly laid down in the Rules.

#### RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN ASSAM LEGISLATIVE ASSEMBLY

Question of Privilege :

Rule 158 : A breach of privilege, either of a member or of the House or of a Committee thereof may with the consent of the Speaker be brought to the notice of the House.

(i) by a complaint from a member,

(ii) by a petition ; or

(iii) by a report from a Committee :

Provided that if the breach is committed in actual view of the House, the House may take action without complaint.

#### A. COMPLAINT BY A MEMBER

**Rule 159 :** A member wishing to make a complaint of a breach of privilege shall give notice in writing to the Secretary at least an hour before the Commencement of the Sitting on the day on which it is proposed to be made. If the complaint is founded upon a document the original thereof shall accompany the notice.

**Rule 160 :** The right to raise a question of privilege shall governed by the following conditions :-

- (i) not more than one question shall be raised at the same sitting.
- (ii) The question shall be restricted to a specific matter of recent occurrence ;
- (iii) The matter required the intervention of the House.
- (iv) Rule 161 : If the Speaker gives his consent under rule 158, the member making the complaint shall after questions and before the list of business is entered upon, read his complaint and may make a short statement relevant thereto. If the complaint if founded upon a document, it shall be read by the member complaining or, if so directed by the Speaker, by the Secretary. The Speaker after hearing any other member if necessary, shall decide whether the complaint is in order or not :

Provided that the Speaker may, if he is satisfied about the urgency of the matter, allow a question of privilege to be raised at any time.

Rule 162 : If the Speaker holds the matter proposed to be discussed in order, he shall refer it to the Committee of Privileges for reports within a period to be specified, unless he is of opinion that the matter is such as may be disposed of by the House without reference to the

Committee in which case the member making the complaint shall make a motion that the matter be taken into consideration forthwith or at some future time.

**Rule 163 :** The Speaker may issue such directions as may be necessary for regulating the procedure in connection with all matters connected with the consideration of the question of privilege either in the complaint of Privilege or in the House.

### **B. COMPLAINT BY PETITION**

**Rule 164 :** When a petition complaining breach of privilege has been received and after the Speaker gives his consent thereto, the petition of such portion thereof as relates to breach of privilege shall be read to the House by the Secretary. The House may forthwith take the petition into consideration as some future time within which it may be printed and copies of it supplied to members or refer it to the Committee of Privileges for report within a period to be specified.

### **C. COMPLAINT BY A COMMITTEE**

**Rule 165 :** After the presentation of the report of a Committee of the House containing a complaint of breach of privilege, the Chairman or in his absence, any other member of the Committee may move that the question of the breach of privilege be taken into consideration forthwith or at some future time.

**Rule 166 :** After any of the following motions is agreed to by the House :—

- (1) Motion under rule 162 that the matter be taken into consideration ; or
- (2) Motion at the report of the Privilege Committee to be taken into consideration ; or
- (3) Motion under rule 169 that the petition be taken into consideration ; or

- (4) Motion under rule 170 that the question of the breach of privilege as contained in the report of the Committee, be taken into consideration ;

Any member may move a substantive motion indicating the commission of a breach of privilege and also suggesting the action to be taken by the House, and any other member may move an amendment to the said motion. After a brief discussion of the motion, and amendments if any, the Speaker shall put the question.

### **D. SPECIAL PROCEDURE RELATING TO COMPLAINT AGAINST MEMBERS**

**Rule 167 :** Where the complaint is to be made against a member, the member should be given prior notice by the complaint petitioner or Secretary of the Committee as the case may be. In case no prior notice has been given, the House may adjourn the consideration of the matter till notice is given to the member concerned or it may decline to entertain the complaint. The member complained against shall attend the House in his place on the day fixed by the House or proposed by the complaint as the case may be. If he is unable to attend the House may further postpone the consideration of the matter but if he in the opinion of the House, wilfully absents himself the House may proceed with the matter in his absence.

**Rule 168 :** As soon as the question of the motion founded on the complaint is proposed by the Speaker the member complained against shall be given an opportunity to be heard in explanation or exculpation. In the case of a complaint founded upon document he may be given that opportunity immediately after the document is read. If the member, complained against wants to offer an explanation at an earlier stage, it will be in the direction of the Speaker to permit him to do so.

**Rule 169 :** The House then shall proceed on to discuss the motion and the member complained against may remain in the House but shall not take part in the discussion unless call upon to offer any further explanation or apology.

A questions of privilege may be raised in the House only after obtaining the consent of the Speaker, this has been made obligatory so that the time of the House is not taken up by raising a matter which, on the face of it, is not admissible. A member who wishes to raise a question of privilege is, therefore, required to give notice in writing to the Secretary-General by 10.00 hrs. on the day the question is proposed to be raised. If the question of privilege is based on a document, the notice must be accompanied by that document. On receipt of the notice, the matter is considered by the Speaker who may either give or withhold his consent to the raising of the questions of privilege in the House. The member concerned is then informed of the Speaker's decision. Where the matter is of an immediate nature and there is no time for a notice being given, the Speaker has permitted a member to raise a question of privilege without previous notice in writing. master of its privileges. The Speaker, in giving his consent of privilege, considers only whether the matter is fit for further inquiry and whether it should be brought before the House. In giving his consent, the Speaker is guided by the following conditions prescribed for the admissibility of questions of privilege, not more than one question shall be raised at the same sitting ; the question shall be restricted to a specific matter of recent occurrence ; and the matter required the intervention of the House. A question of privilege should thus be raised by a member at the earliest opportunity and should require the interposition of the House. Even a delay of one day might prove fatal to the notice of privilege, provided the specific matter sought to be raised was of urgent importance at a particular time.

A matter which is postponed to suit the convenience of the House or to give the Speaker an opportunity to consider if fully does not lose priority when it is eventually allowed to be raised. It is for the Speaker to decide whether the subject matter of a question of privilege is a specific matter of recent occurrence.

The Speaker, before deciding whether the matter proposed to be raised as a question of privilege requires the intervention of the House and whether he should give his consent to the raising of the matter in the House, may give an opportunity to the person incriminated to explain his case to the Speaker, The Speaker may, if he thinks fit, also hear views of members before deciding admissibility of a question of privilege. When a member seeks to raise a question of privilege against another member, the Speaker before given his consent to the raising of the matter in the House, always gives an opportunity to the member complained against to place before the Speaker or the House such facts as may be pertinent to the matter.

While seeking to raise a question of Privilege, a member should lay before the House all the necessary evidence in support of his contention. Production of further evidence at a subsequent date is not admissible. No. privilege issue can, therefore, be raised on a matter that has previously been decided on a question of privilege even though the member might have in his possession fresh material to support his contention. In such a case, the member has recourse to other remedies ; he may raise an appropriate debate on the matter.

There has been, however, an occasion where although the Speaker had withheld his consent to the raising of a question of privilege, the members again sought to raise the matter in the House on the next day. The Speaker, there-upon observed that if there were any documents or evidence, the members were free to adduce the same by way of further notice and he would examine those notices.



If a newspaper reports incorrectly the proceedings of the House or comments casting reflection on the House or its members, the Speaker may in the first instance, give an opportunity to the editor of the newspaper to present his case before giving his consent to the raising of a question of privilege in the House. The Speaker normally withhold his consent to the raising of a question of privilege after the editor or press correspondent of the newspaper concerned has expressed regret or published a correction.

Occasionally, members have raised as questions of privilege, matters affecting them personally at the hands of the police, i.e. for alleged abuses, ill treatment or obstruction by the police authorities.

When the Speaker receives any complaint or notice thereof from a member 377. In such case, the member may be asked to submit to the Speaker in advance a copy of the statement that he would make in the House in this connection. Thereafter, the Speaker might get the Government version on the facts. In the light of the facts given by the two sides, the Speaker might decide whether he should allow the matter to be raised in the House as a question of privilege.

Successive Speakers have, however held that an assault on or misbehaviour with a member unconnected with his parliamentary work or mere discourtesy by the police or officers of the Government are not matters of privilege, and such complaints should be referred by members to the Ministers direct.

#### **15. LEAVE OF THE HOUSE FOR RAISING A QUESTION OF PRIVILEGE**

After the Speaker has given his consent to the raising of a matter in the House as a question of privilege, the member who tabled the notice has when called by the Speaker, to ask for leave

of the House to raise the question of privilege while asking for such leave, the member concerned is permitted to make only a short statement relevant to the question of privilege. The Speaker has in his descretion, sometimes permitted other members also to make short statements relevant to the question of privilege. If objection to leave being granted is taken the Speaker requests those members who are in favour of leave being granted to raise in their places. If twenty-five or more members raise accordingly, the House is deemed to have granted leave to raise the matter and the Speaker declares that leave is granted otherwise the Speaker informs the member that he does not have leave of the House to raise the matter.

Leave to raise a question of privilege in the House can be asked for only for by the member who has given notice of the question of privilege. He cannot authorise another member to do so on his behalf.

A question of privilege is accorded priority over other items in the List of Business. Accordingly, leave to raise a question of privilege is asked for after the question and before other items in the List are taken up.

Urgent matters requiring immediate intervention of the House may, however, be allowed by the Speaker to be raised at any time during the course of a sitting after the disposal of questions but such occasions are rare.

#### **16. CONSIDERATION OF A QUESTION OF PRIVILEGE**

After leave is granted by the House for raising a question of privilege, the matter may either be considered and decided by the House itself, or it may be referred by the House, on a motion made by any member to the Committee of privileges for examination,

investigation and report. The usual practice is to refer the matter of complaint to the Committee on Privileges, and the House defer its judgment until the report of the Committee has been presented. However, in cases where the House finds that the matter is too trivial or that the offender has already tendered an adequate apology, the House itself disposes of the matter by deciding to proceed no further in the matter. Further in case there is difference of opinion in the House about the alleged breach of privilege, the House may decide the issue on the floor instead of referring the matter to the Committee on Privileges.

On 5 April, 1967 a question of privilege was raised in the House alleging that the Ministers of External Affairs and Commerce and the Prime Minister had misled the House by making misleading untruthful statements in the House. A motion was moved to refer the matter to the Privileges Committee. The Minister of Parliamentary Affairs moved a counter motion to the effect that Ministers concerned had not committed any breach of privilege of the House.

Thereupon, a point of order was raised that the second motion which had merely the effect of a negative vote, was out of order under Rule 344. Citing Rule 226, the Speaker observed that either one of the two motions or both the motions could be made thereunder, and ruled.

The original motion states that a prima facie case of breach of privilege has been made out and the matter should be referred to the Committee of privileges for investigation. If this motion is voted down, it only meant that the matter is not referred to the Committee of Privilege, namely, whether a breach of privilege or contempt of the House has been committed remains, and the House has to give a decision on the merits of the case.

Therefore, the Minister of Parliamentary Affairs is within his right to invite the House to come to a decision whether any breach of privilege or contempt of the House has been committed.

I rule that both the motions are in order and they should be put to the vote of the House one after the other.

After a lengthy debate in which the Ministers of the matter, the original motion was put to vote first and negatived. Thereafter, the second motion was put to vote and adopted by the House.

## **17. COMPLAINTS AGAINST MEMBERS**

When a complaint of an alleged breach of privilege or contempt of the House is made by a member, the proceedings in the House dealing with that complaint differ depending upon whether the person implicated is a member or a stranger. The main point of difference in the two cases is that before making a complaint against a member, a notice is given to him beforehand as a matter of courtesy. Further, when a member seeks to raise question of privilege against another member, the Speaker, as already stated, before giving his consent to the raising of the matter in the House, gives an opportunity to the member complained against, to place before the Speaker or the House such facts as he may have on the question. Where a complaint of an alleged breach of privilege or contempt of the House was based on a newspaper report of an alleged statement made by a member outside the House, which the member concerned denied having made, the Speaker accepted the statement of that member preference to what had appeared in the newspaper and withheld his consent to the raising of the question of privilege.

Where a question of alleged breach of privilege was raised against a member for having cast aspersions on another member in a press interview, the Speaker allowed the member on whom

aspersions were cast and the member who was alleged to have cast aspersions, to make personal explanations and thereafter, treated the matter as closed.

When a complaint against a member is brought before the House, it is essential that the member concerned should be present in the House ; in case he is not present, the making of the complaint is deferred until the following sitting. Where the member complained against is present in the House when the complaint is made, he is heard in explanation and then directed to withdraw from the House by the Speaker.

In other respects, the procedure for dealing with a complaint of alleged breach of privilege or contempt of the House against a member is the same as that for dealing with a complaint against a stranger.

### **18. Power of the House to punish for Breach of Privilege or contempt and Commit to Custody and Prison.**

Each House of Parliament as also a House of the Legislature of a State has the power to secure the attendance of persons on matters of privilege and to punish for breach of privilege or contempt of the House and commit the offender to custody or prison.

Parliament and State Legislatures possess not only the power to punish for contempt but have also the right to judge for themselves what is contempt or what is not as without this the privilege of punishing for contempt would be worthless.

The power of the House to punish for contempt or breach of privilege has been aptly described as the “Keystone of Parliamentary Privilege” and is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege. This

power is akin in nature and owners its origin to the powers possessed by the courts of law to punish for contempt, without such a power the House” would sink into utter contempt and inefficiency.”

The power of the Legislature to punish for contempt is of recent origin in this country. The Act of 1919 which conferred certain privileges on the members of the Indian Legislature, did not give the Legislature any power to punish for contempt or breach of privilege. The Government of India Act, 1935, widened the ambit of privileges but it expressly stated that nothing in that Act or any other Indian Act, should be construed as conferring or empowering the Federal Legislature to confer, on either Chamber or on both Chambers sitting together or on any Committee or Office of the Legislature, the status of a court or any punitive or disciplinary powers other than a power to remove or exclude persons infringing the rules or standing orders or otherwise behaving in a disorderly manner. With the commencement of the Constitution, however, the power to punish for contempt or breach of privilege and to commit the offender to custody or prison was conferred on the House of Parliament of State Legislatures and was upheld by the Bombay High Court in 1957, when Coyajee, acting Chief Justice, inter alia observed :

.....the framers of the Constitution intended the House alone to be sole judge on a question of admitted privilege. To my mind, it is quite clear therefore, that under article 194(3) when it prescribed that privilege shall be those of the House of Commons of the parliament of United Kingdom, the power to punish for contempt is expressly conferred on the House in that the exercise of that power is identical with that and further.

Privilege is enjoyed by the House of Commons of committing for contempt, the most important ingredient of that right is of committing and arresting by a general warrant. Therefore, it cannot

be contended that if in terms the powers of the House of Commons are conferred, not by a status but by the Constitution on a House of Legislature in India, the right to commit by a general warrant is a mere incident of the power to commit of the House of Commons and does not pass to the Legislature on whom the same power is conferred, because when the power is conferred, it is the power of the Court of Record or the superior court to issue a warrant must belong to the House of Commons and therefore it follows that such power to issue the warrant goes with the power.

This position was later reiterated by the Assam High Court in 1958.

The power to secure the attendance of person on matters of privilege, including the power to send for supposed offenders in custody, was exercised by the Uttar Pradesh Vidhan Sabha in 1952.

Home D. Mistry, the then acting Editor of Blitz, a weekly news magazine, was arrested by the police on 11 March, 1952, at Bombay in pursuance of a warrant issued by the Speaker of the Assembly to enforce the presence of Shri Mistry before the House on 19 March, 1952 to answer a charge of breach of privilege. Shri Mistry was kept in custody at Lucknow till 18 March, 1952, when he was released in pursuance of an order of the Supreme Court on a habeas corpus petition on the ground 1952, when he was released in pursuance of an order of the Supreme Court on a habeas corpus petition on the ground that Shri Mistry had not been produced before a magistrate within 24 hours of his arrest which contravened the provisions of article 22 (2). In a civil suit subsequently filed by Shri Mistry, claiming damages for wrongful arrest and detention, the acting Chief justice Coyajee of the Bombay High Court held, inter alia that the House had power to order the supposed offender to be arrested

and brought before the Bar of the House to answer a charge of breach of privilege. In this connection, the court observed.

The Legislative Assembly of Uttar Pradesh was fully entitled to protect its dignity by the exercise of the privilege expressly conferred on it under article 194 and in exercise of that privilege it issued a warrant which on the face of its states that it is for contempt of the House and therefore that warrant being a general warrant is not subject to scrutiny and that it can be validly executed.

The power to commit to prison for contempt or breach of privilege has been exercised by parliament and State Legislature in India.

If contempt is committed in the immediate presence of the House, the contemner may not be heard. He is taken into custody immediately by the Joint Secretary, Security and detained for the minimum time necessary for interrogation. The contemner may apologize and the House may be pleased to accept it and let him off. If the contemner has to be done by the House only. For this purpose, a motion is moved by the Minister of Parliamentary Affairs. The motion may specify the period of imprisonment and the place or jail where the accused is to be lodged. On the motion being adopted by the House, a warrant of commitment addressed to be superintendent-in-charge of the jail is signed by the Speaker. The accused is, thereafter, taken to the place of imprisonment by the joint Secretary, Security.

#### **Period of Imprisonment :**

The period for which the House can commit an offender to custody or prison for contempt is limited by the duration of the session of the House. A prisoner is automatically entitled to release when the House is prorogued. Where, however, the House considers that

a prisoner, who has been released on account of prorogation, has not been sufficiently punished, he may committed again in the next session and detained until of House is satisfied.

#### **Forms of Warrants :**

No specific form to which warrants issued by the Speaker by order of the House should conform, is prescribed. In 1957, Coyajee, A.C.J. of the Bombay High Court observed.

The warrant in this case on a reading of it is clearly a general warrant indicating that the party was required in connection with a contempt proceedings and therefore, no court would be entitled to scrutinize such a warrant and decide whether it was a proper and valid warrant or not.

#### **Powers for the Execution of warrants :**

Each House has the power to enforce its orders, including the power for its officers to break open the doors of a house for that purpose, when necessary, and execute its warrants in connection with contempt proceedings. It can also direct the Civil authorities to aid and assist in the execution of a warrant issued by its Presiding Officer under the authority of the House. Every branch of the civil government is considered by the House as bound to assist, when required, in executing the warrants and orders of the House.

In the Bombay High Court it was argued that the execution of warrant issued by the Speaker could be effected only through the machinery of the Legislature and not by employing a police officer or by seeking the aid of other officers of a State Government Coyajee, A.C.J. observed.

Use of force for the purpose of enforcing the orders of the Assembly is an absolute ingredient of the privilege to commit and punish for contempt and merely because there are no officers

corresponding to that of the Sergeant at Arms, it does not follow that the content of the privilege is thereby lessened or destroyed, but in my opinion remains entirely unaffected it cannot be that because of the lack of such prescribed machinery the Assembly has no power to implement its decision in connection with contempt and punishment even if it is addressed to the Sergeant at Arms by the Speaker of the House of Commons, the Sergeant at Arms would take in aid in execution of the warrant through the police or even any civilian..... an officer of the House, whoever.

In the case of Lok Sabha, summons, letters etc. have been served through the agency of Union or State Governments. When summons are issued to a witness or a person accused of breach of privilege or contempt of the House, to appear before the Committee of Privileges of Lok Sabha, a duplicate copy of the summons is served on him through the agency of the State Government concerned, the original copy of the summons being sent to the person concerned direct by registered post.

This procedure was adopted by the Committee on the Conduct of a Member in the Mudgal case (1951) for calling witness to appear before the Committee. The procedure was also followed in the Blitz Case (1961) while summoning the Editor of the Blitz, to appear at the bar of the House to receive the reprimand for committing a breach of privilege and contempt of the House.

The agency of the Government of Punjab was utilised for delivering a duplicate copy of a letter to H.L. Sally asking him to submit his written statement to and personally appear before the Committee of Privileges (1966).

When government officers accused of committing a breach of privilege or contempt of the House are asked to appear before the Committee of Privileges, letters for securing their attendance are

sent to the Ministry/Department concerned, requesting them to direct the officer concerned to present himself before the Committee.

Protection to officers executing order of the House.

Warrants for commitment issued by the Speaker by order of the House provide protection to the officers acting thereunder against actions for trespass, assault, or false imprisonment, unless the causes of commitment stated in the warrant appear to be beyond the jurisdiction of the House. If the officer does not exceed his authority, he will be protected by the courts, even if the warrants are not technically formal according to the rules by which the warrants of inferior courts are tested. In this regard, Coyajee, A.C.J. of the Bombay High Court observed all officers or anyone else aiding in the execution of the writ would be protected, because as laid down by May, both Houses consider every branch of the civil government is bound to assist when required, in executing their warrants and orders, and have repeatedly required such assistance.

**Form of Punishment for Breach of Privilege or Contempt:**

In cases where the offence of breach of privilege or contempt is not so serious as to warrant the imprisonment of the offender by way of punishment, the person concerned may be summoned to the bar of the House and admonished or reprimanded by the speaker by order of the House. Admonition is the mildest form of punishment, whereas reprimand is the more serious mark of the displeasure of the House. In Lok Sabha, there have been two cases of persons having been summoned to the bar of the House and reprimanded by the Speaker— one for breach of privilege and contempt of the House, for a libellous despatch appearing in a weekly magazine and the other for contempt of the House in deliberately misrepresenting facts and giving false evidence before a parliamentary committee. In another case, two police officers of the State of Maharashtra were

summoned to the bar of the House to answer the charge of breach of privilege and contempt of the House for allegedly assaulting and abusing a member. The two officers expressed apologies to the member concerned and to the House for whatever happened on that day. In view of the apologies tendered by them, the House decided to treat the matter as closed.

In Rajya Sabha also there has been a case where three persons—joint authors of a book—were summoned to the bar of the House and reprimanded by the Chairman for describing in the said book the Finance Bill, 1980 as Finance Act, 1980 before it had received the assent of the President.

Prosecution of offenders : In the case of a breach of Privilege which is also an offence at law, the House may, if it thinks that the punishment which it has the power to inflict would not be adequate to the offence or where for any other reason the House feels that a proceeding at law is necessary, either as a substitute for or in addition to, its own proceeding, direct the prosecution of the offender in a court of law.

Lok Sabha, in case of a Government Officer, directed that in addition to the reprimand administered to him, the Government should take departmental action against him. Subsequently, on 25 April, 1973, the Minister of Steel and Mines informed the House that certain constitutional difficulties had arisen in implementing the second part of the Resolution adopted by the House. The matter was, therefore, reviewed by the Committee on privileges and upon its recommendations, the House adopted another resolution on 29 November, 1973, rescinding the latter part of its earlier resolution of 2 December, 1970.

In another case, a visitor was punished for shouting slogans in the Public Gallery and for possessing on his person two pistols

and cracker. Besides awarding punishment of one month's rigorous imprisonment for contempt of the House, the motion adopted by the House provided that the punishment would be without prejudice to any other punishment under the law. The matter was subsequently referred to the police authorities under the orders of the Speaker.

In two other cases in Lok Sabha, visitors who were carrying daggers and explosives on their persons were punished with rigorous imprisonment without prejudice to any other action to which they were liable under the law. Written reports were subsequently lodged in Police Station by the Watch and Ward Officer of Lok Sabha with the permission of the Speaker.

**Punishment of Members :** In the case of its own members, two other punishment are also available to the House by which it can express its displeasure more strongly than by admonition or reprimand, namely suspension from the service of the House and expulsion.

On 8 June, 1951, a motion for appointment of a Committee to investigate the conduct and activities of a member of Lok Sabha was adopted. The Committee held that conduct of the member was derogatory to the dignity of the House and inconsistent with the standard which parliament was entitled to expect from its members.

In pursuance of the report of the Committee, a motion was brought before the House on 24 September, 1951 to expel the member from the House. The member, after participating in the debate, submitted his resignation to the Deputy Speaker. The House deprecated the attempt of the member to circumvent the effect of the motion and unanimously adopted the following amendment motion on 25 September, 1951.

“That this House, having considered the Report of the Committee appointed on the 8th June, 1951 to investigate the conduct of Shri H. G. Mudgal, Member of Parliament, accept the findings of the Committee that the conduct of the Shri Mudgal is expulsion from the House and further that the terms of the resignation letter he has given to the Deputy Speaker at the conclusion of his statement constitute a contempt of the House which only aggravates his offence.

On 18 November, 1977, a motion was adopted by the House referring to the Committee of Privileges a question of breach of Privilege and contempt of the House against Shrimati Indira Gandhi, former Prime Minister and others regarding obstruction, intimidation, harassment and institution of false cases by Shrimati Indira Gandhi and others against certain officials who were collecting information for answer to a certain question in the House during the previous Lok Sabha.

The Committee of Privileges were of the view that Shrimati Indira Gandhi had committed a breach of privilege and contempt of the House by causing obstruction, intimidation, harassment and institution of false cases against the concerned officers who were collecting information for answer to a certain question in the House. The Committee recommended that Shrimati Indira Gandhi deserved punishment for the serious breach of privilege and contempt of the House committed by her but left it to the collective wisdom of the House to award such punishment as it may deem fit.

In 19 December, 1978, the House adopted a motion resolving that Shrimati Indira Gandhi be committed to jail till the prorogation of the House and also be expelled from the membership of the House for the serious breach of privilege and contempt of the House committed by her.

On 7 May, 1981, the Seventh Lok Sabha, however rescinded the motion adopted by the six Lok Sabha on 19 December, 1978 by adopting the following resolution.

“Whereas the Sixth Lok Sabha by a Resolution adopted on 19th December, 1978, agreed with the recommendations and findings of the Committee (of privileges) and on the basis thereof held Shrimati Indira Gandhi, Shri R.K. Dhawan and Shri D. Sen guilty of breach of privilege of the House and inflicted on them the maximum penalty possible in violation of the principle of natural justice.

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**NOTES ON PRIVILEGE ISSUE REFERRED TO THE  
COMMITTEE OF PRIVILEGES,  
ASSAM LEGISLATIVE ASSEMBLY AND DECISION**

**THEREON**

**REPORT NO. 8/AUGUST 1962**

**FACTS OF THE CASE** : On 10th August, 1962 the Speaker announced in the House that he had received a complaint of breach of privilege from Shri Madhusudan Das, MLA to the effect that the General Secretary of Assam Medical Services Association had sent a telegram to the Hon'ble Speaker with reference to speeches made by Sri Lakshmi Prasad Goswami MLA on 11th June 1962 referring to the Director of Health Services, wherein the statement made by the Member was attributed as “**vindictive**”, and thereby the telegram cast a reflection on an imputed motive not only to a particular Member but also to the whole House and thereby caused a serious breach of privilege. The copy of the telegram was read out in the House by the Speaker on 29th June 1962. The Speaker found the notice of the complaint in order and referred the same to the Committee of Privileges under Rule 162 of the Rules of Procedure and Conduct of Business in Assam Legislative Assembly.

**RECOMMENDATION OF THE COMMITTEE** : The Committee after considering the matter at length and after hearing the evidence tendered by the Director of Health Services recommended to the House to drop the matter and the matter was accordingly dropped.



(Report 8, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 30 October, 1962)

**REPORT NO. 9/AUGUST 1963**

**Facts of the case** : On the 22nd August, 1963, Shri Dulal Chandra Barua, in pursuance of Rule 158 of Rules of Procedure and Conduct of Business in the Assam Legislative Assembly, made a complaint of breach of privilege committed by the Editors and Publishers of the Assam Tribune, an English daily, published from Gauhati, Assam and the Statesman, an English daily, published from Calcutta for publishing a news item in their issues, dated 5th August 1963 and August 7, 1963, respectively under the caption "Agricultural Pipe Lebhaya Commission's Report was not then presented before the House to which a reference had been made in those newspapers and as the Commission was instituted on the recommendation of the Public Accounts Committee, premature publication of the Commission's Report by the Newspapers and that also partially and in a distorted manner amounts to breach of privilege. He also contended that by these publications, Shri Mahendra Mohan Choudhury, the present Speaker of the House, had been lowered in the estimation of the public and the dignity of the House was undermined. Shri Tarapada Bhattacharyya, MLA took part in the discussion and stated that similar report appeared in the Janambhumi, an Assamese weekly published from Jorhat and the 'Janashakti', an Bengali weekly published from Silchar. Having heard the members, the Speaker was pleased to make a statement on the floor of the House where he observed that the paper report were distorted shorn of context, inaccurate and malicious, and that publication was made with a view to reduce Speaker and bring the House to odium and lower the Speaker in the estimation of

the people. Having the Speaker of the House imposed, the Deputy Speaker occupied the chair and referred the case to the Committee of Privileges under Rule 162 of the Rules of Procedure and Conduct of Business in the Assam Legislative Assembly.

**RECOMMENDATION OF THE COMMITTEE** : In view of the admission made that a breach of privilege was committed for which regret was expressed and apology was tendered by the contemners, the Committee of Privileges recommended to the House to drop the matter.

(Report 9, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 10 September, 1965)

**REPORT NO. 10/APRIL 1964 :**

**FACTS OF THE CASE** : On 6 April, 1964, a complaint of breach of privileges was made by Shri Mal Chandra Pegu, MLA for publishing an editorial written by the editor of the 'Natun Asomiya' in its issue on 25th March, 1964 under the caption "ন্যায় পালিকা বনাম আইন সভা" (Judiciary versus Legislature). The petitioner further stated that Shri Harendra Nath Baruah, editor, Natun Asomiya by his editorial had cast an aspersion against the action of the Privileges Committee of the House and the editor had not only lowered prestige and position of the Privilege committee of the House but also of the whole House in the estimation of the public. Thereupon the Deputy Speaker who was presiding over the House at the time referred the matter to the Committee of Privileges for a Report under the Rule 162 of the Rules of Procedure and Conduct of the House.

Having heard the mover the Deputy Speaker, who was in the Chair referred the matter to the Committee of Privileges for

investigation and Report under Rule 162 of the Rules of Procedure and Conduct of Business in Assam Legislative Assembly.

**RECOMMENDATION OF THE COMMITTEE** : Having considered the matter the Committee of Privileges recommended that Shri Barua, Editor, "Natun Asamiya" Should be brought before the Bar of the House and reprimanded and the press gallery pass issued to the representative of the said Newspaper should be suspended for a year with effect from the date of approval of the House.

**IMPLEMENTATION BY THE HOUSE** : On 2 September, 1966, the Speaker made an announcement in connection of the case against Shri Harendra Nath Barua, Editor, "Natun Asomiya." The entire text of his announcement is as follows :

"I have an announcement to make and take guidance from the House.

The House may recall that on Tuesday, the 30 August, 1966, I had informed the House that Shri Harendra Nath Barua, Editor, "Natun Asomiya", who was summoned to appear before the House to be reprimanded in pursuance of the report of the Committee of Privileges, as adopted by the House on 5 April, 1966, had sent an intimation to me that he was going to move the High Court. In the meantime, Shri Barua has filed a writ petition before the High Court in which he has made the Legislative Assembly, the Speaker, the Secretary, the Chairman of the Privileges Committee, the Privilege Committee and Shri Mal Chandra Pegu, MLA as opposite parties and High Court has admitted the said petition and issued a rule calling upon the respondents to show cause why the writ should not be issued quashing the impugned notice and why such further or other orders should not be passed as the High Court may deem fit

and proper. In the meantime, the operation of the impugned notice has also been stayed.

In view of this order of the High Court, I am placing it before the House for a direction, whether or not an appearance should be made before the High Court on behalf of the respondents and if the House so direct, the Secretary may be authorised to take such steps as may be legally advised to do he may also be authorised to produce such records as may be necessary.

(The House agreed)

In this connection, I want to submit one thing I would like to make it clear that as a matter of grace we do not propose to defy the order issued by the High Court and by entering appearance and placing the facts and the legal points before the Court the Legislative Assembly is not submitting to the Courts Jurisdiction. The House may give such directions as it may be pleased. Is it the sense of the House.

(Voice : Yes, Yes)

In this connection, I have also to refer to a representation submitted by Shri Niron Bhuyan, Special representative, "Natun Asomiya" in which he has prayed that in view of the stay order issued by the High Court, he may be allowed to attend the Assembly Proceedings till the matter is finally disposed of. I may mention that the operation of the order that the press Gallary Pass issued to the representative of the "Natun Asomiya" should be suspended for a year, has not been stayed. However, as the operation of the order against the Editor has been stayed, is it the wish of the House that as matter of grace, the prayer of the Representative should be granted?

(Voice : Yes, Yes)

The Press Gallery pass to the Representative of the "Natun Asomiya" will be renewed."

Then, the execution of the contempt of the House in the case was over. (Report 10, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly in 1966)

### **REPORT NO.1/MARCH 1968**

**FACTS OF THE CASE** : On 22nd March, 1968, Shri Gaurisankar Bhattacharyya, MLA, made a complaint of breach of privilege against the Assam Tribune, an English daily, published from Guwahati, Assam for publishing a news item in its issue, dated 22nd March 1968 under the caption "Gauhati incidents figure in Assam Assembly Debates". It was alleged that the daily had published a false, distorted and mischievous report as his speech delivered in the House. The mover contended that he considered such publication was a breach of privilege to a member of the House.

The Hon'ble Speaker accepted the petition and referred the matter to the Committee of Privileges for report under Rule 162 of the Rules of Procedure and Conduct of the Business of the House.

On 27th March, 1968, the Chairman, Committee of Privileges received a letter of apology from the special representative of the "Assam Tribune" (Shillong) expressing his regret of wrong reporting of the speech of the Hon'ble Member.

**RECOMMENDATION OF THE COMMITTEE** : The Committee of Privileges considered the letter of apology from the Editor, the Publisher, Printer and the Special Representative in its meeting held on 3rd April, 1968 and recommended to the House to drop the matter. Accordingly the matter was dropped.

(Report 1, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 4 April, 1968)

### **REPORT NO.2/MARCH 1968**

**FACTS OF THE CASE** : On 6th April 1968, Md. Shamsul Huda, MLA, made a complaint of breach of privileges against the Frontier Times, an English daily published from Shillong for publication a news item in its issue dated 22 February, 1968 under the caption "Debates on Governor's Address in Assembly" in which a distorted report of his speech delivered in the House on 21 February 1968 had been published. The Hon'ble member contended that he considered that the publication had affected him in the public esteem and the said publication had interfered with his free functioning as a member of the Assembly.

The Deputy Speaker who was in the chair when the complaint was lodged held that it was a fit case to be referred to the Committee of Privileges whereupon he referred the complaint to the Committee for report.

### **RECOMENENDATION OF THE COMMITTEE :**

The Committee of Privileges in its sitting held on 17th July, 1968 considered the letter of apology tendered by the Acting Editor, Printer and Publisher of "The Frontier Times" and recommended to the House to drop the matter.

The matter was accordingly dropped.

(Report 2, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on September 10, 1968.)

### **REPORT NO. 3/SEPTEMBER 1968**

**FACTS OF THE CASE** : On 18th September, 1968, Shri Phani Bora, MLA, made a complaint of a breach of privilege committed by the "The Asom Batori" published from Guwahati for publishing

a news item in its issue dated 11th September, 1968, in which a gross distortion, missed representation and malicious report of his speech as delivered in the House on 10th September 1968 had been published. The mover contented that he considered that the publication was a clear case of breach of privilege.

The Hon'ble Speaker accepted the petition and referred the matter to the Privilege Committee for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee of Privileges in its sitting held on 9th November, 1968 considered the letter of apology tendered by the Editor, Printer and Publisher of the news paper and recommended to the House to drop the matter.

The matter was accordingly dropped.

(Report 3, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 8th March, 1969).

#### **REPORT NO.4/SEPTEMBER 1968**

**FACTS OF THE CASE** : On 21st September 1968, Shri Atul Chandra Goswami, MLA, made a complaint of breach of privilege against "the Natun Asamiya" an assamese daily published from Gauhati for publishing a news item in its issue dated 9th September, 1968, under caption "বিশ্বদেশীৰ দলাল" (Agent of foreigners). The mover contended that he considered the publication to be a breach of privilege of the member of the house.

The Hon'ble Speaker held that it was prima-facie case of libel reflecting not only the member of the House but also the august House and then referred the matter to the Committee on Privileges for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee of Privileges considered the matter in its sitting held on 9th November, 1968. Subsequently, the Committee considered the letter of apology tendered by the Editor, Printer and Publisher of the News paper and recommended to the House to drop the matter. The matter was accordingly dropped.

(Report 4, Committee of Privileges, Assam Legislative Assembly, Presented to the Assembly on 28 March, 1969).

#### **REPORT NO.5/MARCH 1969**

**FACTS OF THE CASE** : On 8th March, 1968, Shri Gaurishankar Bhattacharya, MLA, in pursuance of Rule 151 of the Rules made a complaint of breach of privilege against the Minister of State, in-charge of Public Works Department (R & B wing) for misleading the House while moving a Government resolution on 7th March 1969 by moving a false statement with regard to the existence of guest house of Haj Pilgrimage at Gauhati. The mover contented that the Minister having mislead the House in regard to the fact of the matter had committed a breach of privilege of the House and that too on the very floor of the Assembly and in actual view of the House. Thereupon the Deputy Speaker who was on the Chair referred the matter to the Committee of privileges for report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee, at its sitting held on 28th March, 1969, heard the Minister of State concerned who appeared before the Committee for clarification and the Minister concerned also expressed regret and apologised for the same. In view of that the Committee recommended to the House to drop the matter.

(Report 5, Committee of Privileges, Assam Legislative Assembly, Presented to the Assembly, on 31 March, 1969).

### REPORT NO.6/MARCH 1970

**FACTS OF THE CASE :** On 17th March, 1970, Shri Nameswar Pegu, MLA, in pursuance of the Rule 158 of the Rules made a complaint a breach of privilege against "Deputy Commissioner, Lakhimpur District, Dibrugarh, 2. The Sub-Divisional Officer, North Lakhimpur, Sub-Divisional Officer (Civil), North Lakhimpur, 3. The Sub-Divisional Police Officer, North Lakhimpur, 4. The Officer in charge, Dhakuakhana Police Station and the Magistrate in charge of Dangdhora, for arresting Shri Nameswar Pegu, MLA at 11-30 hours on 29 January, 1970 under G.R. Dhakuakhana P.S. Case No. 17(1) 70 under section 147/148/149/497/329/114, I.P.C. which are all criminal charges without obtaining previous permission of the Speaker, Assam Legislative Assembly. The mover contented all the above mentioned officers committed a breach of privilege against the arresting member in particular and in House in general. Thereupon the Speaker, Assam Legislative referred the matter to the Committee of Privilege for report by 30th April, 1970.

**RECOMMENDATION OF THE COMMITTEE :** After examination of the matter the Committee was of the opinion that there was a prima facie case of breach of privilege of the *House in General and the Member in particular*.

However, as the Minister of Parliamentary Affairs speaking in connection with the motion moved by the Hon'ble Member, had on behalf of the Government expressed his deep regret for such an incident. Under the circumstances the Committee held that the matter may not be perused.

Hence, the Committee recommended to drop the matter. The matter was accordingly dropped.

(Report 6, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 7 May, 1970).

### REPORT NO. 7/MARCH 1970

**FACTS OF THE CASE :** On 18th March, 1970, Shri Dulal Chandra Barua, MLA made a complaint of breach of privilege against Dr. M.S. Iyenger, Director, Regional Research Laboratory, Jorhat and Shri Nepal Chandra Mazumder, Administrative Officer of the Said Laboratory. The Mover contented that the said two officers by showing disregard and refusing to allow the Employment Review Committee of the Assam Legislative Assembly to visit the Regional Research Laboratory on 2 February 1970 in connection with the review of employment position and matters incidental thereto had committed a breach of privilege of the said Committee. The Hon'ble Speaker held that it was prima facie case of breach of privilege not only against the Members of the Employment Review Committee but also against the House as well and referred the matter to the Committee of Privileges for report.

**RECOMMENDATION OF THE COMMITTEE :** The Committee accepted **unqualified apology** tendered by Dr. Lyenger, Director, Regional Research Laboratory and recommended to the House to drop the matter. The matter was accordingly dropped.

(Report 7, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 11 November, 1970)

### REPORT NO. 8/MAY 1970

**FACTS OF THE CASE :** On 27th May, 1970, Shri Soneswar Bora, MLA made a complaint of breach of privilege against the Special Representative and Editor of the "Natun Asamiya" an

Assamese daily published from Gauhati for publishing a news item in its issue, dated 7th May, 1970 under caption “দৈয়াং বিজাভত নগা ৰাজ্য সশস্ত্ৰ বাহিনীৰ চকী পতাৰ চেপ্তা” (Nagaland Border Security Force at Dayang). The Hon’ble Member contended that he considered the publication of a Short Notice question asked by him for and in the name of another member Shri Dulal Chandra Barua, MLA to be a breach of privilege of himself as a Member of the Assembly in particular and the Members of the House in general.

The Hon’ble Speaker held that it was not correct and proper to publish a statement of one particular Hon’ble Member in the name of another Member and that it was a prima facie case of breach of privilege affecting not only the Members in question but also the august House in general and then referred the matter to the Committee of Privilege for report.

**RECOMMENDATION OF THE COMMITTEE** : In response to the show cause notice issued by the Privilege Committee the Editor of Natun Asamiya expressed **regret** for publication of news item and requested the Committee to drop the matter. It was also stated that the special Representative who actually committed the mistake had since resigned.

The Committed considered the letter of apology from the Editor of Natun Asamiya in its sitting held on 3rd August, 1970 and recommended to the House to drop the matter.

The matter was accordingly dropped.

(Report 8, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 11 November, 1970).

#### **REPORT NO.9/MAY 1970**

**FACTS OF THE CASE** : On 24 January, 1970 Shri Moinul Haque Choudhury, MLA made a complaint of breach of privilege

against the “**Hindusthan Standard**” a news paper published from Calcutta for publishing a news item in its issue on 23rd January, 1970 alleging Mr. Moinul Haque Choudhury as having said “**He spoke on the Congress split and charged the Prime Ministers supported with being self-speaker**” Mr. Haque Choudhury denied having spoken anything to that effect and contended that it was a deliberate lie on the part of the persons writing and publishing the impugned news. Thereupon, the complaint was referred by the Speaker to the Committee of Privileges for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee of Privileges accepted the **unqualified apology** tendered by the Editor and the Printer of the “**Hindusthan standards**” and similarly exonerated others summoned in this case. The Committee recommended to the Assembly to dispose of the matter accordingly.

(Report 9, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 11 November, 1970).

#### **REPORT NO. 10/MAY 1970**

**FACTS OF THE CASE** : On 28th April, 1970, Shri Atul Chandra Goswami, MLA made a complaint of breach of privilege against Shri Naba Kumar Dutta, Shri Binanda Chandra Barua, Shri Bhuban Chandra Deka, Shri Atul Chandra Bargohain, Shri Hasan Sarif Ahmed, Shri Nabin Chandra Bordoloi, Shri Saroj Kumar Barua, Shri Padma Bikash Bargohain and Shri Hridayananda Choudhury. MLAs of Dibrugarh for publishing a “**Discussion**” under caption “**Dibrugarh University and Rector Shri Lakshmi Prasad Dutta**” in the issue of the “**Dibrugarh Barta**” dated 15th April 1970 in which aspersions were made on and motives imputed in individual members and the

House as a whole for having passed the Dibrugarh University Amendment Bill, 1967. The mover contended that he considered such publication to be a breach of privilege of the members of the House. The Presiding Officer held that the substance of the complaint constituted a **prima facie** case of breach of privilege of the House and the matter was referred to the Committee for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : After considering the matter the Committee of the Privileges recommended to the House to drop the matter with a warning to the newspaper concerned to desist from such publication in future.

(Report 10 committee of Privileges, Assam Legislative Assembly, presented the Assembly on 17 May, 1971)

#### **REPORT NO. 11/MAY 1970**

**FACTS OF THE CASE** : On 26th May, 1970, the **Shri Govinda Kalita, MLA**, made a complaint of breach of privilege against **Shri Abdul Matlib Mazumder, Minister** in charge of Law. The Mover contended that the Hon'ble Minister gave incorrect and misleading information regarding conviction of certain persons in connection with adulteration of food while intervening in the debate of the House.

The Hon'ble Speaker held that there was a **prima facie** case of breach of privilege and referred the matter to the Committee of Privileges for investigation and report.

According to the direction of the Committee **Shri Mazumdar** appeared before the Committee on 3rd August, 1970 and submitted a written statement by way of his explanation in relation to the complaint.

#### **RECOMMENDATION OF THE COMMITTEE** :

After considering the records, the Committee observed as follows :

**“The Committee has gone through the relevant records of the case concerned since this is a question which concerned the merits of the case and the Committee is supposed only to go to the question whether the Minister misled the House by making the statement and not on the merits of the case, the committee refrains from making any reference or comments thereon but at the same time the Committee feels that this is a matter which needs to be taken up by the Government.**

(Report 11, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 19 May, 1971).

#### **REPORT NO. 12/MAY 1970**

**FACTS OF THE CASE** : On 6th December 1970, **Shri Phani Bora, MLA**, made a complaint of breach of privilege against (1) The Editor of the “**Assam Tribune**” at Guwahati and (2) The special correspondent and Representatives of the “**Assam Tribune**”, at **Shillong** for publishing a news item in its issue dated 8th December, 1970 under caption “**CM states Assam Govt's Eviction policy**”. The mover contended that he considered the publication is based on misreporting of the proceedings of the House and omitting his statement denying the allegation of **Shri M. M. Choudhury, Revenue Minister of Assam** to be a breach of privilege of himself as a Member of Assembly in particular and the Members of the House in General. Thereupon Hon'ble Speaker held that misreporting of the proceeding of this House leading to distorted publication is a very serious matter calculated to create adverse impression against the Hon'ble Member

Shri Phani Bora. A prima facie case of breach of privilege was found to be established and therefore the matter was referred to the Committee of Privileges for report. Shillong expressed their regret for publication of the news item and offered their sincere apology.

**RECOMMENDATION OF THE COMMITTEE** : The Committee in its sitting held on 16th June, 1971 considered and accepted the apology tendered by the Editor and special correspondent and representative of the "Assam Tribune" and accordingly the Committee recommended to the Assembly to drop the matter.

The Committee further recommended to the House that the news papers particularly the "Assam Tribune" should display the correcting news prominently, immediately after the report is presented to the House. Subsequently the clarification was published in the news papers.

(Report 12, Committee of Privileges, Assam Legislative Assembly, presented to Assembly, on 25 October, 1971.)

#### **REPORT NO. 13/DECEMBER 1970**

**FACTS OF THE CASE** : On 17th December, 1970, Dr. Bhupen Hazarika, MLA made a complaint of breach of privilege against by the Editor, correspondents, printers and publishers of the "Assam Tribune", and the "Dainik Asom" for publishing news item under caption "শ্রী লক্ষ্মী প্রসাদ গোস্বামী দুর্নীতি অভিযোগৰ পৰা মুক্ত" in Dainik Asom dated 9th December, 1970, and under caption "L. P. Goswami absolved by inquiry body" in the "Assam Tribune" on 9th December, 1970 and Shillong correspondents UNI who supplied the news to both the papers on the basis of which these news items were published to be a breach of privilege of the Enquiry Committee

itself and the House as whole. The facts was that neither the Majority report nor the minority report absolved Shri L.P. Goswami from the charges. After all, they recommended that the Government should start legal proceedings against him and his associations. The Hon'ble Deputy Speaker then held that the complaint against the Editor etc. of the "Dainik Asom" the correspondent of UNI and also the complaint on this point against the editor etc., of the "Assam Tribune" is in order and referred the complaint to the Committee of Privilege for examination and report.

During the course of examination and consideration of the case by the Committee the Editors, Printers and Publishers and correspondents of the "Assam Tribune" and the "Dainik Asom", tendered unconditional apology and expressed their regret for publication of the news.

**RECOMMENDATION OF THE COMMITTEE** : The Committee of Privileges considered the letters from the Editors, Printers and Publishers and Correspondent of the "Assam Tribune" and the "Dainik Asom" and the Managing Director and Shillong representatives of UNI and accepted the explanation submitted by them. In view of the apology tendered, the Committee recommended to the Assembly to drop the matter. The matter was accordingly dropped.

(Report 13, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 25 October, 1971.)

#### **REPORT NO. 14/JULY 1972**

**FACTS OF THE CASE** : On 24th July, 1972 Shri Mal Chandra Pegu, MLA, made a complaint of breach of privilege against Shri Moulana Abdul Jalil Choudhury, MLA in particular and the



House in general by the **Director of Public instruction and the Chairman of Assam State Madrassa Board** and five other officers.

The **Hon'ble Member Shri Moulana Abdul Jalil Choudhury** submitted a notice of resolution on 23rd June, 1970 seeking permission to move the same during last Budget Session that is June-July Session of 1972. The Resolution notified by Shri Moulana Abdul Jalil Choudhury reads as follows :

**In order to protect the main objective of the Madrassa Education which is prevailing by the scheme submitted by the Secretary, Madrassa Board, this Assembly is of opinion that the scheme framed by Nadwalutzamir, Assam on the basis of the Assam, Provincial Jamiat Ulamani Hind be introduced.**

The 25th Annual Session of the State Madrassa Board, Assam was called by the Secretary, Board to meet on 1st and 2nd July, 1972 by his letter dated 22nd June, 1972 which is 5 days ahead of the circulation of the above resolution by the Assembly Secretariat to discuss amongst others, the courses and syllabi of re-organised Madrassa which were prepared by the Secretary of the said Board.

Shri Mal Chandra Pegu contended that the resolution of the Board clearly run counter to the privileges of a member of the Assembly and exhorted other MLAs and Ministers requesting them not to take note of said resolution of and obstructing the member in his duties as MLA.

The Hon'ble Speaker referred the matter to the Committee of Privileges of the House for examination and report.

**RECOMMENDATION OF THE COMMITTEE :** The Committee was of the opinion that the resolution did not publish any

defamatory statements which furnished the reputation of the member concerning his conduct and character in his parliamentary duties.

The Committee therefore considered the complaint and felt that there should be proper discipline in the functioning of the Government constituted bodies and such bodies should not try to influence the member of the Assembly in forming their independent opinion on any matter which may come up before the Legislature for consideration. It was held that in the instant case there was no material for substantiating a complaint of breach of privilege. The Committee therefore, recommended that the matter be dropped.

The matter was accordingly dropped.

#### **REPORT NO. 15/SEPTEMBER 1972**

**FACTS OF THE CASE :** On 21st September 1972, Shri **Kandarpa Kumar Das, MLA**, made a complaint of breach of privilege against Shri Gokul Pathak, Editor, Printer and Publisher of the 'Amar Desh' a fortnightly Assamese newspaper published from Barpeta an Assamese Newspaper for publishing a news item under caption "ব্যভিচারৰ ওপৰত সদাচাৰৰ শ্ৰলেশ" in its issue dated Friday, September 15, 1972. He contended that Shri Gokul Pathak had committed breach of privilege against him as member of the House in particular and the whole House in general by publishing statement defamatory in nature and thereby lowering his prestige in the eye of public. The Hon'ble Speaker held on 22nd September 1972, that the complaint was in order and referred the matter to the Committee of Privilege for report by 30th November, 1972.

**RECOMMENDATION OF THE COMMITTEE :** The Committee considered the matter in its sitting held on 11th November, 1972 and held that there was no material to sustain the complaint.

The Committee therefore recommended to the House to drop the matter.

The matter was accordingly dropped.

#### **REPORT NO. 16/MARCH 1973**

**FACTS OF THE CASE** : On 28th March, 1973 Shri Soneswar Bora, MLA made a complaint of breach of privilege against the Staff Reporter, Editor, Printer and Publisher of the "Assam Express" an English daily published from Guwahati under the Rule 158 of the House for publishing a news item in the "Assam Express on 24th March, 1973 under caption "Assembly's medium Resolution Rescinded. He contended that the Editor, Printer and the Publisher and the Staff Reporter of the "Assam Express" had committed a breach privilege of the House for publishing distorted report of the proceedings of the House. Thereupon the Hon'ble speaker referred the matter to the Committee of Privileges for examination and report to the House by 30<sup>th</sup> of June, 1973.

The Editor, Printer and Publisher of the "Assam Express" expressed deep regret and tendered apology on behalf of the Newspaper.

**RECOMMENDATION OF THE COMMITTEE** : After considering the apology tendered by the Editor, Publisher, Printer and the staff reporter, the Committee in its sitting held on 8th June, 1973 recommended to the House to drop the matter. The matter was accordingly dropped.

(Report 16, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 29th June, 1973)

#### **REPORT NO. 17/MARCH 1973**

**FACTS OF THE CASE** : On 22nd March, 1973, Shri Dulal Chandra Barua, MLA, gave a notice alleging breach of privilege of the House by Shri Mohitosh Purkayastha, Minister in charge of the department of Supply, Excise, Khadi and Village Industries, Stationary and Printing and Political sufferers, alleging inter-alia, (a) that by wilfully and deliberately remaining absent from the House while the Assembly was in session, the said Minister obstructed the Members of the House from discharging their duties enjoyed them under the constitution of the India and the Rules of Procedure and Conduct of Business of the Assam Legislative Assembly, (b) that Shri Purkayastha not only remained wilfully and deliberately absent from the House but also had deliberately made statement out side the House disowning the authority of the Speaker of the House. The Hon'ble Speaker referred the matter to the Committee of Privileges for consideration and report.

**RECOMMENDATION OF THE COMMITTEE** : After examination of the matter the Committee of Privileges in its sitting held on 3rd November, 1973 found the Hon'ble Minister to have committed breach of privilege and recommended to take appropriate action by the House.

**IMPLEMENTATION BY THE HOUSE** : On receipt of the report from the Committee of Privileges the Hon'ble Speaker, on 15th February, 1974 took up the matter on the floor of the House and asked Shri Mohitosh Purkayastha, Minister to rise in his seat.

The Speaker then read the order as follows :

**“Mr. Purkayastha, the House has expressed its agreement with the 17th Report of the Committee of Privileges and has decided that you are guilty of a breach of privilege of the House. The Committee of Privileges, whose report the House has adopted, has pointed out that having been a Cabinet Minister in-charge of certain important portfolios, you obstructed the Members of the House in discharging their duties by remaining absent wilfully and deliberately from the House while the House is in session and the Departments of which you were in-charge are being or likely to be discussed in the House. That you have obstructed the Members in discharging their duties is a matter of high concern to the House. I, therefore, as Speaker of the House and upon its instructions reprimand you as guilty of a breach of privilege of the House.”**

**Then Shri Mohitosh Purkayastha bowed down to the august House and took his seat.**

(Report 17, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 21st November, 1973).

#### **REPORT NO. 18/DECEMBER 1973**

**FACTS OF THE CASE : On 6th December, 1973 Shri Bishnu Prasad, Minister of State, F. C. & I, Assam, made a complaint of breach of privilege against the Reporters (Correspondent) and editor of the ‘Dainik Asom’ an Assamese daily, published from Gauhati for publishing a news item in its issue on 6th December, 1973 under caption “Sadanat Mantrir Biruddhe Abhijog”.**

He contended that there was no specific mention of corruption against any particular Minister in his speech delivered on the floor of the House but the reporter, Editor of the ‘Dainik Asom’

deliberately mentioned his name as having made such statement although there was no reason for such assumption. He pleaded that the Editor had published an incorrect version of the proceedings deliberately, wilfully and knowingly with a view to cast aspersion on him. Thereupon the Hon’ble Speaker held that there was a prima facie case of breach of privilege and referred to the Committee of Privileges for examination and report.

#### **RECOMMENDATION OF THE COMMITTEE :**

Upon hearing the matter the Committee in its sitting held on 18th January 1974 held that there were enough indications in the speech delivered by Shri Dulal Chandra Barua, MLA and intervention of Shri Bishnu Prasad, Minister of State, while participating in the discussion on the no-confidence motion moved during the last session to identify the person actually meant by the Hon’ble Member Shri Bishnu Prasad and that it was correctly assumed by the newspaper reporter i.e. the correspondent and the report was therefore correctly published without any distortion. As such it was held that **the news paper report complained against did not constitute a breach of privilege of the House.** Thereafter, the Committee recommended the House to drop the matter. The matter was accordingly dropped.

(Report 18, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 4 February 1974).

#### **REPORT NO. 19/JUNE 1973**

**FACTS OF THE CASE : on 28th June, 1973, Shri Dulal Chandra Barua, against Sri Anil RLA and Shrimati Renuka Devi Barkataki, MLA gave a notice against Sri Anil Ratan**

Borthakur and the Editor, Printer and Publisher of the “**Assam Tribune**” for publishing the letter to the Editor under caption “**Legislature and Citizen**” in its issue on **26 June, 1973**. Shri Barua contended that in the said letter charges were made against the member of the House. The writer had dictated terms to the members of the Legislature and thereby interfering with the liberty of the Hon’ble members of the House and hence the writer Sri Anil Ratan Barthakur and the Editor, Printer and Publisher of the Assam Tribune had committed breach of privilege against the members of the House. The Hon’ble Speaker referred the matter to the Committee of Privilege for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee summoned Sri Anil Ratan Barthakur and the Editor of Assam Tribune. The Editor appeared before the Committee on 15-12-73 and expressed his deep regret by stating that he had no intention to lower the prestige of the House. Sri Barthakur appeared before the committee on 2nd Feb, 1974, and disowned the fast para and the last para of the letter to the editor. The Committee accepted the apology tendered by Sri Satish Chandra Kakati, the Editor Assam Tribune and also the submission made by Sri Anil Ratan Barthakur and recommended to the Assembly to drop the matter. The matter was accordingly dropped.

(Report 19, Committee of Privileges Assam Legislative Assembly, presented to the Assembly on 16 September, 1974).

#### **REPORT NO.20/JUNE 1973**

**FACTS OF THE CASE** : On 20th June, 1973, Shri Surendra Nath Das, MLA gave notice of a complaint of breach of privilege against the editors Shri Jiten Das and Shri Abdul Majid of

“**Mukha**” a journal published from Nalbari every two months and printed in Ganga Press, Nalbari. He contended that the editors defamed him and lowered his prestige in the eye of public as a member of the House by publishing an article under caption. “কার্যবাহী অভিযুক্তা বনাম কুচক্র” wherein the Editors brought and made specific allegation against him by stating inter-alia বৰমাৰ এচ-ডি-অ, জনে সেই ঠাইৰ এম-এল-এক বিনা খৰছতে পকা ঘৰ বান্ধি দিবলৈ যো-জা কৰা। আদি কাৰ্য্যৰ সত্য উদ্ঘাটন কৰিছে। দুৰ্নীতি পৰায়ণ ঠিকাদাৰ আৰু ৰাইজৰ প্ৰতিনিধি এম-এল-এই লাখ লাখ কলা টকা ভাগ বতৰা কৰাৰ এই সুগম চেষ্টা” The member contended that he being the MLA of **Barama** considered the publication to have defamed him and lowered his prestige in the eye of public and therefore the editors had committed a breach of privilege against himself as a member of the Assembly in particular and against the whole House in general. The Hon’ble Speaker held that it was a prima facie fit case of breach of privilege and referred to the Committee of Privileges for report.

**RECOMMENDATION OF THE COMMITTEE** : On perusal of the matter the Committee of Privileges recommended to the House that both the contemner be reprimanded.

**IMPLEMENTATION BY THE HOUSE** : On 4 October, 1974, **Hon’ble Speaker** executed the order of the House as adopted by the House on 27th September, 1974 to reprimand Shri Jiten Das and Shri Abdul Mazid Editors of the Journal “Mukha” as follows :

“**Shri Jiten Das and Shri Abdul Mazid the Editors of the Journal “Mukha” the HOUSE HAS expressed its agreement with the Twentieth Report of the Committee of Privileges and has decided that both of you are guilty of Committing contempt of the House. The Committee of Privileges whose Report the House has adopted has pointed out that neither you expressed any regret nor apologised to**

**Shri Surendra Nath Das, MLA on receipt of the notice of breach of Privilege for writing and Publishing allegation against Shri Das, you are therefore guilty for Committing contempt of the Hon'ble Member of the Assam Legislative Assembly Shri Sureandra Nath Das as such Member. That you have Committed the contempt of the Hon'ble Member is a high concern to the House. I, therefore, as Speaker of the House and upon its instructions, reprimand you, Shri Jiten Das and Shri Abdul Mazid as guilty of the said contempt."**

Then, the contemnners were allowed to leave the House.

(Report 20, Committee of Privilege, Assam Legislative Assembly, presented to the Assembly on 16 November, 1974).

#### **REPORT NO.21/JULY 1973**

**FACTS OF THE CASE** : On 24th July, 1973, Shri Suranjan Nandy, MLA gave a notice of a complaint of breach of privilege against the Editor, Printer and Publisher of the **Mahanayak**, a weekly published from Karimganj for publishing a news item in its issue on 12<sup>th</sup> April 1973 wherein he had criticised the nomination of two members by the Hon'ble Speaker in the House and by turning the nine MLAs who had attended the March Session, 1973 as "বিশ্বাসঘাটক নয়জন বিধায়ক" and lowering their prestige in the public eyes. He contended that the editor, printer and publisher had committed a breach of privilege of the House. Thereupon, the Hon'ble Speaker referred the matter to the Committee of Privilege for report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee of Privileges issued summons to the Editor, Printer and Publisher of "**Mahanayak**", Karimganj, Cachar who in their letter dated 16th October, 1973 stated :

1. That statement of facts does not constitute any Breach of Privilege nor civil or criminal Offence.
2. The Article under issue published in the weekly "Mahanayak" dated 12 April, 1973 had been published in the shape of news item and as such being the statement of facts and it was not an editorial comments. It was further stated that the news was published on the basis of a public resolution adopted by Cachar Jila Sangram Parishad Executive Committee under the presidentship of Shri Maulana Abdul Jalil Choudhury, MLA and nine Assembly representatives who attended the Assembly Session violating their own decision of boycotting that particular session of the Assembly in quelling the most volcanic situation in Cachar District consequent to the most Satyagraha Movement launched by Chatra Juva Sangram Parishad. It was also stated that in those resolution, the Executive Committee of the Jila Sangram Parishad used the words "Traitor" in characterising the Nine Assembly Members from Cachar. Hence, by publishing the news on the background of the resolution they had acted in good faith and did not deviate from honest resolution.

The Committee of Privileges in its sitting held on **4th May, 1974**, considered the written statement submitted by the Editor in the light of the resolution of the Sangram Parishad and held that there was no deviation in the news item from the resolution of the Sangram Parishad and the statement in the news item was a statement of fact and the resolution was without any comment from the Editor.

The Committee accepted the explanation submitted by the Editor in his written statement and held that no breach of privilege was attracted and recommended to the House to drop the matter. The matter was dropped accordingly.

## REPORT NO.22/JULY 1973

**FACTS OF THE CASE :** On 24th July, 1973 Shri Abdul Hamid Mazumdar, MLA gave a notice of breach of privilege against the Editors, Printers, Publishers of “**Jugasakti**” for publishing a news item under caption “মাত্র সাতশ টাকার জন্য” (only for Rs. 700/-) in its issue dated 13th April, 1973. He contended that the editor, printer and publisher of “**Janasakti**” had discredited him and his other colleagues who had attended the March Session of the Assembly by giving a publicity that the member had attended the Assembly only for rupees seven hundred. Therefore the Editor, Printer and Publisher of **Jugasakti** had committed breach of privilege of the House. Thereupon, the Hon’ble Speaker referred the matter to the Committee of Privileges for report.

Recommendation of the Committee : The Committee found the Editors, Printer & Publisher to have committed breach of privilege and the Committee in its sitting held on 1st June, 1974 recommended to the House to **admonish** them considering as the “**Minimum punishment**” as prescribed in the Rules of Procedure and Conduct of Business in Assam Legislative Assembly.

**IMPLEMENTATION BY THE HOUSE :** While implementing the direction of the House as recommended by the Committee of privileges, The **Speaker on 19th February, 1975** announced on the floor of the Assembly that **Samarjeet Choudhury** were to be **admonished** for committing breach of privilege against **Shri Abdul Hamid Mazumdar, MLA in particular and the House as a whole in general.**

The Hon’ble Chair also mentioned that the Committee of Privileges had exempted Shri Bidhubhusan Choudhury from personal appearance before the Committee as he was completely bedridden

due to third attack of coronary thrombosis. The Marshal of the House served summons on him but his son Shri Samarjit Choudhury submitted a petition along with a medical certificate to exempt Shri Choudhury from appearing in the Assembly.

The Hon’ble speaker read out the petition of Shri Choudhury and thereafter read the order of the House as follows :

**“Is it the sense of the House to exempt Sri Choudhury from appearing in the Assembly?**

(Voices : Yes, Yes)

**Then we reprimand and admonish Shri Samarjit Choudhury, Printer and Publisher of “Jugasakti”, Karimganj.**

**Mr. Samarjit Choudhury Printer and Publisher of ‘Jugasakti’, Karimganj, the House has expressed its agreement with the 22nd Report of the Committee of Privileges of Assam Legislative Assembly and has decided that you have Committed a breach of Privilege against Shri Abdul Hamid Mazumdar, MLA in particular and the House as a whole in general. The Committee of Privileges whose report the House has adopted was satisfied that the news item published in ‘Jugasakti’ dated 13th April, 1973 under the caption “মাত্র সাতশত টাকার জন্য” alleged to have been based on the observation made by Shri Abdul Jalil Choudhury in a meeting of Silchar District Congress Committee was not true and that the publication of the said news item was motivated : That you have committed the breach of Privilege against Shri Abdul Hamid Mazumdar, MLA in Particular and the House as a whole. I therefore, as Speaker of the House and upon its instructions, admonish you Mr. Samarjit Choudhury, Printer and Publisher of ‘Jugasakti’, Karimganj as guilty of the said breach of Privileges.**

Then the contemner was allowed to leave the House.

(Report 22, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 16 September, 1974).

#### **REPORT NO.23/SEPTEMBER 1974**

**FACTS OF THE CASE** : On 30th September, 1974, Shri Sontosh Kumar Roy, MLA gave a notice of breach of privilege of the Hon'ble Member and the house as a whole against Sri Dipendra Kumar Das, Editor, Printer and Publisher of "Purbashree" for publishing in its 30th issue on 21st September, 1974 a news item under captions ১। "কংগ্রেছী বিধায়ক সন্তোষ ৰায় হাইলাকান্দিত্তে দুৰ্নীতি বাজাৰ খুলছেন" ২। শিক্ষা মন্ত্ৰীৰ সামনে দরবার" and "বিশ্বমন্ত্ৰ" He contended that the said publication and cast reflection on him as member of the House and thereby lowered his prestige in the eye of public and so he considered the said editor, printer and publisher to have committed breach of privilege against him as member in particular and the whole House in general. Thereupon, the Speaker referred the matter to the Committee of Privileges for report.

**RECOMMENDATION OF THE COMMITTEE** : On 25th July, 1975 Shri Dwipendra Kumar Das, Editor, Printer and Publisher of "Purbashree" appeared before the Committee and stated that he had no direct knowledge of the publication since he depended on the information supplied by his reporters. It was also stated that he had no direct knowledge of the alleged corrupt practices of Shri Santosh Kumar Roy, MLA. He tendered **unqualified apology** for any breach of privilege that he might have committed.

The matter was accordingly dropped

(Report 23, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 8 September, 1975).

#### **REPORT NO. 24/FEBRUARY 1974**

**FACTS OF THE CASE** : On 5th February, 1974, Shri Bishnu Prasad, Minister of State F. C. & I etc. gave a notice under Rules 158 and 159 of the Rules of the House alleging breach of privilege of himself as a Minister of State and as member of the House against Shri Dulal Chandra Barua, MLA for making defamatory statement on the floor of the House on 5 December, 1973 while delivering his speech on "the No-Confidence Motion" against the Government thereby disreputing him and lowering his prestige in the eyes of the public. Thereupon the Hon'ble Speaker referred the matter to the Committee of Privileges for examination and report by 31st May, 1974.

**RECOMMENDATION OF THE COMMITTEE** : The Committee held the first meeting on 5th June, 1974 and framed two issues :

- (1) Whether the allegation made by Shri Dulal Chandra Baruah, MLA, on 5th December, 1973, against Shri Bishnu Prasad, MLA, are baseless and are made wilfully with definite ill-motive so as to interfere with the discharge of his duties as Member of the House of the Assam Legislative Assembly?
- (2) If so, what steps should be taken in the matter?

The Committee examined the evidence produced by Shri Dulal Chandra Baruah, MLA, and held that the allegations made by Shri Dulal Chandra Barua, MLA, against Shri Bishnu Prasad on his speech on the floor of the House on 5th December, 1973, containing defamatory statement had disreputed and lowered the prestige of Shri Bishnu Prasad in the eyes of the public. The intention of Shri Baruah while making these allegation was clearly to disrepute him and even if the speech was made in connection with the no-confidence

motion, the allegations were definitely not of general character and failure to substantiate his own witness proved beyond any doubt that Shri Baruah was not at all restrained to the extent one matured parliamentarian like him is expected to be.

However, in view of the verbal amends made by Shri Dulal Chandra Baruah, before the Committee on 17th November, 1977, the Committee recommended that matter be dropped. The matter was dropped accordingly.

#### **REPORT NO.25/FEBRUARY 1974**

**FACTS OF THE CASE** : On 8th February, 1974, Shri Harendra Nath Talukdar, MLA, gave a notice under Rule 158 and 159 of the Rules of the House alleging that Shri Dulal Chandra Barua, MLA had committed a breach of privilege against him on 5th December 1973 in the House while taking part in the debate in connection with no-confidence motion casting aspersion on his prestige, position, integrity not only within the House but out side also. The Hon'ble Speaker having heard another two members Shri Soneswar Bora and Giasuddin Ahmed referred the matter to the Committee of Privileges for examination and report by 31st May, 1974.

**RECOMMENDATION OF THE COMMITTEE** : The Committee at its meeting held on 16th June, 1974, framed two issues:-

- (1) **Whether the allegations made by Shri Dulal Chandra Baruah, MLA, on 5th December, 1973, on the floor of the House against Shri Hitendra Nath Talukdar, MLA are baseless and are made wilfully with definite ill-motive so as to interfere with the discharge of his duties as a Member of the Assam Legislative Assembly?**

- (2) **If so, what steps should be taken in the matter?**

On 17th August, 1974, the Committee examined the statement submitted by Shri Dulal Chandra Baruah and held that the allegation made by Shri Baruah in the House against the Minister was not of general nature but the Committee could not establish about their **malafide** at this stage. The Committee therefore, was of opinion that Shri Baruah could furnish further particulars and adduce evidence to substantiate the allegation.

Upon hearing the statements and the evidences adduced by Shri Baruah the Committee was of the opinion that the allegations made by Shri Dulal Chandra Baruah had been substantiated partially, if not wholly and for that matter the aspersion that was cast, if any, and the loss of prestige, position and integrity of the Member concerned Shri Baruah could not be held responsible.

**The Committee therefore, held that there was no obstruction whatsoever or interference of any kind with the discharge of the duties of Shri Talukdar as a Member of the House. There was therefore no question of committing any breach of privilege against Shri Talukdar by Shri Baruah.**

The Committee therefore, recommended to the House to absolve Shri Baruah honourably of the complaint which was found to be groundless.

#### **REPORT NO.26/FEBRUARY 1979**

**FACTS OF THE CASE** : On 22nd February, 1979, Shri Hemen Das, MLA and Chairman, Committee on Public Accounts in pursuance of Rules 158 and 159 of the Rules of House made a complaint of breach of privilege against the Editor Shri Homen Bargohain and the Printer and Publisher Shri S. Bijoy Singh of the "Nagarik" for publishing an Editorial under caption "ফাইভষ্টাৰ



হোটেল আৰু সৰ্বহাৰাৰ নেতা” (Five Star Hotel and Leader of the Downtrodden) in its issue dated 1st February, 1979. He contended that he considered that such publication had cast reflection on him as an individual member of the House and also as Chairman of the Committee of the House and thereby it had malign the Hon'ble member and such publication was made deliberately to cast reflection on the Hon'ble member and to lower his prestige in the eye of public. Therefore he held that the said publication was a serious breach of privilege of the Members of the House. The Hon'ble Speaker referred the matter to the Committee of Privileges for examination and report by 31 May, 1979.

**RECOMMENDATION OF THE COMMITTEE** : The Committee after considering the letters of apology received from the Editor and the Publisher and Printer of the 'Nagarik' and after hearing the Editor and Publisher and the Publisher and Printer in person held that in view of the admission made by the editor and the publisher and printer that a breach of Privilege had been committed for which **regret was expressed** and **unqualified apology** was tendered to Shri Hemen Das, MLA Chairman, PAC and to the House through the Committee. Thereafter, the Committee recommended that the House be pleased to accept the apology and drop the matter. The matter was dropped accordingly.

(Report 26, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 3th September, 1979).

#### **REPORT NO.27/MARCH 1985**

**FACTS OF THE CASE** : On 16th March, 1985, Hon'ble Member Shri Binoy Kumar Basumatary, MLA gave a notice of breach of privilege against the Editor, Printer, Publisher and the reporter of the 'Dainik Asom' for publishing a news item under the

caption 'Durnitir Ujan' in its issue on 13th March, 1985. He contended that on 12 March, 1985 while participating in the debate on Governors Address, he referred to a news item published in the 'Sentinel' on 12th March 1985, about an incident that took place in Silchar Circuit House. But the news paper the 'Dainik Asom' in its issue on 13th March, 1985 published a news item that the alleged incident had taken place at Gauhati Circuit House, thereby distorting facts in the proceedings of the House and by publishing such distorted news item had deliberately, wilfully and knowingly maligned the members of the House and the House as a whole, which lowered the prestige and dignity of the Member and the House as a whole in the estimation of the public. The Speaker under the Rule 162 of the Rules of the House had referred the matter for examination and report to the Committee.

**RECOMMENDATION OF THE COMMITTEE** : The Committee recommended that the House be pleased to accept the apology tendered and drop the matter.

(Report 27, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 9th April, 1985).

#### **REPORT NO.28/MAY 1985**

**FACTS OF THE CASE** : The Committee of Privileges was seized of some questions of breach of privilege arising out of a news item published by the "Sadinia Prahari" and the "Asom Bani" published from Gauhati which was referred to the Committee by the Hon'ble Speaker, Assam Legislative Assembly in pursuance of the prevailing practice of Lok Sabha according to which the Speaker may refer a matter suomoto to the Committee of Privileges for examination, verification and report. The 'Sadinia Prahari' and the 'Asom Bani' had published a news item in their issues, on 15th

and 16th May, 1986 respectively, alleging that the president Barkhetri Anchalik students union was informed by the Block Development Officer, Barkhetri Development Block that the Hon'ble Speaker, Assam Legislative Assembly directing him in writing under his official seal to distribute tube wells and agricultural seeds among the suspected foreigners living in the area.

The Committee noted that the "**Sadiniya Prahari**" published the news item in its issue dated 15 May 1986 under caption "বৰক্ষেত্ৰী ছাত্ৰ সন্থাৰ অভিযোগ" "**complaint of Barkhetri student Association**" and the "**Asom Bani**" published the said news item in its issue of 16th May, 1986 under caption "অধ্যক্ষ পুলকেশ বৰুৱাৰ বিৰুদ্ধে অভিযোগ" complaining against Pulakesh Baruah, Speaker.

**RECOMMENDATION OF THE COMMITTEE** : Having considered the matter the Committee of Privileges accepted the unqualified letter of **apology** and decided not to pursue the matter.

(Report 28, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 14 October, 1987).

#### **REPORT NO.29/APRIL 1988**

**FACTS OF THE CASE** : Hon'ble Members **Shri Zoii Nath Sarma and Kumar Deepak Das** submitted a notice of breach of privilege against the Leader of the Opposition during a discussion on the censure motion, mentioning that the Leader of the opposition made a very conservative opinion about the artistic performance of **Late Phani Sarma**. Upon hearing a motion on the floor of the House the Hon'ble Speaker referred the matter to the Committee of Privileges for examination and report.

The Committee after examining the clarifications of the Hon'ble Leader of the Opposition, felt that the comparison of the speech of the Hon'ble Education Minister with the manner of dramatic

performance of noted artist Late Phani Sarma was not necessary and in doing so the Leader of the Opposition exceeded the legitimate expression of his opinion, such expression appeared to have cast reflection on the Proceedings of the House.

**RECOMMENDATION OF THE COMMITTEE** : The Committee had accepted the submission of the Leader of the Opposition in a spirit of forgiveness and recommended that in the interest of the dignity of the House, the matter may not be pursued.

(Report 29, Committee of Privileges Assam Legislative Assembly, presented to the Assembly on 4th April, 1988).

#### **REPORT NO.30/JULY 1987**

**FACTS OF THE CASE** : On 18th July, 1987 **Shri Abdul Hamid Mazumdar** MLA Raised a complaint of breach of privilege on the floor of the House against the Officer-in-charge of Katigora Police Station.

On 28 June 1987 the Officer-in-charge, Katigora P.S. arrested **Shri Abdul Hamid Mazumdar** MLA, under section 353 of IPC against Katigora P.S. case No. 173/87 in connection with an incident that took place in the meeting of BLCC Katigora Development Block presided over by **Shri Abdul Hamid Mazumdar**, MLA on 25 May, 1987. Hearing the submission of the member the Hon'ble Speaker, Assam Legislative Assembly referred the matter to the Committee of Privileges for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : Having considered the matter the Committee recommended that the concerned Department should take appropriate action against the Officer-in-charge **Shri Sudhir Kumar Das** for his lapses.

(Report 30, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 18 November, 1988).

### REPORT NO.31/SEPTEMBER 1988

**FACTS OF THE CASE :** On 23th September, 1988 Shri Dilip Kumar Saikia Sonowal, MLA raised a complaint of breach of privilege against the Editor, Printer and Publisher of the Assamese Bi-weekly the “Agradoot” for publishing a news item under caption “মই গোগামুখ অঞ্চল ঠাণ্ডা কৰি যাম” “I shall make Gogamukh area cool” in its issue.

Having heard the mover, the Hon’ble Speaker referred the matter to the Committee of Privileges for examination, and report.

**RECOMMENDATION OF THE COMMITTEE :** On perusal of the facts the Committee considered **unqualified apology** made by the Editor in his letter dated 17th November, 1988 in-which he expressed sincere regret. Thereupon the Committee of Privileges decided not to pursue the matter.

(Report 31, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 7th June, 1989).

### REPORT NO.32/DECEMBER 1992

**FACTS OF THE CASE :** On 24th December, 1992 Shri Golok Rajbanshi the Minister, Parliamentary Affairs raised a complaint of breach of privilege against Shri Gahin Chandra Das, MLA on the floor of the House for throwing a piece of paper on the face of the Hon’ble Speaker (to the Chair) at the time of taking up of the Assam Appropriation (No. III) Bill, 1992 Having heard the mover the Speaker, referred the matter to the Committee of Privileges for examination and report.

**RECOMMENDATION OF THE COMMITTEE :** The Committee after considering the **unqualified apology** tendered by Shri Gahin Chandra Das, MLA for unintentional mistake,

recommended the House to drop the matter. The matter was dropped accordingly.

(Report 32 Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 11 April, 1994).

### REPORT NO.33/MARCH 1992

**FACTS OF THE CASE :** On 10th March, 1992 a news item under caption “সময় প্রবাহের বিরুদ্ধে রাগ উপাধ্যক্ষের” was published in a local daily “Samay Prabah” followed by an **editorial** under caption, “নামের জন্য” published in the subsequent issue of 10th March 1992. Both the news items as well as the editorial reflected the then Deputy Speaker’s remark on the standard of news paper “সময় প্রবাহ” made during tea break on 9th March, 1992. The news item and the editorial vehemently **criticised** the Deputy Speaker reflecting his **character, conduct and behaviours as legislator** representing the people of the Assembly constituency towards the Staff Reporter. Both the news item and editorial stressed that the then Deputy Speaker was annoyed with the staff reporter of Samay Prabah for non-appearance of his name in the news paper along with others in connection with birth centenary celebration of **Lokapriya Gopinath Bordoloi** at Calcutta. On 11th March, 1992 Shri Abdul Jali Ragibi, MLA submitted a notice of complaint of breach of privilege under Rule 159 of the Rules of the House against the editor, staff reporter and printer and publisher of the daily “Samay Prabah” as stated above in its issue dated 10th March 1992 and editorial dated 11th March, 1992. The Hon’ble Speaker allowed the Member to raise the matter in the House on 12th March, 1992. The complainant contended that the alleged charges in the news item and the editorial were **baseless, false and scurrilous** and motivated which cast aspersion on the character and lowered the dignity and

prestige of Deputy Speaker of the Assam Legislative Assembly in the estimation of general public. Upon hearing Hon'ble Members and Minister of Parliamentary Affairs the Hon'ble Speaker referred the matter to the Committee on Privileges for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : Having considered the matter the Committee of Privileges held that the news item published had **no malafide intention to lower the dignity and prestige of the Deputy Speaker** in the estimation of the general public for which the staff reporter had also expressed regret. The Committee recommended to the House to drop the matter. The matter was dropped accordingly.

(Report 33, Committee of Privileges, Assam Legislative Assembly presented to the Assembly on 27th September, 1995).

#### **REPORT NO.34/MARCH 1992**

**FACTS OF THE CASE** : On 7th March, 1992 Shri Mujibur Rahman, MLA raised a complaint of breach of privilege on the floor of the House under the Rules 158 and 159 of the Rules against the Editors, Printer and Publisher of a daily the “**Samay Prabha**” (A Bengali daily published from Guwahati, Assam) and the “**Ajir Batori**” (An Assamese daily published from Guwahati, Assam) for allegedly publishing a news item under captions ‘চাকরির প্রতিশ্রুতি দিয়ে টাকা আদায়—গুরুতর অভিযোগ বিধায়কের বিরুদ্ধে’ and মুজিবুর ট্রাস্ট ফাণ্ড চাকৰী দিয়াৰ প্রতিশ্রুতিৰে টকা সংগ্ৰহ” (On job assurance payment received serious complaint against MLA and Mujbur Trust fund collected rupees on assurance of job) in “Ajir Batori” in their issue dated 5th and 10th February, 1992, respectively. Both the news items alleged that the MLA from Dhing L.A. Constituency collected money from the candidates for a job @ Rs. 5000/- for a post of school teacher and Rs. 20,000/- each to be deposited in the “**Mujibur Trust Fund**”

through some Dalals. Further, it had also been alleged that as a Chairman of State Road Transport Corporation, the local MLA collected money in the name of providing permit. The Hon'ble Member contended that alleged charges in the news items of both the dailies were baseless, false, distorted and motivated which cast aspersion and reflection on his character and conduct as a member of the House diminishing his prestige and dignity in the estimation of general public. On receipt of notice under Rule 161 of the Rules of the House the Hon'ble Speaker referred the matter on 16th March, 1992 to the Committee on Privileges for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : Having considered the matter the Committee of Privileges recommended to publish the clarification and subsequently the clarification was published in the news papers. The matter was dropped accordingly.

(Report 34, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 27 September, 1995).

#### **REPORT NO.35/MARCH 1997**

**FACTS OF THE CASE** : On 19th March, 1997 Hon'ble Members Shri Dilip Kumar Saikia and Shri Holiram Terang raised a complaint of breach of privilege on the floor of the Assembly under the Rules 158 and 159 of the Rules against the Editor, Reporter, Printer and Publisher of the “**Asomiya Pratidin**” an Assamese daily published from Guwahati, Assam, under caption “মিছৰ কোৱা দিল্লিপক চি-বি-আইচি চৰ” (Slap to liar, Dilip by the CBI) stating inter alia, that the imputations made against Sri Dilip Kumar Saikia in the said news item were all untrue, unfounded and baseless and that the whole purpose of publishing the said news item was to malign and disrepute him in public esteem including the electorate of his constituency. It was further stated that the said news item had lowered the prestige

and reputation of Sri Saikia and that the contents thereof had amounted to breach of privilege.

The matter was placed before the Assembly on 19<sup>th</sup> 1997 and the Hon'ble Speaker after hearing the complainant and some Members referred the matter to the Committee of Privilege for examination and report.

#### **RECOMMENDATION OF THE COMMITTEE :**

The Committee framed two issues as follows:-

1. Whether the imputations made against Sri Dilip Kumar Saikia, MLA, in the impugned news item is false and fabricated?
2. If the news item is held to be false and fabricated whether the news item is sufficient to bring home the charge of breach of privileges?

The Committee held that although the incident did not take place within the House or within the premises of the House, the Hon'ble Member was mentally restrained from discharging his duties as a Hon'ble Member of the House truly and properly due to mental agony.

It was further held that the writings in the impugned news item had reflected on the Hon'ble Member Sri Dilip Kumar Saikia and this has apparently damaged his prestige and reputation. The said news item had undoubtedly tended to obstruct the member in the performance of his functions and also the House, inasmuch as, the said news item was placed before the House and this had created dissatisfaction atleast among some members of the House.

The Committee came to an irresistible conclusion that both the Editor and the Proprietor and Publisher had committed breach of privilege by publishing the impugned news item as mentioned

above. The Committee left the matter with regard to punishment to be imposed on Sri Ajit Kumar Bhuyan, Editor and Sri Jayanta Barua, Proprietor and Publisher of "Asomiya Pratidin" to the Hon'ble Speaker.

**IMPLEMENTATION BY THE HOUSE :** The House the report of the Committee on 27th December 1997, and as per recommendation of the Committee, the contemner Shri Ajit Kumar Bhuyan was brought to the floor of the House. Thereafter the Hon'ble Speaker admonished him. The contemner was allowed to leave the House after bowing down to the august House.

(Report 35, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 26th December, 1997).

#### **REPORT NO.36/JULY 1997**

**FACTS OF THE CASE :** On 19th July, 1997 a fax-message addressed to the Member, Assam Legislative Assembly of Gohpur Legislative Assembly Constituency (who was the Speaker, Assam Legislative Assembly) was received from **Shri Raj Kumar Kutum**, General Secretary, Missing Bane Kebang & Executive Councillor, Interim Missing Autonomous Council. The fax message appeared prima-facie to have contained some **sweeping and derogatory remarks** and abusing news purported to reflect the character and conduct of the Hon'ble Speaker who is the symbol of the House. The fax message also appeared to be **scurrilous** one and pertains to lower the dignity and prestige of the Speaker, Assam Legislative Assembly in estimation of general public by denigrating the office of the Speaker, Assam Legislative Assembly. Under Rule 176 of the Rules Hon'ble Speaker in exercise of his **suo-moto power**, referred the matter to the Committee of Privileges for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee served notice to the contemner to which he replied asking for apology which the Committee held to be not unqualified. The contemner failed to appear before the Committee which the Committee held that his defiance to appear before the Committee itself amounted to contempt of the Committee of Privileges.

The Committee referred to the matter to the Hon'ble Speaker with a request to take appropriate action as deemed just and proper.

**IMPLEMENTATION BY THE HOUSE** : Having adopted the report by the House on 27th December 1997 as per recommendation of the Committee of Privileges, the contemner Shri Raj Kumar Kutum was brought on the floor of the House and was admonished by the Hon'ble Speaker.

The contemner was allowed to leave the House after bowing down to the august.

(Report 36, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 26th December, 1997).

### **REPORT NO.37/MARCH 1998**

**FACTS OF THE CASE** : On 23th March, 1998 Shri Dilip Kumar Saikia and nine other MIAs submitted a notice of complaint of breach of privileges against **Shri Atanu Bhuyan, Executive Editor of the "Ajir Batori"** an Assamese daily published from Guwahati, Assam for publishing a news item with caption 'মহন্ত ডাঙৰীয়া, শেষত আপুনি স্মৃতিশক্তিও হেৰুৱালে যে' (Respected Mahanta at the end you have lost your memory) in its issue on 21 March, 1998. The complaint was placed before the Hon'ble Speaker for allowing the matter to be raised in the House for drawing up a proceeding of breach of privilege against Shri Atanu Bhuyan executive editor, Shri D.N. Chakravarty, Editor of the "Ajir Batori", Shri Pranab Kumar

Talukdar, Shri Rajendra Prasad Bora and Smti. Indira Bora Printers and Publishers of the said news paper. It was contended that the news item had lowered the prestige, reputation and credibility of the Chief Minister, Shri Prafulla Kumar Mahanta and also all members of the House. The complainants, were allowed to move the notice on the floor of the House and thereupon Hon'ble Speaker referred the matter to the Committee of Privileges for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee of Privileges examined the matter and came to the conclusion that it was a fit case in which all the five contemnners should be dealt with under the provisions of the Breach of Privileges and should be punished accordingly. The Committee also decided to place the matter before the Hon'ble Speaker for necessary action.

**IMPLEMENTATION BY THE HOUSE** : Having adopted the report by the Assembly on 15th May, 1998, as per recommendation of the Committee of Privileges out of five (5), four (4) contemnners except **Smti. Indira Bora**, who was out of station for treatment, were brought on the floor of the House.

Pursuing to the specific recommendation of the Committee of Privileges, the **Principle contemner Shri Atanu Bhuyan** was **sentenced simple imprisonment for one day** and remanded him to Jail Custody by the order of the Speaker pronounced in the House.

The Hon'ble Speaker also **admonished Shri Dharendra Nath Chakraborty, Shri Rajendra Prasad Bora and Shri Pranab Kumar Talukdar** with fine of Rupees one hundred against each and ordered them to bow down to the august House, on denial to the order of the Speaker, the formers were sentenced simple imprisonment of one day and remanded to Jail Custody Accordingly.

(Report 37, Committee of Privileges, Assam Legislative Assembly, presented to the Assembly on 14th May, 1998).

### **REPORT NO.38/DECEMBER 1998**

**FACTS OF THE CASE** : On 6th December, 1998 a news item under the caption "Speaker biased—says Terang" was published in the English daily 'The North East Times' in its issue dated 6th December, 1998. The news item sequled to a press briefing by Hon'ble Member Shri Holiram Terang, MLA to a decision of the Chair. It was contended that in the press briefing Shri Terang had levelled allegation against the Speaker, Assam Legislative Assembly being **biased** and **protecting the Government**. The Hon'ble Speaker under Rule 176 of the Rules of the House **suo moto** referred the matter to the Committee of Privileges for examination and report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee considered the apology tendered and decided to refer the matter to the Hon'ble Speaker with a request to accept the apology and close the matter. The matter was dropped accordingly.

(Report 38, Committee of Privileges, Assam Legislative Assembly, Presented to the Assembly on 14 May, 1999).

### **REPORT NO. 39/ JULY, 2004**

On 17<sup>th</sup> July, 2003 the weekly Assamese News Paper, 'Dalit Asom' published a news item under the caption. সদন কমিটিৰ বিৰুদ্ধে দুৰ্নীতিৰ অভিযোগ, হোজাই বনাঞ্চলত বিৰাণনাৰ ভূমিকাও মন্ত্ৰী ডাঃ দে. নে. বিধায়ক খলিলুৰ—

The News item contained inter alia the allegations that the Members of the House Committee constituted for enquiry into the serious irregularities in the matter of lifting of sand from Sandmahals, stone from stone-quarries etc. of the Nagaon Forest Division and Nagaon South Forest Division had accepted Rupees three lakhs

each and the Hon'ble Member, Shri Dilip Kr. Saikia had accepted Rupees ten lakhs separately for payment to the Chairman of the House Committee.

The Hon'ble Chairman, Shri Premodhar Bora of the House Committee immediately issued a clarification which was published in the same news paper on 24-7-2003 along with the Comments of the Editor and a letter purported to have been written by six persons viz Shri Romesh Boro, Shri Depak Bora, Shri Chandra Terang, Shri Pradip Das, Md. Basuruddin Laskar and Shri Rabi Panikai.

The Hon'ble Chairman also served a notice to the Secretary, of the Assam Legislative Assembly intimating that a complaint for breach of Privilege under Rule 158 and 159 would be raised in the Assam Legislative Assembly for consideration.

Accordingly the complaint was raised in the Assam Legislative Assembly and the Hon'ble Speaker after hearing the Hon'ble Members was pleased to refer the matter to the Committee of Privileges for examination and Report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee of Privileges considered the unconditional appology tendered by Shri Girindra Kr. Karji the Editor of Dolit Asom and unanimously held that it should be placed before the Hon'ble Speaker for acceptance with a note of caution to the contenner to be more vigilant in future in publishing matters related to the Assam Legislative Assembly. The contenner may further be directed to publish the finding of the Committee praminently, praferably in the first page of his News paper.

(Report 39, Committee of Privileges, Assam Legislative Assembly, Presented to the Assembly on 12<sup>th</sup> July, 2004)

## **REPORT NO. 40/ DECEMBER, 2004**

On 2nd August 2004 Shri Dilip Kr. Saikia, Hon'ble Member, Assam Legislative Assembly alongwith seven other Hon'ble Members have submitted a written complaint before Hon'ble Speaker, Assam Legislative Assembly alleging Breach of Privilege against Dr. Dharmeswar Das, Dean, Faculty of Veterinary Science, Assam Agricultural University for publishing a news item under the caption "House panel not competent to Judge my credential Dr. Das" which appeared in the Assam Tribune date 1<sup>st</sup> September, 2004.

The Hon'ble Speaker referred the complaint of Hon'ble Members to the Privilege Committee for examination and Report.

**RECOMMENDATION OF THE COMMITTEE** : The Committee of Privileges considered the unconditional apology tendered by Dr. Dharmeswar Das, Dean, Faculty of Veterinary Science and decided to accept the apology with a note of caution to the contenner to be more vigilant and careful in future in publishing matters relating to the House Committee, Assam Legislative Assembly.

(Report 40, Committee of Privileges, Assam Legislative Assembly, Presented to the Assembly on 17<sup>th</sup> December, 2004)

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