CHAPTER – 5

RULES FOR REGULATING PROCEDURE,
LEGISLATURE AND PARLIAMENTARY
PRIVILEGES

5.1 Privileges as distinct from Rules of Procedure

The powers, privileges and immunities of the House and of the members and the Committees thereof, which under Art. 105(3) are equated to those of the House of Commons, U.K. are distinct from the rule for regulating the procedure and the conduct of business of the business of the House which are framed under art. 118. These rules need not be the same as followed in the House of Commons.

(i) The Committees of Privileges of Lok Sabha and Rajya Sabha, in their joint report on the question of procedure to be followed in a case where a breach of privilege or privilege or contempt of one House was alleged to have been committed by a member of the other House (Chatterjee case), observed:

Art. 105(3) equates only the privileges of our Houses of Parliament with those obtaining in the House of Commons in the United Kingdom and does not make it obligatory on our Parliament to follow the same procedure as obtains in the United Kingdom. The Committees feel that we are completely free to prescribe our own procedure and by constant form conventions which would be suitable to our requirements or circumstances.
(ii) On 20 July 1956, when a member raised a point of order that a resolution moved in the House during the previous session, discussion on which had no concluded, had lapsed on prorogation of the House, Speaker Ayyangar ruled inter alia:

“I think that Art. 118 is absolutely independent of Art. 105. Definite provision has been made in Art. 118 regarding the procedure for the Houses of Parliament. Rules and regulations relating to the procedure and conduct of business, mentioned in clauses (1) and (2) are complete.

Whenever new rules have not been framed, the old rules including the practices will continue. Thus, the general provisions in Art. 105 will not apply to the rules of procedure.”

(iii) The Attorney-General in his opinion on the question of the effect of prorogation of the House on pending business observed inter alia:

“Art. 105(3) has no relevance to the question under consideration. It refers to the powers, privileges and immunities of each House of Parliament which are to be such as may from time to time be defined by Parliament by law and until so defined are to be those of the House of Commons of the Parliament of the United Kingdom. The question raised relates not to the powers, privileges and immunities of the House but its procedure and conduct of its business which are matters dealt with in Art. 118(1) of the Constitution

(iv) The consensus of opinion of Conferences of Presiding Officers and of Secys. of Legislative Bodies has been that the regulation of manner of raising a question of privilege in the House is a matter of procedure only and does not attract the provisions of Art. 105(3). When

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1. LS Deb. (II), 20.7.1956, c. 436
2. Min. (RC-1LS) 19.3.1957, p. 37
the question whether members should be permitted to table motions on matters of privilege where the Presiding Officer has not admitted the notice on the ground that it is prima facie inadmissible came up before the Conference held on 21 Jan. 1960 at Hyderabad, the Chairman (Mr. Speaker Ayyangar) observed:

The point is whether rules can be framed regarding powers and privileges under Art. 118 of the Constitution..... the words in other respects the powers, privileges, etc. referred to in art. 105(3) refer to privileges of members and not to matters of procedure. Clause (3) must be read along with clauses (1) and (2) which refer to substantive privileges... So far as procedure is concerned, procedure can be regulated (by Parliament or State Legislatures).

Therefore, this is not a matter according to us, of substance or right or privilege, but a matter of procedure and the rule is quite intra vires3.

When the point “whether the Presiding Officer should have power to withhold his consent to the raising of a question involving a breach of privilege and if so, what should be the effect of such withholding of consent?” came up for discussion at the Conference of Secys. of Legislative Bodies held at Hyderabad on 20 Jan, the Chairman (M.N. Kaul) observed:

“During my first visit to the United Kingdom after independence in 1948, I had a very full discussion with Sir Frederick Metcalfe who succeeded Lord Campion, on this matter on what I called the ‘dual procedure in the House of Commons’ in contrast with ours, which I will call, ‘the single or combined procedure in Lok Sabha’. I was influenced by the fact that I found Sir Frederick Metcalfe himself was unhappy over

3. Rule 222 of Lok Sabha – Rules of Procedure
the position in the House of Commons. In some cases it did happen that when the Speaker had said that there was no prima facie case and had refused to give precedence, the House on an independent motion by a member in the normal course had referred the case to the Privileges Committee who had reported that there was a breach of privilege. The Speaker there was thus always placed in an awkward position.

I felt that if we could experiment with a modified procedure we may achieve some results. So I had a discussion with Mr. Speaker Mavalankar while we were in London and we had also a joint discussion with Sir Frederick Metcalfe. I was conscious all the time that I should not do anything which would in any way lead to an argument that we had cut down any substantive right of the members and abridged the privileges which were equated to those of the House of Commons. I therefore wanted to so frame the rules that we steered clear of that charge and at the same time got rid of the complication and awkward position that arose in the House of Commons, namely that where the Speaker says there is no prima facie case for the House to consider, on an independent motion the matter is raised by the member in the House and referred to the Privileges Committee who hold that there is a breach of privilege. So I discussed the matter at length with Mr. Speaker Mavalankar.”

Mr. Speaker Mavalankar suggested this line of enquiry. He said ‘I will not say that there is no prima facie case. I am not bound in matters of details of procedure, by the approach of the House of Commons……… As Speaker, what I have to consider is not whether there is a prima facie case of privilege involved but whether the matter should be placed before the House, or whether I should advise the House – because the Speaker can give a suggestion and it is for the House to decide – that the matter should be remitted to the Committee – that is for the House to decide. So,
I will only exercise the normal power of the Speaker, which the Speaker of the House of Commons has, i.e. whether to place the notice before the House or not. I will not determine whether there is a prima facie case of breach of privilege; I will not exercise that power of the House of Commons’ Speaker; I will only determine whether the matter should be placed before the House; and in order to determine that, I will apply the normal criteria. That is to say, all matters should be placed before the House unless they are patently absurd or something that is on the face of it hardly worth bringing before the House; and this is clearly within the fundamental power of the Speaker. Sir Frederick Metcalfe agreed with this and said that the Speaker of the House of Commons was not bound to bring every notice before the House. Even the notice of privilege which is given independently in the House of Commons – the Speaker may not bring it to the notice of the House under his general power of placing matters on the order paper or withholding certain matters which are determined by precedents. That power to withhold consent to certain matters being brought before the House is exercised on certain principles. Sir Frederick Metcalfe said: ‘You can go ahead on those lines. There is nothing wrong and nothing inconsistent with the practice in the House of Commons’.

The result is, that in LS all privilege matters are brought by the Speaker before the House: he takes the sense of the House: the House either determines it then and there or remits it to the Committee. Where the Speaker thinks that it is patently absurd or hardly worthwhile under the general power, he withholds his consent to bring such matters before the House.
5.2 Provision and Privileges- should it be codified?

Parliament has not so far undertaken any legislation defining the powers, privileges and immunities of Parliament and of the members and the committees thereof.

The Indian Press Commission (1954), expressed the following views on the subject of codification of law of privilege:

“It would be desirable that both Parliament and State Legislature should define by legislation the precise powers, privileges and immunities which the possess in regard to contempt and the procedure for enforcing them. Such a law would have to be in consonance with our Constitution and could presumably be challenged, if it appears to be in conflict with any Fundamental Right. If that happens the position would be clarified by the highest tribunal in the land. Arts 105 and 194 do contemplate enactment of such legislation and it is only during the intervening period that Parliament and the State Legislatures have been endowed with the powers, privileges and immunities of the House of Commons.”

While addressing the Conference of Presiding Officers of Legislative bodies in India, held at Rajkot on 23 Jan. 1955 Speaker Mavalankar observed:

“Press Commission considered this matter purely from the point of view of the Press. Perhaps they may have felt the difficulties of the Press to be real; but from the point of view of the legislature, the question has to be looked at from a different angle. Any codification is more likely to harm the prestige and sovereignty of the legislature without any benefit being conferred on the Press. It may be argued that the Press is left in the dark as to what the privileges are. The simple reply to this is that those
privileges which are extended by Constitution to the Legislature, its members, etc. are equated with the privileges of the House of Commons in England. It has to be noted here that the House of Commons does not allow the creation of any new privileges; and only such privileges are recognized as have existed by long time custom. No codification, therefore, appears to be necessary.”

5.3 Privileges covered by C.P.C. and Rule of Procedure

Since the powers, privileges and immunities of each House of Indian Parliament and of the members and Committees thereof, until defined by law, are equated to those of the House of Commons, U.K. as on 26 Jan. 1950 these continue to be determined by the precedents and practices obtaining in this regard in the House of Commons, U.K. and in our Parliament. However certain matters connected with the powers and privileges of the House are covered by s. 135A of Code of Civil Procedure and Rules of Procedure of the House and these are detailed below:

5.3.1 Immunity to member from arrest under civil process

Under s. 135A of the Code of Civil Procedure, members of Indian Legislatures are exempt from arrest or detention in prison under civil process, during the continuance of a meeting of the House or a Committee thereof, and during a period of 14 days before and after such meeting. Since, however, in U.K. the immunity from arrest or detention in prison under civil process exists during a session of Parliament, and during the 40 days preceding and 40 days following a session, the
members of Parliament of India also enjoy the forty days immunity before and after a session by virtue of the provision of art. 105(3).  

No immunity in Criminal Cases

Following the English precedent (Captain Ramsay’s case) it has been held in India, both by the court that the immunity from arrest does not extend to other than civil cases.\(^4\) It has accordingly been held further that the immunity does not extend to arrest under the Preventive Detention Act, and any member arrested under the Act, although he has a right to correspond with the Legislature as sitting member, is not entitled to attend the sittings of the House during the period of detention.\(^5\)

On 17 Aug. 1965, a member raised the question of arrest of Mani Ram Bagri and Kishen Pattanayak on 16 Aug. 1965 for apprehension of breach of peace. It was suggested that members should not be arrested during Sessions and a procedure should be evolved regarding arrest of members during Session in consultation with various Parties and the Govt. Speaker observed that he could not extend the privileges of member beyond what they were under the Constitution. In the House of Commons, U.K. there was no privilege that members could not be arrested during Sessions on a criminal charge and the same position obtained in India.\(^6\)

On 3 Mar. 1959 in H.C., U.K. on a question of privilege being raised re: reported arrest of a member (Mr. Stonehouse) in Rhodesia, the Speaker observed:


\(^6\) Anandan Nambiar, in re. A.I.R. (1952) Mad 117

\(^7\) LS Deb., 17.8.1965, cc. 389-94.
I made inquiries to and about whether or not the hon. Member for Wednesbury (Mr. Stonehouse) was under arrest and I am told that he is not. He has been deported in consequence of non-compliance with an order declaring him to be prohibited immigrant. I am told that he is now free to go wherever he likes. I cannot see that the Federal Govt. have done anything to prevent or hinder the attendance of the hon. Member for Wednesbury in his place here. On that ground say that they have not acted in contempt of Parliament.

……..this House has ruled that where a Member is detained under an administrative action which has the sanction of law in the place concerned that also, is not a breach of privilege. I think that is what has happened here.8

In S. Atinder Pal Singh’s case, the question whether the Speaker can issue necessary direction to Govt. to allow a member, already under detention to take oath and participate in day to day proceeding of the House was raised.

S. Atinder Singh who was already under detention, before he was elected a member of LS, under Terrorist and Disruptive Activities (Prevention) Act and logged in Tihar Jail, Delhi, was brought to Parl. House under police escort under orders of a judge and took oath on 16 Mar. 1990. After taking to the Speaker from Jail raising inter alia his constitutional right to attend day to day proceeding of LS He was informed that a member in prison in connection with any criminal preventive detention case, did not have any right to be allowed to attend LS.

8. 601 H.C. Deb., 226-27
5.3.2 (a) Right of Speaker to receive immediate information of arrest, detention, imprisonment, conviction etc. of a member

The Lok Sabha has a right to receive immediate intimation regarding the arrest, detention etc. and release of a member of the House. Such intimation has to be given to the Speaker in the case of criminal cases also notwithstanding the fact that the immunity from arrest enjoyed by a member in civil cases does not extend to criminal cases.

Rules 229 to 231 of the Rules of Procedure in Lok Sabha specially provide for sending of such intimations to the Speaker and communications to the House.

This is similar to the position in the U.K., where too although the privilege of freedom from arrest does not extend to criminal charges, it is the right to each House to receive information of the imprisonment or detention of any member with the reasons for which he is detained. The failure of a judge or magistrate to inform the House of the committal to prison of a member on a criminal charge or for a criminal offence would, therefore constitute a breach of privilege, though otherwise where a member is convicted but released on bail pending an appeal, or where a person who is in prison under the sentence of a Court is elected a member.9

In the Dasaratha Deb case, the Committee of Privileges of Lok Sabha decided that the Magistrate had no duty to inform the Speaker where a member, arrested on a criminal charge, was released on bail immediately after he was produced before the Magistrate.

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In the U.K. the fact of the release from jail of a member is not required to be communicated to the Speaker. According to May: “Where a Member is convicted but released on bail pending an appeal, the duty of the magistrate to communicate with the Speaker does not arise. No duty of informing the Speaker arises in the case of a person who while in prison under sentence of a Court is elected as a Member of Parliament; but when a notification has been made to the Speaker in such circumstances he has communicated in to the House.”

5.3.2 (b) Right of a member in custody to correspond with the Speaker or Chairman of a Parliamentary Committee:

(a) The Madras High Court, in the case of K. Anandan Nambiar held:

“As long as a detenu continues to be a member of legislature……. He is entitled to the right of correspondence with the legislature, and to make representations to the Speaker, and the Chairman of the Committee of Privileges and no executive authority has any right to withhold such correspondence….. This right, as it appears to us, flows not merely from principles of natural justice, which will be violated by such letters being withheld, but as a continuing member of the House, he would also appear to be entitled to this privilege under Art. 194(3) of the Constitution under which English Parliamentary Practice has to be followed … Capt. Ramsay was permitted to correspond with the House of Parliament while under detention and was also given a personal hearing in an elaborate enquiry conducted by the Committee of Privileges…….

We accordingly declare the right of the petitioner as a Member of the Legislative Assembly to correspond without let or hindrance with the
Speaker and the Chairman of the Committee of Privileges through the Secretary of the Legislature during his period of detention.\textsuperscript{11}

Rule 11(4) of the Madras Security Prisoners’ Rules, 1950, which was framed by the Madras Government as a sequel to the judgment of the Madras High Court in the case of Anandan Nambiar, provided:

“All communications addressed by a security prisoner who is a member of the State Legislature or of Parliament to the Speaker or Chairman of the House of which he is a member, or to the Chairman of a Committee (including a Committee of Privilege) of such House, or a Joint Committee of both Houses of the State Legislature or of Parliament, as the case may be, shall be immediately forwarded by the Superintendent of the Jail to the Government so as to be dealt with by them in accordance with the rights and privileges of the prisoner as a Member of the House to which he belongs.”

(b) The Committee of Privileges (2LS) in their 4\textsuperscript{th} Report 1958 recommended that “the Ministry of Home Affairs, may be moved to arrange for incorporation of provisions on the lines of Rule 11(4) of the Madras Security Prisoners’ Rules, 1950, in the Jail Codes, Security Prisoner’ Rules etc. of State Governments and Centrally administered areas in respect of all communications addressed by a Member of Parliament, under arrest or detention or imprisonment for security or other reasons to the Speaker of Lok Sabha or Chairman of Rajya Sabha, as the case may be, or to the Chairman of a Parliamentary Committee, or of a Joint Committee of both Houses of Parliament. It may also be considered by the Ministry of Home Affairs whether in the interest of uniformity, State Governments may

\textsuperscript{11}. A.I.R. 1952 Madras, p. 117.
be requested by that Ministry to make similar provisions in respect of Members of State Legislatures.

Ministry of Home Affairs accordingly advised all State Govt. Admns. to make necessary provisions in pursuance of the above recommendation of CPR.

(c) On 22 Mar. 1960, Govt. of Mysore forwarded to the Speaker a letter dt. 4 Mar. 1960, addressed to him by a member (Nath Pai) from Central Prison, Hindalga, in which he had requested the Speaker to send his parliamentary papers to his prison address. The request was acceded to.

The delay of 18 days which had occurred in forwarding the letter of Pai by Govt. of Mysore to Speaker was, however, brought to the notice of Govt. of Mysore through Ministry of Home Affairs.

5.3.3 Exemption of a member from attending as a witness in a court during sessions

On 9 Apr. 1969, a member (Chandrika Prasad) wrote to the Speaker that he had to appear as a witness in a Ballia Court but he was attending LS session and desired the Court to be advised to wait till the end of session or to take his evidence on commission. He was informed of the privilege in this regard and asked to inform the Court accordingly which he did.

5.3.4 Disclosure of proceedings of secret sittings of the House

Both in U.K. and in India, disclosure of proceedings in secret Session of House is treated as a contempt of House.
5.3.5 Right of the House to regulate its proceedings

Under art. 118(1) of the Constitution each House of Parliament may make rules for regulating its procedure and conduct of its business. Further, under Art. 122, the validity of any proceedings in Parliament cannot be called in question on the ground of any alleged irregularity of procedure.

5.3.6 Right to exclude strangers

Under r. 387, Speaker may, whenever he thinks fit, order withdrawal of strangers from any part of the House.

5.3.7 (a) Immunity from Service of Legal Process

In U.K. it has been held that the service or execution of legal process within the precincts of the House on a day on which the House or any committee thereof is to sit, is sitting or has sat will constitute a breach of privilege.\(^{12}\)

Distinction between Freedom of Speech in Parliament and freedom of speech available to a citizen.

The freedom of speech in Parliament/State Legislature under Article 105(1)/194(1) is different from the freedom of speech and expression guaranteed under art. 19(1) (a) and cannot be cut down in any way by any law contemplated by clause (2) of Article 19.

In Searchlight case, Supreme Court held:

“The argument that the whole of Art. 194 is subject to Art. 19(1)(a) overlooks the provisions of cl. (2) of Art. 194. The right conferred on a

citizen under Art. 19(1)(a) can be restricted by law which falls within cl. (2) of that Art. and he may be made liable in a court of law for breach of such law but cl. (2) of Art. 194 categorically lays down that no member of Legislature is to be made liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or in Committee thereof and that no person will be liable in respect of the publication by or under the authority of the House of such Legislature of any report, paper or proceedings. The provisions of cl. (2) of Art. 194, therefore, indicate that the freedom of speech referred to in cl. (1) is different from the freedom of speech and expression guaranteed under Art. 19(1)(a) and cannot be cut down in any way by any law contemplated by cl. (2) of Art. 19.”

Freedom of speech in Parliament/State Legislature is subject only to those provisions of Constitution which regulate the procedure of Parliament/State Legislature.

Supreme Court, in Searchlight case, observed:

It may well be argued that the words ‘regulating the procedure of the Legislature’ occurring in cl. (1) of Art. 194 should be read as governing both “the provisions 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 Art. relating to procedure in Pt. VI including Arts. 208(22) and 211(23), just as freedom of speech in Parliament under Art. 105(1), on a similar construction will become

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subject to the Arts. Relating to procedure in Pt. V including Arts. 118(24) and 121(25).\textsuperscript{15}

Art. 105(1)/194(1) is not an abridgment of the freedom of speech available to a member of Parliament/State Legislature as a citizen under art. 19(1)(a).

In the Searchlight case, the Supreme Court held:

“If the intention of cl. (I) of Art. 194 was only to indicate that it was an abridgment of the freedom of speech which would have been available to a member of the Legislature as a citizen under Art. 19(1)(a), then it would have been easier to say in cl. (1) that the freedom of speech conferred by Art. 19(1)(a) when exercised in the Legislature of a State, would, in addition to the restrictions permissible by law under cl. (2) of that article, be further subject to the provisions of the Constitution and the rules and standing orders regulating procedure of that Legislature. There would have been no necessity for conferring anew the freedom of speech as the words ‘there will be freedom of speech in the Legislature of every State’ obviously intend to do.”\textsuperscript{16}

The freedom of speech in Parliament is free from the restrictions which may be imposed by any law made under art. 19(2) upon the freedom of speech of an ordinary citizen.

The right to freedom of speech in Lok Sabha is circumscribed by the provisions of art. 121 of the Constitution, rules 352, 353 and 357 of the Rules of Procedure in Lok Sabha and Dir. 115(1).

\textsuperscript{15} Supra
\textsuperscript{16} A.I.R. (1959) S.C. 395-422.
When a member violates any of these restrictions, action may be taken by the Speaker or the House, as the case may be, under rules 356, 373, 374 and 380.

On 14 Mar. 1960, the Speaker informed the members that he had received notice of a question of privilege regarding the following remarks made by the Minister of Defence (Krishna Menon) in the House on 10 Mar. 1960 with respect to the Comptroller and Auditor-General of India:

“If it had not come from the Auditor-General and we were not familiar with it, and if I so wanted to say – I do not want to – I could have said that this was a malicious over – statement but I do not intend to say so, Sir.”

The Speaker observed that nothing should be said to detract from the position of the Auditor-General, and urged the Minister of Defence to withdraw his remarks.

The Minister of Defence expressed his unqualified regret for having made those remarks and withdrew them.\footnote{17. LS Deb., 14.3.1960, cc. 5698-5703}

It is considered the duty of each member to refrain from any course of action prejudicial to his privilege of freedom of speech in the House. Thus, it is irregular for a member to enter into any contractual agreement with an outside body, controlling or limiting his complete independence and freedom of action in Parliament.

On 15 July 1947, the House of Commons, U.K. by a resolution declared that ‘it is inconsistent with the dignity of the House, with the duty of a Member to his constituents, and with the maintenance of the privilege of freedom of speech, for any Member of this House to enter

\footnote{17. LS Deb., 14.3.1960, cc. 5698-5703}
into any contractual agreement with an outside body, controlling or limiting the Member’s complete independence and freedom of action in Parliament or stipulating that he shall act in any way as the representative of such outside body in regard to any matter to be transacted in Parliament: the duty of a Member being to his constituents and to the country as a whole, rather than to any particular section thereof.

In the same resolution the House agreed to the report from the Committee of Privileges in the case of Mr. Brown and the Civil Service Clerical Association. This case arose from certain actions by the executive committee of a Trade Union which had a formal contractual relationship with a member of the House, under he received a salary. Although in this particular case the Committee found that no breach of privilege had occurred, in their general conclusions the Committee stated that ‘the relationship between a Member and an outside body with which he is in contractual relationship and from which he receives financial payments is, however one of great difficulty and delicacy, in which there must often be a danger that the rules of privilege may be infringed’.

In the Provisional Parliament of India the House decided on the 24 Sept. 1951 that the conduct of a member (H.G. Mudgal) in undertaking to canvass “support” and to make” propaganda in Parliament” on behalf of the Bombay Bullion Exchange, in return for financial or business advantages, was “derogatory to the dignity of the House and inconsistent with the standard which Parliament is entitled to expect from its Members”. The House by a resolution determined that Mudgal deserved expulsion from the House. However, Mudgal resigned his seat in Parliament before he could be expelled.

19. H.C. 118, p. xii (1946-47) – also case of Mr. Robinson and the National Union of Distributive v Allied Workers. H.C. 85 (1943-44) – May 20 Ed. P. 81
5.3.7 (b)  Immunity from action for statements made in Parliament

No action can be taken against a member in a Court of law for statements made in LS; it is a breach of privilege and contempt of the House to initiate proceedings in a Court for such statements.

CPR (4LS) in their 11R reported that action of Tej Kiran Jain and others in instituting a suit for damages in the High Court of Delhi against certain members in respect of their statements in LS constituted a breach of privilege and contempt of House, but that in view of dismissal of suit both by the High Court and the Supreme Court, it was not necessary to pursue the matter. No further action was taken by the House.20

A member cannot be questioned in any Court or place outside Parliament for any disclosures he may make in Parliament.

Committee of Privileges (RS), in their 12R, adopted by Rs. On 20 Dec. 1969, observed:

…………… it would be impeding a Member of Parliament in the discharge of his duties as such Member if he is to be questioned in any place outside Parliament for a disclosure that he may make in Parliament. The right of a Member of Parliament to function freely and without fear or favour is in India, as in the U.K. a constitutional guarantee. This guarantee is subject only to the rules of the House and ultimately to the disciplinary jurisdiction of the House itself……. Any investigation outside Parliament of anything that a Member says or does in the discharge of his duties as a Member of Parliament would amount to a serious interference with the Member’s right to carry out his duties as such Members.

20. 11R (CPR-4LS)
The Committee also recommended

“If in a case a Member states something on the floor of the House which may be directly relevant to a criminal investigation and is in the opinion of the investigating authorities, of vital importance to them as positive evidence, the investigating authority may make a report to the Minister of Home Affairs accordingly. If the Minister is satisfied that the matter requires the assistance of the Member concerned, he would request the Member through the Chairman to meet him. If the Member agrees to meet the Home Minister and also agrees to give the required information, the Home Minister will use it in a manner which will not conflict with any parliamentary right of the Member. If, however, the Member refuses to respond to the Home Minister’s request, the matter should be allowed to rest there.”

In pursuance of the above recommendations of CPR (RS), Ministry of Home Affairs issued the following instructions in a circular letter addressed to all State Govts. and Union Territory Admns.:

“When it is found from disclosures made by a Member on the floor of the Rajya Sabha that he is in possession of a vital information in a criminal case which is under investigation, the matter should be referred by the concerned Superintendent of Police to the State Government/Union Territory Administration. If the State Government/Union Territory Administration is also of the opinion that the information in the possession of a Member is of such vital importance that his assistance should be sought, a detailed report may be sent to this Ministry enclosing a list of points on which information is sought from the Member. The matter will then be taken up by the Minister of Home Affairs with the Member concerned through the Chairman of the Rajya
Sabha. The information that might be made available by the Member will be communicated to the State Government/Union Territory Administration and the extent to which it might be used in the investigation of case, will also be indicated.”

Subsequently, on a clarification sought by Govt. of Andhra Pradesh, Ministry of Home Affairs in consultation with LS Sectt. Issued a clarification that the above procedure would also apply to members of LS in as much as privileges and immunities of members of both House are the same.

No action can be taken against a member in a court of law casting reflections on a High Court in a speech delivered in the House.

The Orissa High Court in its Judgement delivered on 26 Feb. 1958, in a contempt of Court case against Nabakrishna Choudhury, the then Chief Minister, Orissa for casting reflections on the High Court while speaking in the Assembly held:

“…the language of clause 92) of Art. 194 [corresponding article for Parliament is 105(2)] is quite clear and unambiguous, and is to the effect that not law court can take action against a member of the Legislature for any speech made by him there. The immunity appears to be absolute.”

The speech of Nabakrishna Choudhury is somewhat hasty and uninformed and amounts to contempt of this Court … Nevertheless he is entitled to claim immunity under clause (2) of Art. 194.21

Summons/Notices from Courts received by Members/Speaker/Chairman of Parliamentary Committees in respect of their statement in

LS/ in a report of Parliamentary Committee or relating to Bills as passed by LS are ignored and no appearance entered in Court in response thereto.

(i) In Tej Kiran Jain & others vs N. Sanjya Reddy (then Speaker 4LS) and 4 other members of LS, notices were served on defendants on 22 June 1969 requiring them to appear before Delhi High Court in a suit for damages filled against them in respect of certain statements made by them in LS. On the matter being raised in the House on 22 July 1969, the House decided that Notices be ignored and no appearance was entered in Delhi High Court by defendants (i.e. concerned members).

Subsequently, when the suit was dismissed by Delhi High Court and an appeal was filed by plaintiffs in Supreme Court, notices of lodgment of appeal were served on defendants. On matter being raised in the House on 3 Apr. 1970, the House decided that the notices be ignored and no appearance was entered in Supreme Court by the defendants. On 22 Apr. 1970, Speaker Dhillon observed in the House:

If once we accept that the Courts have a right to call us, whether it is an option notice or a Judicial Summons, our privileges are at an end. So, in the circumstances, it was my duty to request the hon. Members of Parliament to ignore the notice.

Salve (a defendant member) is very impatient to appear before the Supreme Court. If he appear before them, fully knowing article 105, I think we will have to bring a privilege motion against him.22

(ii) On 1 Aug. 1975 Speaker informed the House that a summons had been received from City Civil Court, Registrar Bench, Calcutta,

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addressed to P.A.C. represented by its Chairman, in respect of certain observations contained in 71R(5LS) of P.A.C. The Speaker observed that no such suit or proceedings were maintainable in any Court of Law in view of Art. 105(2) and that he was asking the Chairman, P.A.C. to ignore that summons and not to put in any appearance in the Court. The Speaker further observed that he was passing on the relevant papers to Minister of Law for taking such action as he might deem fit to apprise the Court of correct constitutional position in that regard. Subsequently, the case was dismissed by Court as it was not maintainable.\(^\text{23}\)

(iii) On 27 July 1988, the Speaker informed the House that two notices were received from Dy. Registrar, High Court, Appellate Side, Bombay requiring his appearance before the Bombay High Court on 19 July 1988 for filling of an affidavit by him or Secy.- Genl. LS, within three weeks from 28 June 1988 in connection with two writ petitions Nos. 6157/87 and 1299/88 alleging that there was “a variance between the Bill (The Central Excise Tariff bill, 1985) as passed and as gazette with regard to rate of excise duty on goods/cranes – Chapter sub – heading No. 8426.00”.

Speaker observed that as per well established practice and convention of LS, he had decided not to respond to the notice and that he had passed on the relevant papers to Minister of Law & Justice for taking such action as he might deem fit to apprise the court of correct constitutional position and well established conventions of LS in that regard. Ministry of Law was accordingly addressed on 15 July 1988 and they were informed that matters relating to a Bill before its enactment were matters of internal procedure of Parliament which should not be inquired into by any Court of Law in view of Art. 122 of Constitution of

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\(^{23}\) LS Deb., 1.8.1975, cc. 4-5.
India. As regards advice tendered by Ministry of Law to Ministry of Finance for calling relevant records from LS Sectt. for purpose of filing an affidavit by an officer of that Ministry the Ministry of Law were informed that the CPR-2LS in their First Report had recommended a specific procedure that had to be followed for requisitioning such documents.

A request for inspection of Central Excise Tariff Bill, 1985, as introduced and passed by LS and assented to by the President of India was received from an Advocate, High Court, Bombay, on behalf of his clients. His request to inspect documents/papers relating to said Bill was not acceded to and he was informed accordingly.24

On 2 Nov. 1988, while referring to the above case, the Speaker inter alia observed that subsequently, Additional Registrar, High Court, Appellate Side, Bombay, in his letter of 6 Aug. 1988, had expressed deep regrets for two notices addressed to him by his office reproducing language of a usual notice addressed to parties and requested that those might be treated as cancelled.25

(iv) On 27 Dec. 1990, the Speaker informed the House that a notice was received from the Registrar, Delhi High Court on 7 Dec. 1990 requiring him to arrange to show cause in connection with Civil Writ Petition No. 3871 of 1990, challenging the validity and constitutionality of paragraph 6 and 7 of Tenth Schedule of Constitution (52and Amdt.) Act, 1985. The Speaker observed that as per well-established practice he had decided not to respond and passed on the relevant papers to Law Ministers for taking such action as he might deem fit to apprise Court of

25. LS Deb., 2.11.1988, cc. 185-89
the correct constitutional position and well established conventions of Lok Sabha.

On 8 Jan. 1991, the Speaker informed the House that he had received from the Registrar, Delhi High Court a copy of an order dated 8 Jan. 1991, passed by Division Bench of Delhi High Court on stay application in aforesaid writ petition directing that all petitions presented before Speaker, LS under 10th Schedule to Constitution Should not be proceeded with or perused by petitioners before him and status quo be maintained by parties. On 9 Jan. 1991, the Speaker informed the House that he had discussed the matter with Leaders of parties and groups and it was unanimously agreed that the order of the High Court be ignored and accordingly, he was ignoring the said order.

On 11 Jan. 1991, the Speaker further informed the House that another letter containing the following order of Full Bench of Delhi High Court was received by him:

“"We are prima facie of the opinion that the Speaker has jurisdiction to decide the question of disqualification of members of Lok Sabha under paragraph 6 of Tenth Schedule and the rules framed there under on the petition presented to him. So we vacate the interim order passed by us on 8 Jan. 1991."”

(v) On 10 Jan. 1991, the Speaker informed the House that a notice had been received on 4 Jan. 1991 from Registrar, Delhi High Court requiring Secy. Genl. LS to appear before the High Court personally or through counsel to show cause against admission of Civil Writ Petition No. 3323 of 1990 re. 61 R of PAC (1986-87). Speaker observed that as per well-established practice, Secy. Genl. LS had been asked not to


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respond to the notice and that the Law Minister was being requested to take such action as he might deem fit to apprise the High Court of the correct constitutional position and well-established conventions of the House.\(^\text{27}\)

(vi) On 25 Feb. 1991, Dy. Speaker informed the House that a motion had been received from Asstt. Registrar, Supreme Court requiring Speaker to show cause in connection with Transfer Petition (Civil) No. 105 of 1991 seeking withdrawal of Writ Petition No. 537, challenging the validity and constitutionality of paragraphs 6 and 7 of Tenth Schedule to the Constitution from Delhi High Court to the Supreme Court. Dy. Speaker observed that as per well-established practice Speaker had decided not to respond to the notice and passed on the relevant papers to Law Minister for taking necessary action to apprise Supreme Court of correct constitutional position.\(^\text{28}\)

5.3.7 (c) Immunity re. Publication of Proceedings :-

No. person is liable to any action in any Court in respect of publication by or under authority of either House of any report, paper, votes or proceedings.

Publication of reports, proceedings and other documents by or under the authority of Lok Sabha is regulated under rules 379 and 382 of the Rules of Procedure in Lok Sabha.

The immunity under cl. (2) of Art. 105 from any proceedings in any court in respect of the publication of any report, paper, votes or proceedings of Parliament is available only where such publication takes place by or under the authority of either House of Parliament. This

\(^{27}\) LS Deb., 10.1.1991
\(^{28}\) LS Deb., 26.02.1991
immunity does not extend to the publication of reports of Parliamentary proceedings in newspapers or otherwise by individual persons.

In *Dr. Suresh Chandra Banerjee vs. Punit Goala*, the Calcutta High Court observed:

We have to apply the criminal law of the land and unless reports of proceedings in a Legislative Assembly are given a privilege by Indian law, we cannot possibly extend the principle of *Wason Vs. Walter*\(^{29}\) to proceedings in this country…….. The rule of law enunciated in the English case of *Wason Vs. Walter* finds no place in the Indian Penal Code and therefore we must hold that reports of proceedings of Legislature in an Indian newspaper, unless such are expressly authorized by the House, are not the subject matter of privilege.\(^ {30}\)

In *Wason vs. Walter*, Cockburn, C.J., while delivering the judgement observed:

A faithful report in a public newspaper of debate in either House of Parliament containing matter disparaging to the character of an individual which had been spoken in the course of debate, is not actionable at the suit of the persons whose character has been called in question. But the publication is privileged on the same principle as an accurate report of the proceedings in a court of justice is privileged, viz. that the advantage of publicity to the community at large out-weighs any private injury resulting from the publication.\(^ {31}\)

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\(^{29}\) (40) (1868 4, Q.B. 73)

\(^{30}\) A.I.R. 1951 Cal. 176.

\(^{31}\) 1868, 4QB. 73
A member of Legislature (or Parliament) does not enjoy absolute privilege in respect of publication by him of extracts from proceedings of the House.

The Supreme Court, in *Dr. Satish Chandra Ghose vs. Hari Sadhan Mukerjee* and others held:

“…… it is clear that the immunity of a member of the House of Commons is in respect of the speeches made by him in Parliament but it does not extend to the publication of the debate outside Parliament. If a member of the House of Commons publishes his speech made in the House separately from the rest of the proceedings of the House, he will be liable for defamation if his speech contains matter, defamatory of any person…. there is no absolute privilege attaching to the publication of extracts from proceedings in the House of Commons. The case of publication of proceedings of Parliament, not under the authority of the House, stands on the same footing as the publication of proceedings in courts of justice.

……the privileges, powers and immunities of a House of State Legislature of Parliament or of its members are the same as those of the House of Commons, as stated above……… there is no absolute privilege, even in favour of a member of the Legislature, in respect of a publication not of the entire proceedings, but of extracts from them.”

The following restrictions are however imposed by the Lok Sabha upon the publication of various matters concerned with the business of the House:

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(i) Answers to questions which Ministers propose to give in the House should not be released for publication until the answers have actually been given on the floor of the House or laid on the Table.\(^{33}\)

(ii) Except when authorized by the House proceedings or decisions of a secret sitting of the House should not be disclosed by any person in any manner.\(^{34}\)

(iii) The evidence, report and proceedings of a Committee of Lok Sabha should not be published by any person until it has been laid on the Table of the House.\(^{35}\)

(iv) Questions, notices of Adjournment Motions and Resolutions should not be published before they are admitted by the Chair or mentioned in the House.\(^{36}\)

It is open to the House to decide that a particular report document may be published under authority of the House. The protection afforded under this clause is based upon the following principles.

Where Parliament, or the Govt. acting on behalf of Parliament, appoints a Committee, members of the Committee are charged with performance of a public duty. They have to take evidence and examine various matters without fear or favour. Under these circumstances, there is an obligation on Parliament to protect members of such a Committee from harassment or from any other consequences that may follow from statements made in the report.

\(^{33}\) Rule 53; Press Information Bureau’s case, LS Deb., 26.7.1957, cc. 5255-56, ibid, 27.7.1957, cc. 54730-75

\(^{34}\) Rule 252

\(^{35}\) Rule 275; also Sundarayya case. R. (CPR-1LS)

Prima facie it is for Govt. to examine whether the report is of such a character as to necessitate protection under art. 105(2) and thereafter move for having the report published under this clause.

Instances where papers laid on the Table were allowed to be published under the authority of the House.

(i) In 1949, Govt. appointed Rural Banking Enquiry Committee. The Committee, while submitting their report to Govt. entertained apprehensions that recommendations contained therein, if published, might have far reaching effects on the future of certain banks, creating difficulties for them apart from crating an embarrassing situation for the members of the Committee who did not enjoy any statutory immunity from legal consequences that would follow from such publication. Accordingly, Govt. proposed to publish the report of the Committee under authority of House.

In this connection, Ministry of Finance sought the advice of Parl. Sectt. As to the procedure to be adopted to obtain the authority of House for the purpose. In reply the Ministry was informed that:

(a) The report might be formally laid on the Table of the House by Finance Minister; and

(b) While laying the report on the Table, Finance Minister might move a motion in the following terms:

“That the Report of the Rural Banking Enquiry Committee by published under the authority of Parliament under clause (2) of article 105 of the Constitution.”
The report was accordingly laid on the Table on 11 Aug. 1950 by the Ministry of Finance and a motion re. publication of report was moved by him. The motion was adopted.

The report was, thereafter, published by Ministry of Finance with the following expression printed on the outer cover:

“Published under the authority of Parliament.”


(ii) In 1953, Govt. proposed to publish the report of Industrial Finance Corporation Enquiry Committee under the authority of the House.

Accordingly, on 23 Dec. 1953, the Dy. Min. of Finance laid on the Table a copy of the above report and also moved the following motion re. its publication which was adopted:

“That the report of the Industrial Finance Corporation Enquiry Committee, 1953 be published under the authority of the House of the People under clause (2) of Article 105 of the Constitution.”

The Parliamentary Proceedings (Protection of Publication) Act, 1950, however, gives qualified privilege to a person in respect of the publication in a newspaper of a substantially true report of proceedings of either House of Parliament. Section 3 and 4 of the said Act provide:

“3 (1) Save as otherwise provided in sub-section (2), 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, unless the publication is proved to have been made with malice.

(2) Nothing is sub-section (1) shall be construed as protecting the publication of any matter, the publication of which is not for the public good.”

This Act shall apply in relation to report or matter broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station situated within the territories to which this Act extends as it applies in relation to reports or matter publication in newspaper.”

In U.K. similar protection is available under the Parliamentary Papers Act, 1840, passed in consequence of the decision of the Court of Queen’s Bench in the case of Stockdale, Hansard.\textsuperscript{38}

5.3.8 Privilege to Prohibit Publication of Proceedings

A House of Parliament/State Legislature in India has the privilege, under Art. 105(3)/194(3) of Constitution to prohibit the publication of its entire proceedings, or that part of the proceedings which has been directed by the Speaker to be expunged.

(i) On 18 Mar. 1950, a complaint was made in Prov. Parliament by a member about the publication of a report of an expunged portion of the proceedings in the House on the previous day, in the Hindustan Times, 18 Mar. 1950. The Speaker observed that he would call for an explanation from the Editor of the paper. On receipt of explanation from the Managing Editor of the paper about the circumstances in which the reference had occurred in the paper’s Special Representative’s account of

\textsuperscript{38} May 20\textsuperscript{th} ed., p. 89
the reactions to Prime Minister’s Speech, the matter was closed by the Speaker.

(ii) The Supreme Court in its majority judgment in the Searchlight case (M.S.M. Sharma vs. Sri Krishna Sinha and others) held:

“……the House of Commons had at the commencement of our Constitution the power or privilege of prohibiting the publication of even a true and faithful report of the debates or proceedings that take place within the House. A fortiori the House had at the relevant time the power or privilege of prohibiting the publication of an inaccurate or garbled version of such debates or proceedings. The latter part of Art. 194(3) confers all these powers, privileges, and immunities on the House of the Legislature of the State as Art. 105(3) does on the House of Parliament. It is said that the conditions that prevailed in the dark days of British History, which led to the Houses of Parliament to claim their powers, privileges and immunities do not now prevail either in the United Kingdom or in our country, and that there is, therefore, no reason why we should adopt them in these democratic days. 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 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. Nor do we share the view that it will not be right to entrust our Houses with those powers, privileges and immunities, for we are well persuaded that our Houses, like the House of Commons will appreciate the
benefit of publicity and will not exercise the powers, privileges and immunities except in gross cases.”

The Court also observed

“The effect in law of the order of the Speaker of 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……….”.

(iii) On 21 Dec. 1959, a member (Surendranath Dwivedy) sought to raise a question of privilege re. publication in the Free Press Journal, Bombay, 17 Dec. 1959, of a portion of the proceeding of LS, 16 Dec. 1959 which had been expunged by the Speaker. Speaker informed the House that Editor of the Free Press Journal had been asked by a letter to explain the matter.

On 9 Feb. 1960, Speaker informed the House that an unconditional apology had been received from the Editor of the paper after terminatin of the previous session, and that the same had been published in Bn. (II) for the information of members. The House accepted the apology and agreed to drop the matter.

5.3.9 (a) Protection in respect of statements in a Parliamentary Committee Report

40. LS Deb., 9.2.1960, cc. 11011; Bn. (II) 23.12.1959, para 3237
No action can be taken in court of law against the Chairman or members of a Parliamentary Committee for statements contained in Report of Parliamentary Committee in view of Art. 105(2). It is a breach of privilege and contempt of House to initiate proceedings in a Court for statements contained in a Report of a Parliamentary Committee.

Preventive Officer Grade I, Calcutta (G.R. Sinha), sent a letter through his Advocate to Chairman, PAC threatening legal proceedings against PAC in respect of certain observations contained in 71R(5LS) of P.A.C. Sinha was informed that writing of a letter addressed to Chairman or members of a Parliamentary Committee containing a threat of legal proceedings against them in respect of a Report of that Committee might be construed by the House as a breach of privilege and contempt of the House punishable by the House at its discretion. Sinha was also asked to state for consideration of Speaker, what he might have to state in the matter. From a reading of Sinha’s reply, however, it appeared that he was not a responsible type of person who might be taken notice of seriously. It was, therefore, decided to ignore the matter and treat it with contempt.

Subsequently, Sinha filed a case in City Civil Court, Registrar bench, Calcutta against PAC, which was dismissed by Court as it was not maintainable.

Rule of sub judice in matters of privilege

It is pertinent to discuss here that whether the applies to matters of privilege or in matters where disciplinary jurisdiction of the House with respect to its own members is concerned.

On 12, 20, 21, 22, 25, 26 and 27 Nov. 1974 certain members sought to raise a qn. of privilege against a member (Tulmohan Ram) for
his alleged misconduct involving bribery and forgery by him in Pondicherry Import Licence case. Ram in a letter to the Speaker pleaded that since the matter had become sub judice it might not be discussed in the House at that stage. The Speaker, however, ruled that the rule of sub judice did not apply to matters of privilege or in matters where disciplinary jurisdiction of the House with respect to its own members was concerned and that the House was, therefore, free to discuss any motion relating to the conduct of Tulmohan Ram.\textsuperscript{41}

However, there have been instances where a notice of qn. of privilege has been disallowed as the subject matter of notice was sub judice or pending before a commission of Inquiry.

(i) On 16 July, 4 Aug. and 5 Aug. 1977, when a qn. of privilege was sought to be raised against Minister of Home Affairs (Charan Singh) for allegedly giving misleading information to the House about atrocities on Harijans at Belchi village in Bihar, Speaker (K.S. Hegde) disallowed the matter on the ground that the question relating to notice for occurrence is sub judice.\textsuperscript{42}

(ii) On 8 Dec. 1977, the Speaker (K.S. Hegde) did not accord his consent to the notice of qn. of privilege re. alleged deliberate concealment by former PM from LS of information that Proclamation of Emergency was first signed by the President without putting it before Cabinet, at that stage, as the facts and circumstances culminating in declaration of Emergency were being enquired into by the Shah Commission of Inquiry.

(iii) On 9 Dec. 1977, the Speaker (K.S. Hegde) did not accord consent to a notice of qn. of privilege against the PM and others re.

\textsuperscript{41} LS Deb., 2.12.1974, cc. 222-29
alleged attempt to evade a Parl. Qn. about Maruti Ltd. on the ground that at that stage the qn. was pending before Gupta Commission of Enquiry.

5.3.9 (b) Abuse of privilege of freedom of speech

Making of defamatory statements in the House against outsiders is abuse of the privilege of freedom of speech in the House but does not involve a breach of privilege.

On 15 Nov. 1960, in the House of Commons, U.K. when a member (Thomson) sought to raise a question of privilege regarding certain words used in the House by another member (Mr. Nabarro) which were defamatory of an outsider (Randolph Churchill), the Speaker ruled on the 16 Nov. 1960:

……….. because hon. Members are protected by Privilege, the House has always been jealous to see that Privilege is not abused. But to abuse Privilege is not in itself to commit a breach of the Privilege of this House, and it has never been so regarded, although the House has, from time to time, punished Members for offensive words spoken before the House.43

5.3.9 (c) Contravention of Rules of Procedure

Contravention of the rules of the House which are of a purely procedural nature would not involve a breach of privilege or contempt of the House.

At the Conference of Presiding Officers held at Lucknow on 29 Dec. 1961, when the point “whether a motion for breach of privilege of the House would lie against a Minister, who, as Chairman of a Standing

43. H.C. Deb., 15.11.1960, cc. 218-19 and 16.11.1960, cc. 385-86
Committee or a Joint committee calls on his own initiative members other than those appointed to the Committee as special invites to the meeting of the Committee where they ordinarily take part: in the deliberations but do not vote, was under discussion, the Vice-Chairman (Dy. Speaker Hukam Singh) observed:

“My attention was drawn by the Hon. Speaker of Maharashtra Assembly that May says that any violation of the rules of the House is a breach of privilege or contempt of the House. I have read the portion and I find that it does not refer to the cases that we are now discussing. I may state for the information of the Presiding Officers that ‘Rules’ in the House of Commons have different meaning. What we call rules here are called Standing orders there.”

(d) Complaint by aggrieved Member

In a case of alleged intimidation of the Chairman of a Parliamentary Committee by the Minister in the Lobby, complained of by another member, the Speaker ruled that complaint should come from the aggrieved member and not from others.

(e) Complaints against A.I.R. for misreporting

Speaker (Bal Ram Jakhar) during the course of his meeting with Leaders of Party and Groups in Lok Sabha on 15 Nov. 1980, stated received from Members regarding alleged misreporting/misrepresentation/suppression of proceeding of Lok Sabha by All India Radio etc. It had been observed that in most of the cases, the notices of questions of privilege given by Members related to omission or incorrect mention of name of a Member or the Party to which he

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45. LS Deb., 21.4.1965, cc. 10238-75.
belonged, or non-inclusion of a particular statement made by a Member during the debate.

The Speaker observed that, in such cases, it would be more appropriate for the concerned Members to take up the matter with the Minister concerned directly instead of seeking to raise it as a question of privilege. This was generally agreed to.

(f) Discourteous behaviour by Govt. officers

Although no question of breach of privilege is involved in cases where it is alleged by members that proper courtesy had not been shown to them by Govt. Officers, Govt. had issued instructions laying down proper procedure to be followed by Govt. Officers in their dealings with members of Parliament and State Legislatures and showing the courtesy and consideration to them.

In its Circular letter No. 25/19/64. Estt(4) 8 Nov. 1974, Deptt. Of Personnel and Administrative Reforms stated inter alia as follows :-

(i) The two basic principle to be borne in mind are (a) that Govt. servants should show courtesy and consideration to members of Parliament and of State Legislatures and (b) that while they should consider carefully or listen patiently to what the members of Parliament and of State Legislatures may have to say, they should always act according to their own best judgment.

(ii) He (a Govt. servant) should set apart some time every day when anybody can see him and, within these house and also during other office hours in which he is to meet visitors, he must give priority to members of Parliament and of State Legislatures….
(iii) When a Member of Parliament or of a State Legislature comes to see him, an officer should rise in his seat to receive the member and to see him off.

(iv) Similarly, seating arrangements at public functions should receive very careful attention at all times and it should be ensured that there is no reason for any misunderstanding on this score. The position of a member of Parliament has been clearly brought out in the Warrant of Precedence approved by the President. MPs appear at article 30 above officers of the rank of full General of equivalent, Secretaries to the Government of India, etc.

(v) Letters received from members of Parliament and State Legislatures should be acknowledged promptly. All such letters should receive careful consideration and should be responded to at an appropriate level and expeditiously. The officers should furnish to members of Parliament and of State Legislatures when asked for, such information of statistics relating to matters of local importance as are readily available and are not confidential.

(vi) Under the relevant conduct rules governing them, Govt. servants are prohibited from bringing or attempting to bring any political or other influence to bear upon any superior authority to further their interests in respect of matters pertaining to their service under the Government. Therefore, a Govt. servant is not expected to approach a member of Parliament or of a State Legislature of sponsoring his individual case.

In its Circular Letter No. 11017/20/75-AIS(III), 25July 1975, addressed to Chief Secretaries to Govts. of all States, Central Ministers,
etc. Deptt. of Personnel and Administrative Reforms stated inter alia as follows :-

“…..recently a case was brought to the notice of this Department in which a member of the All India Service wrote a letter in a routine manner to a member of Parliament requesting him to attend a meeting. The letter did not express adequate courtesy and politeness and gave an impression of being court. Letters which they (Govt. officers) may write to the members of Parliament and the State Legislatures should be worded politely.”

5.4 Consent of Speaker to raise Question of Privilege

A question of privilege can be raised in the House after obtaining the consent of the Speaker, which has been made obligatory so that the time of the House is not wasted by raising a point which prima facie is not admissible.

(i) In the old Central Assembly it was held by the Chari that the Speaker, before he gives his consent or allows a question to be discussed by the House, must be satisfied that a prima facie case of breach of privilege has been made.46

(ii) On 20 Dec. 1949 a member argued that submission of a point of privilege to the Speaker in the Chamber was an encroachment on the rights and privileges of members. Speaker observed that the directive implied no interference with the rights of members, because points are raised for clarification or solution and I do not see how they can be

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46. LA Deb., 27.02.1936, pp. 1782-86

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immediately clarified or solved on the floor of the House unless the Chair is aware of what is really worth being brought before the House.\(^{47}\)

(iii) On 10 Mar. 1950 a member asked whether members were not entitled to raise a point of privilege if while the House was sitting, a situation arose in the House itself which appeared to be an infringement of privilege of members. Speaker ruled that members should first contact him in the Chamber to make him cognizant of the point and that the would allow the question being raised if he was convinced that prima facie there was a breach of privilege.\(^{48}\)

(iv) On 30 Nov. 1950, a member (H.V. Kamath) tried to raise a question of privilege regarding a member, Prof Shibban Lal Saxena, having been barred from attending the session of Parliament owing to some action having been taken against him by a State Govt. Speaker observed that if members wanted to raise any point, they should first see him.\(^{49}\)

Where specific rules exist on a point of procedure in LS, they prevail in preference to the practice obtaining in House of Commons, U.K.

(i) On 29 May 1957 a member (Anthony Pillai) enquired from the Speaker the grounds on which he had not given his consent to raise a question of privilege. Speaker replied:

Hon. Member is aware that under the Rules I have to give consent for raising any question of privilege in the House. I did not give my

\(^{47}\) CA (Leg.) Deb. (II), 20.12.1949, pp. 829, 847
\(^{48}\) P. Deb. (II), 10.03.1950, pp. 1337-38
\(^{49}\) P. Deb. (II), 10.05.1953, c. 6479; LS Deb., 26.07.1957, cc. 5323-26
consent. If the hon. Member is not satisfied or wants further elucidation he may come and see me in my Chamber.

When the member referred to H.C. practice in support of his contention, Speaker ruled:

“We have framed certain rules suitable to our own needs and conditions. In other respects, where this Parliament has not made any rule or passed any law, the general practice prevalent in the House of Commons before the date of commencement of the Constitution will prevail. Here there is a specific rule that the Speaker has to give his consent, and if he does not give consent, the matter cannot be raised. I have refused to give consent.”\(^{50}\)

(ii) On 1 May 1963, a member (hem Barua) tabled a notice of question of privilege against the Prime Minister for having reportedly used the word ‘goondaism’ with reference to members. The Speaker withheld his consent and the member was informed accordingly.\(^{51}\)

When a member seeks to raise a question of privilege against another member, the Speaker, before giving consent therefore, 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.

(i) On 7 May 1959, when a member (Frank Anthony) sought to raise a question of privilege, against another member (Joachim Alva) on the basis of a newspaper report of an alleged statement made by Alva outside the House, Alva denied having made the alleged statement. On 9 May when the Speaker withheld his consent to the raising of the question, some members suggested that it would have been better if Anthony,

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\(^{50}\) LS Deb., 29.5.1957, cc. 2652-58

\(^{51}\) LS Deb., 1.5.1953, c. 13130.
before raising the mater had written to Alva and had the position clarified. The Speaker observed:

“As a matter of fact, that is the procedure I adopt. As soon as a member of Parliament complains that another member of Parliament has made a statement against him. I ask the other member to state what had happened.”

(ii) On 8 Aug. 1960, a member (A.B. Vajpayee) gave notion of a question of privilege based on a newspaper report re. certain remarks reflecting on members of Parliament, alleged to have been made by Minister of Defence outside the House. A copy of the notice was sent to the Minister of Defence for his comments. On the Ministe’s reply that he had not made the alleged remark, Speaker refused his consent to the raising of the matter in the House and Vajpayee was informed accordingly, first verbally and then by a letter on his request.

(iii) On 4 Apr. 1961, a member (Hem Barua) sought to raise in House a qn. of privilege arising out of certain comments appearing in ‘New Age’, 2 Apr. 1961, in reference to Barua’s statement in the House made on 28 Mar. 1961. The Speaker observed that before giving consent, he would call for an explanation from the Editor.

On 2 May 1961, the Speaker read in House the reply received from the Editor. Thereupon, Barua stated that though the Editor had not come out with a straight forward expression of regret and had rather tried to justify his comments but he had said in his letter that he did not mean any disrespect to him. Barua did not, therefore, want to press his privilege motion. The matter was thereupon closed.

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52. LS Deb., 7.5.1959, cc. 15576-79; 9.5.1959, cc 16040-42
53. LS Deb., 4.4.1967, cc. 9034-38; 2.5.1961, cc. 24904-08.
(iv) On 16 Dec. 1961 a member (Madhu Limaya) and others gave notice of a qn. of privilege against another member (N. Sreekantan Nair) for breaking glass-panes of lobby door when he could not go out during a division. Copy of notice was sent to Nair for comments before Speaker gave consent for raising the matter in House.  

On 18 Dec. 1963, a member (Homi F. Daji) sought to raise a question of privilege that the Prime Minister had made a statement to the Press and in the other House on a subject (reported deployment of US 7th Fleet in Indian Ocean) on which calling attention notice was scheduled to be taken up in the House on 19 Dec. 1963. The Speaker postponed the question of privilege as Prime Minister was not present. The matter was taken up on 19 Dec. 1963 when Prime Minister was present for PM’s statement, Speaker ruled that no question of privilege was involved in the matter.

(vi) Motion by a member (Madhu Limaye) seeking to refer to CPR a qn. of privilege against the former Secy. Deptt. of Iron and Steel (N.N. Wanchoo) nd then Dy. Iron and Steel Controller (S.C. Mukherjee) for allegedly giving false evidence before PAC was included in the list of business for 25 Feb. 1969, when the item was reached, the Speaker observed that to enable Minister of Steel and Heavy Engineering (Poonacha), who was new to that Ministry, to study papers and come prepared to the House with a complete and satisfactory reply, he had agreed to postpone motion to next week. Motion was subsequently put down in list of business for 6 Mar. 1969. The House adopted the motion after a brief discussion.

In an instance of alleged attempt by a Minister (H.K.L. Bhagat) to intimidate two expelled members of his party and suppress their freedom of speech by issuing whip to them in the House, Speaker, after obtaining comments of Min. gave consent to raising of qn. of privilege. After leave was granted by the House, member raised the matter. However, at the end of discussion, no member moved any motion either for the decision by the House or for reference of matter to CPR and the Speaker moved to next item on agenda.\textsuperscript{57}

\textbf{5.5 Motion for reference to Privileges Committee}

When a motion for reference of a question of privilege to C.P.R. is moved in the House, amdts. Re. time for presentation of report only can be moved.

On 9 May 1975, a member (Shyamanandan Mishra) gave notice of a qn. of privilege against another member (Janeshwar Mishra), for having read out in the House on 2 May 1975, an alleged forged letter stated to have been written by the employees of Hindalco to the President of Hindalco saying the a sum of Rs. 5 Lakhs was paid to P.S. to the Prime Minister, to prevent trade union activity in that concern. Speaker gave his consent and leave was granted by the House to Mishra to raise the qn. of privilege. Mishra then sought to move an amdtd. To the motion re. calling of handwriting experts by CPR and instructing CPR to present their report in the last week of nest session. The Speaker, thereupon, referred to r. 277 and permitted Limaye to move his amdtd. With regard to time for presentation of report only, which was moved, and negative. Motion moved by Mishra for reference of the matter to CPR was adopted.\textsuperscript{58}

\textsuperscript{57} LS Deb., 17.11.1987, cc 403-30; 14.12.1987, cc. 27-128

\textsuperscript{58} LS Deb., 9.5.1975, cc. 224-26, 235-39, 252-56
(a) **Instances when the matters raised in the House do not amount to breach of privilege**

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. 59

(ii) Arrest of member under J & K Preventive Detention Act.

(iii) Arrest of a 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 authorities concerned about place of imprisonment transfer from one 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.

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59. HP Deb., 13.5.1953, cc. 7478-82
(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.


(xii) Non-intimation of detention and wrong information about release of member (Ishwar Chaudhary) 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 (UP) on 9 July 1980. Sub-Divisional Magistrate, Baghpat, later sent full information and expressed

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60. LS Deb., 21.2.1974; cc. 208-09
regret. Details of arrest and regret published in Bn. II and matter was closed.\textsuperscript{61}

(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 Ministry given to member and matter closed.\textsuperscript{62}

(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.\textsuperscript{63}

(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 observe inter alia” I regret that in spite of repeated instruction, 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 Ministry issued instructions to all State Govts. and Union Territory Admns. to issue necessary instructions to the concerned authorities in the State to ensure

\textsuperscript{63} Bn. II, 14.7.1980, para 351
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.\(^\text{64}\)

(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 this 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”.\(^\text{65}\)

(b) Misleading regarding arrest, etc. of Members

(i) Alleged inaccuracy in information regarding arrest of a member sent to Speaker by police authorities. CPR held that there was no material discrepancy in the information sent.

(ii) Alleged wrong information given to the House about arrest of two members. Matter closed after Home Minister (K. Brahmanand Reddy) explained position.\(^\text{66}\)

(iii) Alleged wrong, slanderous and malicious information sent to Speaker by concerned authority about arrest of a member for creating ‘rowdyism’ in a public place. Concerned Police Office expressed regret

\(^{64}\) LS Deb., 20.10.1982; cc. 226-27

\(^{65}\) LS Deb., 3.12.1985, cc. 289-91

\(^{66}\) LS Deb., 15.11.1974, cc. 400-02; 12.12.1974, cc. 200-001
for using the word ‘rowdyism’ in his communication to the Speaker. Regret of Police Officer accepted and extract of communication containing regret of Police Officer, published in Bn. II, 29 Nov. 1977.67

(iv) Alleged false and incorrect information sent to Speaker by concerned Police authorities about release of a member (K.T. Kosalram) on 23 Dec. 1978. Concerned Police Officer expressed regret that it was through inadvertence that words” on bail” crept in message sent to Speaker. As desired by member, a correction was issued in Bn. II, 15 Mar. 1979 and matter closed.

(c) Cases involving members of R.S. and State Legislatures

(i) Certain remarks made in RS by a member (Bhupesh Gupta) imputing motives to CPR (LS) and its Chairman in connection with their 13R (Bilitz Case). CPR (2LS), to a whom matter was referred by the Speaker arrived at the conclusion that although the observations of Bhupesh Gupta were regrettable, Committee had no jurisdiction to proceed with the matter as a breach of privilege, as any observations made by a member inside a House are privileged and no qn. of breach of privilege arises. Matter was accordingly closed by the Speaker.

(ii) Statement by PM in RS on 24 Jan. 1963 that LS had approved 8 Sept. line for resuming talks with Govt. of China which a member (R.S. Yadav) alleged was not correct. The Speaker ruled that whatever ws said in RS need not be taken notice of in LS.68

(iii) Introduction in RS of Salaries and Allowances of Members of Parliament (Amdt.) Bill, 1964, alleged to be a Money Bill. Member was

67. LS Deb., 29.11.1977, c. 249
68. LS Deb., 25.1.1963, c. 6506
informed by the Speaker that the Bill was not a Money Bill but only a Financial Bill.

(iv) Allegation made in RS by a member (Sheel Bhadra Yajee) that LS member (Dr. Lohia) had accepted Rs. 1 Lakh from Sahu-Jains for presenting a petition to Parl. [LS Deb., 6.6.1967] – Speaker ruled that since the matter had already been raised in RS and disposed of by the Chairman, he could not refer it to him in accordance with the procedure laid down in the Report of joint sitting of CPRs of RS and LS (1954).\(^{69}\)

(v) Allegation made in RS by a member (Niren Ghosh) that a member of LS (D.N. Patodia) was trying to purchase MPs. Patodia made a personal explanation in LS denying the allegation. Thereafter, as desired by members, Speaker addressed a letter to Chairman, RS, observing that it was not desirable for members of one House to make allegations against members of the other House. In reply, Chairman, RS agreed and stated that he and Dy. Chairman had deprecated in RS remarks of Nitren Ghosh.\(^{70}\)

(vi) Allegation made in RS by a member (Bhupesh Gupta) that certain MPs were offered bribe for voting against Privy Purse Bill. On matter being raised in LS, Speaker addressed a letter to Chairman, RS, eliciting his views in the matter. In his reply, Chairman, RS, observed that Bhupesh Gupta did not refer personally to any member of either House. He also observed that members of one House should not make allegations or cast aspersions on members of the other House and that in RS, Chair had invariably deprecated such conduct on part of a member.\(^{71}\)

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\(^{69}\). LS Deb., 28.6.1967, cc. 8120-25

\(^{70}\). LS Deb., 1.4.1970, cc. 70-71

\(^{71}\). LS Deb., 3.9.1970, cc. 6-9
(vii) Reported remarks by a member of RS (Bhupesh Gupta) at a public meeting published in Kerala Kaumudi, a Malayalam Daily, that Marxist MPs took bribe from former rulers and vested interests and opposed the Privy Puses Bill in Parliament-Matter against editor, Kerala Kaumudim, was closed after he expressed regret. Matter against Bhupesh Gupta was not pursued as impugned remarks were made by him in the heat of political activity, during election campaign.

(viii) Reference of qn. of privilege by Speaker, Tamil Nadu LA to Speaker, LS, against a member N. Shivappa, for certain remarks made by him in LS.72

(ix) Alleged reflections on members of RS in the Speech of a member in LS as reported in Hindustan. On 31 Mar. 1973, Chairman, RS (G.S. Pathak) forwarded to the Speaker, LS, extracts of proceedings in RS on that day, for such action as the Speaker might think appropriate, re. alleged speech of (Bibhuti Mishra) in LS, on 30 Mar. 1973, published in Hindustan, 31 Mar. 1973, under the caption “Rajya Sabha Rajneetik Bhrashtachar ka Kendra Bhibhuti Mishra”. Speaker LS, in his reply of 5 Apr. 1973, to Chairman, RS, stated inter alia that Mishra did not say in speech what was attributed to him in the caption in news report. Editor, Hindustan in his explanation of 16 Apr. 1973 to the Speaker stated that the news report and heading thereof were incorrect and that he had published a correction in the Hindustan, 2 Apr. 1973. Editor explained the circumstances leading to bonafide error and expressed regret. Speaker (G.S. Dhillon) made announcement in the House on 19 Apr. 1973, and with approval of the House, closed the matter. He also appealed to member to use necessary restraint and not say anything in the House which might bring disharmony between the two Houses. As announced

72. L.S Deb., 16.7.1971, cc. 171-75
by him in House, Speaker sent a letter on 22 Apr. 1973 to Chairman, RS, informing him of position.\textsuperscript{73}

(x) Alleged misconduct of a member of RS and former Defence Minister (Bansi Lal) in acquiring assets disproportionate to his known sources of income as reported in the Press, sought to be raised in LS under rule 377 for constituting a Committee of 15 members of both Houses. The Speaker, (K.S. Hedge) ruled inter alia “I do not want to raise a controversy between this Houses and the other House. So far as the Conduct of the Member of each House is concerned, the House itself had the fullest authority. I do not propose to make any reference to the other House. If any member is interested, they may raise it in the other House because no controversy should ever arise between Lok Sabha and Rajya Sabha.”\textsuperscript{74}

(xi) Alleged misleading statement made in LS on 19 Jan. 1976 by a member of RS (Pranab Kumar Mukherjee) when he was functioning as Minister of State for Deptt. of Rev. & Banking, re. voluntary disclosure of income and wealth. When matter was sought to be raised in LS, the Speaker forwarded to Chairman, RS through a D.O. letter “relevant extracts from LS Debates, 23 Apr. and 16 May 1979, for information and necessary action in terms of procedure laid down in the Report of the Joint Sitting of the Committee of Privileges of LS and RS, adopted by both Houses of Parliament.” Chairman RS, in his D.O. reply dt. 17 Mar. 1980, to Speaker, LS, stated that: “the Chairman, after examining the comments received from Shri Mukherjee, referred the matter to the CPR of RS on 27 June 1979, for examination, investigation and report. The CPR has since examined the complaint…and come to the conclusion that

\textsuperscript{73} LS Deb., 19.4.1073, cc. 153-5

\textsuperscript{74} LS Deb., 2.8.1977, cc. 251-52
Shri Mukherjee had not committee any breach of privilege either of the House or the members by making the impugned statement in LS. The Committee, had, therefore, recommended that no further action need be taken by the House on the complaint against Shri Mukherjee”. Therefore, the matter was closed by the Speaker who decided that after receipt of reply from Presiding Officer of other House about enquiry and action taken thereon, no further action taken in the House in which qn. of privilege against a member of the other House was originally raised.  

(xii) Allegation against a member of LS by a member of RS, in RS, that he was found to have evaded custom duty. On 27 Mar. 1981, Speaker (Bal Ram Jakhar) observed : “… I have carefully gone through the proceedings of Rajya Sabha and I find that both the allegations and the name of the member were withdrawn by the Member concerned and the name was also expunged by the Chairman.”

(xiii) Certain observations made in RS by the Chairman against C.P.N. Singh, Minister of Science and Technology and member of LS that “I also agree that the Minister himself was misled by Mr. Michele and should not have made this counter-charge on such doubtful evidence”. On 27 Mar. 1981, the Speaker (Bal Ram Jakhar) observed that “If the recommendations of the Committee of Privileges of Rajya Sabha and the observation of the Chairman of the other House are read together, it is clear that the Minister was found to have evidence on the basis of which he had chosen to make the statement in the other House. The matter may be allowed to rest with that and need not be pursued further.”

(xiv) Reported statement by the Chief Minister of Gujarat regarding the policy of reservation for Scheduled Castes and Scheduled Castes  

75. LS Deb., 23.4.1979, cc. 255-57; 16.5.1979
Tribes after LS had already passed a resolution endorsing the policy. Deputy Speaker (G. Lakshmanan) while disallowing qn. of privilege observed, inter alia, “that the Chief Minister of Gujarat is a member of another Legislature, and according to well established practice, a question of privilege may not normally be raised against him in this House.”76

(xv) Reference of a qn. of privilege against Jagan Nath Kaushal, Min. of Law, Justice and Company Affairs by Andhra Pradesh LA to their CPR for allegedly turning down resolution passed by that assembly recommending abolition of Andhra Pradesh LC. On 22 Aug. 1984, the Speaker, inter alia, observed, “… As hon’ble members know, it is a well established convention that if a prima facie case of breach of privilege or contempt of the House is made out against a member who belongs to another Legislature, the matter is reported to the Presiding Officer of that Legislature for taking such action as he considers necessary. Moreover, even if it is considered to be a violation of constitutional provision contained in article 169, it is a matter to be decided by Courts and no question of Parliamentary privilege would arise. I have no doubt that all concerned would take the relevant facts into account while dealing with this sensitive and important issue.”77

(xvi) Alleged misleading statement made in LS on 15 Apr. 1987 by Min. of State in Deptt. Of Defence Research and Development (Arun Singh, RS) re. inquiry ordered by former Min. of Defence into payment of commission to an Indian agent in a defence deal. Comments of Min. were called for and copy thereof was given to member (Somnath Chatterjee). Member gave further notice of qn. of privilege against Min. In the meantime, Singh ceased to be Min. On 17 Aug. 1987, the Speaker

76. LS Deb., 21.4.1981, c. 231
77. LS Deb., 22.8.1984; cc. 311-12
inter alia informed the House that Singh was a member of RS and qn. of privilege, could therefore, be dealt with only by that House in accordance with the procedure laid down in the Report of Joint Sitting of CPR of LS and RS and that he would refer the matter to Dy. Chairman, RS for such action as she might consider necessary and proper.

Accordingly, matter was referred to Dy. Chairman, Rs. On 24 Mar. 1988, Chairman, RS informed RS that after carefully going through all papers, he was of the opinion that the Minister had not made any statement which could be construed as deliberately misleading LS and committing a breach of privilege of that House and he, therefore, felt that the matter need not be pursued further. The Chairman, RS forwarded a copy of his ruling to the Speaker. Thereafter matter was treated as closed.78

(d) Apology offered by Member/official witness of a Committee/Public Undertaking

In a case of protest and walk-out by a member against Speaker’s ruling, matter was dropped as the Speaker was assured that there was no intention to cast any aspersion on the Speaker or the House.

On 28 Apr. 1958, Speaker ruled that he would not give his consent to any of the Adj. motions which had been tabled re. situation in Orissa arising out of arrest of certain members of Orissa La and a member of LS, since in his opinion, subject matter of ajd. Motions was one which might be dealt with by Courts of Law in nominal course. S.N. Dwivedy thereupon said:

78. LS Deb., 17.8.1987, cc. 329-33
“Sir, as a protest against your decision, I withdraw…. From the House. You are are discharging your functions..”

Interrupting Dwivedy, the Speaker observed:

“I am going to charge him for contempt of this House… Hon. Members can go out of this House if they like; I have no objection and I cannot prevent them. But if, while going they say : “I do not agree with your order; your order is illogical or improper : I protest” this is an absolute violation of the Rules of Procedure it is contempt of the House and the Speaker, and I cannot tolerate it.”

Surendra Mohanty then said:

“Sir, it is not intention to cast any aspersion on you or on this House.”

After some more discussion, Dwivedy and some other members of Opposition left the House.

The matter was further examined by the Speaker but in view of above assurance given by Mohanty that they did not intend to cast any aspersion on the Speaker or the House, the matter was dropped.

25.2 Instance when a Committee stated in their Report that they had been misled by an official witness. Concerned official subsequently apologized to the Committee. When a member sought to raise a qn. of privilege against that official while Committee were seized of the matter, Speaker ruled that the official had a right to make his submissions to the Committee and the House should await a report from the Committee. The Committee accepted the apology of the official and decided to close the matter and reported to the House accordingly.
CPU (1069-70) in their 63R reported that they had been misled by the statement on Managing Director (R.K. Sethi) of NIDC during his evidence. As decided by CPU, Sethi was called to see Chairman CPU, to whom Sethi apologized. While CPU were seized of matter, Jyotirmoy Bosu sought to raise a qn. of privilege against Sethi for misleading a Parliamentary Committee. The Speaker ruled that the officer had a right to appeal to the Committee and explain his position and that the House should await Action Taken Report of CPU. CPU (1972-73) in their 22R reported that CPU (1969-70) had accepted unconditional apology tendered by Managing Director, NDC, and closed the matter. No further action was taken by the House.\footnote{LS Deb., 26.5.1972, cc. 183-91; 30.5.1972, cc. 159-60; CPU (1972-73) 22R}

Instance, when the expressions used by an Undertaking in their telegram regarding a Report of a Committee prima facie appeared to cast reflection on had give threat to a Parliamentary Committee, thereby constituting breach of privilege and contempt of the House. In view of apologies offered by the Management of the Undertaking, Committee decided to treat the matter as closed.

Re. paras 2.150, 2.151 and 2.153 of 79th Report of Committee on public Undertaking (CPU) on Film Finance Corporation Ltd. the Management of FFC sent a telegram dated 2 Apr. 1076 which contained the following expressions:

“FFC take serious view since present remarks… of Report are inaccurate Await your clarification before deciding on further course of action…”

Expression used in the telegram appeared to cast reflection on and give threat to a Parliamentary Committee and thereby constituted a
breach of privilege and contempt of House. Before proceeding further in the matter, Ministry of I&B was requested that sender of telegram may be asked to say what he might have to submit in the matter for the consideration of Chairman, CPU.

In their subsequent telegram received on 13 Apr 1976, FFC stated: “Regret extracts from our telegram caused misunderstanding. Kindly accept our apologies... No intention to cause breach of privilege or contempt of House. Mr. B.K. Karanjia had already resigned as Chairman and his resignation had been accepted with immediate effect.” This was confirmed by their letter of same date in which General Manager of FFC stated, “we did no intend to cast reflection on and give threat to a Parliamentary Committee or to constitute a breach of privilege and contempt of the House. We offer our apologies to the CPU and to its Chairman for the inconvenience caused in this respect”. CPU at their sitting held on 23 Apr. 1976 noted apologies offered in writing by Management of FFC and the fact that B.K. Karanjia had already resigned as Chairman, FFC and his resignation had been accepted, and decided to treat matter as closed.

(e) Reference to Speaker of alleged breach of privilege of State Legislatures

(i) On 18 Sept. 1968, Speaker, Kerala, L.A. referred to Speaker LS a qn. of privilege against Union Minister of Law Member of LS (P. Govinda Menon) for his reported remarks that Kerala Govt. Bill on Civil Supplies Popular Committee would not become law if Kerala Govt. went ahead with it disregarding Centre’s opposition. After receiving Govinda Menon’s comments, Speaker decided that no qn. of privilege was involved. Subsequently, a member (Vasudevan Nair) requested the
Speaker that it might be mentioned in the House. He was informed that disallowed notices were not mentioned in the House.

(ii) On 10 Sept. 1069, the Speaker, Kerala, L.A. referred to the Speaker, LS a qn. of privilege against member of LS (A.K. Gopalan) for his reported statement threatening dissolution of Kerala Assembly if Kerala Land Reforms (Amdt). Bill 1968 was not enacted forthwith. After receiving Gopalan’s comments, the Speaker decided that no qn. of privilege was involved. The Speaker, LA, was informed accordingly.

(iii) On 23 Feb. 1970, the Speaker, Kerala LA. Referred to the Speaker, LS a qn. of privilege against a member of LS (A.K. Gopalan) for his reported statement accusing speaker, Kerala L.A. of playing a dubious role in ‘conspiracy’ with some of United Front Parties to form a non-Marxist Ministry in Kerala. After calling for Gopalan’s comments, the Speaker decided that no accordingly.

(iv) On 16 July 1971, a qn. of privilege was raised in LS against Tamil Nadu L.A. and its Speaker for holding certain remarks of a member (N. Shivappa) in LS as Prima facie breach of privilege and referring the matter to Speaker, LS. Subsequently, in reply to a reference from the Speaker, Tamil Nadu L.A. Speaker L.S. informed that impugned remarks were in respect of Tamil Nadu Govt. and not Tamil Nadu L.A. Moreover, a qn. of privilege could not arise re. anything said by a member in the House. The Speaker also withheld consent for raising matter in LS. 80

(v) On 18 Dec. 1981, Speaker, Maharashtra, L.A. referred to Speaker, LS, three qns. of privilege against two members of LS viz. (i) Madhu Dandavate for allegedly casting reflections on C.M. Maharashtra

80 LS Deb., 16.7.1971, cc. 171-75
and distorting proceedings of L.A. in certain statements and averments made by him in a Writ Petition in Bombay High Court. (ii) Ram Jethmalani For (a) allegedly casting reflections on C.M. Maharashtra and distorting proceedings of L.A. in certain statements made by him in a complaint filed by one Ramdas Nayak before Chief Metropolitan Magistrate, Bombay, and and (b) for allegedly misrepresenting proceedings of L.A. as published in a news report in India Today of 15 Nov. 1981.

On examination, it was found that qns. of privilege against some outsiders arising out of the same facts were also referred to CPR of Maharashtra L.A. and L.C. It was, therefore, decided by Speaker, LS that references might be kept pending and Reports of those Committees awaited

As CPR of L.A. and L.C. of Maharashtra had not deliberated upon matters referred to them for more than two years, it was decided by Speaker (Bal Ram Jakhar) on 21 Dec. 1983, that references be lodged. Secy., Maharashtra Legislature was informed accordingly.

RULE 223. Notice of questions of privilege- A member wishing to raise a question of privilege shall give notice in writing to the Secretary-General by 10.00 hours on the day the question is proposed to be raised. If the question raised is based on a document, the notice shall be accompanied by the document:

Provided that notice received after 10.00 hours shall be deemed to have been received at 10.00 hours on the next day on which the House sits.
(f) Raising urgent matters without previous notice

Where the matter is of an immediate nature and there is no time for notice being given, Speaker had permitted a member to raise a qn. of privilege without previous notice in writing.

On 12 Sept. 1956, a member (V.G. Deshpande) was permitted by the Speaker to raise a qn. of privilege in the House without previous notice in writing re. alleged obstruction caused to him by Police authorities while he was entering Parliament House compound to attend the sitting of the House that day.81

5.6 Requirements regarding notice

There is no set form for giving notice of a qn. of privilege it is sufficient if a member indicates briefly the point which, according to him, constitutes a breach of privilege and the date on which he desires to raise it in the House.

On receipt of notice, the matter is placed before the Speaker who may either give or withhold his consent therefor. The member is informed of Speaker’s decision. Notices of qns. of privileges are inadmissible if they are vague and indefinite.

The requirements of this rule are satisfied if, in the absence of an original document, notice is accompanied by relevant press on which the notice is based.82

RULE 224. Admissibility of questions of privilege- The right to raise a question of privilege shall be governed by the following conditions, namely.

81. LS Deb. (II), 12.9.1956, cc 6791-92
82. LS Deb., 27.9.1958, cc. 8987-9023
(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 requires the intervention of the House.

Conditions of admissibility

A question of privilege should be raised at the earliest opportunity and should require the intervention of the House. In order to determine whether a qn. had “recently” arisen, all circumstances of a particular case are taken into consideration.

A matter postponed to suit the convenience of the House or to give the Speaker an opportunity to consider it fully does not forfeit priority when eventually allowed to be raised.

(i) On 31 Nov. 1950, before commencement of legislative business for the day, a member (H.V. Kamath) complained to Chair about Govt. not supplying information elicited through a SNQ, re. another member (Shibban Lal Saxena) who had been deprived of privilege of attending session of Parliament owing to an action taken against him by a State Govt. The Speaker observed that member was referring to an incident of four days ago and that he could have seen him earlier. He advised the member to follow up his investigation with officer concerned and felt that he would have no ground for complaint.83

(ii) On 17 Mar. 1964 two members (R.S. Yadav and Kishen Patnayak), gave notice of qn. of privilege re. alleged prevention of

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83. P. Deb. (II), 30.11.1950, cc. 937-38
another member (Bagri) by police from entering Parl. House on 13 Mar. 1964. The Speaker held the notice time barred and withheld consent.

(iii) On 2 Aug. 1967, a member (P.V. Shastri) gave notice of qn. of privilege re. an editorial in Al Jamait, 1June 1967. The Speaker held the notice time-barred and withheld consent.

(iv) On 23 Sept. 1954 a member (K.S. Raghawachari) gave notice of qn. of privilege of a JC arising out of a speech of P.M. in RS on 22 Sep. 1954, on a motion for extension of time for presentation of report of JC on Hindu Marriage and Divorce Bill. Member contended that PM’s speech contained disrespectful remarks about deliberations of Committee.

It was held that as JC was under control of other House, it was for that House to take notice if there was any breach of privilege, LS could have jurisdiction only if a report or a formal complaint from JC had come from other House. It was therefore decided not to take any notice of matter.

(v) On 13 Dec. 1978 a member (Jyotirmoy Bosu) gave notice of a qn. of privilege on the ground that a qn. re. alleged mutilation of U.S.Q. 4175 (tabled by Madhu Limaye in 5LS) which had been referred to CPR on 18 Nov. 1977 in the case against Smt. Indira Gandhi and others (reported as 3R CPR (6LS) on 21 Nov. 1978) had not been considered by CPR in their Report to the House. Speaker (K.S. Hegde) withheld his consent and recorded on 18 Dec.1978; “now that the CPR did not think fit to consider the case against the persons mentioned about, there is no justification to re-open a matter which is fairly old”.

In the Searchlight case, the Supreme Court held
“It is impossible for this Court to prescribe a particular period for moving a privilege motion so as to make the subject matter of the motion a specific matter of recent occurrence. This matter must obviously be left to the discretion of the Speaker of the House of Legislature to determine whether the subject matter of the motion is or is not a specific matter of recent occurrence.”84

In their second judgment in Searchlight case, Supreme Court observed, inter alia:

“It was also sought to be argued that the subject matter of the proceedings in contempt whatever it was, took place more than three years ago, and that, therefore, it had become much too stale for proceeding against the petitioner in contempt. In our opinion, this is also a matter within the jurisdiction of the Legislature which must decide whether or not it was recent enough to be taken serious notice of or whether any punishment in the event of the petitioner being found guilty is called for. These are matters with which this Court is in no way concerned.”85

5.7 Sub-judice matters

Instances where a question of privilege was considered by LS and referred to CPR while Government had announced a Commission of Inquiry on the incidents. Question of privilege regarding alleged beating of certain members and preventing them from coming to Parl. House by Police on 6 Apr. 1970 when House was in session, matter, however, lapsed on dissolution of 4LS.86

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84 A.I.R. 1959, S.C. 395-422
85 M.S.M. Sharma vs. Shree Krishna Sinha and others, AIR 1960, S.C. 1186
Instance when LS deferred consideration of qn. of privilege till after disposal of a case re. subject matter of qn. of privilege, by a court of law.

(i) Question of privilege re. institution of a suit for damages in High Court of Delhi against certain members for their statements in LS till disposal of case by Delhi High Court.\(^{87}\)

(ii) Qns. Of privilege re. (i) non-intimation of alleged arrest of a member and (ii) a misleading news item published in a newspaper about the arrest of the matter. Speaker (Dr. Bal Ram Jakhar) observed that since the whole matter including that of the identity of the person involved in the incident was sub judice, as per well established practice, no further action was called for at that stage.\(^{88}\)

RULE 225. Mode of raising questions of privilege- (1) The Speaker, if he gives consent under rule 222 and holds that the matter proposed to be discussed is in order, shall call the member concerned, who shall rise in his place and, while asking for leave to raise the question of privilege, make a short statement relevant thereto:

Provided that where the Speaker has refused his consent under rule 222 or is of opinion that the matter proposed to be discussed is not in order, he may, if he thinks it necessary, read the notice of question of privilege is not in order:

Provided further 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 during the course of a sitting after the disposal of questions.

\(^{87}\) 11R (CPR-4LS), LS Deb., 22.7.1969, cc. 230-42

\(^{88}\) LS Deb., 3.12.1985, cc. 289-91

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(2) If objection to leave being granted is taken, the Speaker shall request those members who are in favour of leave being granted to rise in their places, and if it not less than twenty five members rise accordingly, the Speaker shall declare that leave is granted. If less than twenty five members rise, the Speaker shall inform the member that he has not the leave of the House.

5.7.1 **Hearing of views before deciding admissibility**

Speaker may if he think fit, hear the views of members before deciding admissibility of a qn. of privilege.

(i) When a member (M.R. Masani) sought to raise a qn. of privilege re. a telegram sent by CM of Kerala to Union Home Minister, the Speaker reserved his ruling after discussion in the House on its admissibility. Subsequently, Speaker gave his consent under r. 222 to matter being raised.\(^{89}\)

(ii) When a member (V.P. Nayar) wished to raise a qn. of privilege re. statement made by Home Minister on 3 Aug. 1959, expressing his inability to lay on the Table a copy of Report of Kerala Govt. to President on situation in Kerala, the Speaker, before deciding its admissibility, heard Nayar and representatives of Groups in Home and ruled that no qn. of privilege was involved.\(^{90}\)

(iii) On 21 Apr. 1965, a member (R.S. Yadav) referred to statement of a member (J.B. Kripalani) in the House on 19 Apr. 1965, that the Home Minister (G.L. Nanda) had told Chairman, PAC (R.R. Morarka) before several members in the Lobby, that PAC report on Bharat Sewak Samaj was prejudiced and that he (Morarka) was working

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\(^{89}\) LS Deb., 23.9.1958, cc. 8053-84; 27.9.1958, c. 8987  
\(^{90}\) LS Deb., 7.8.1959, c. 1227
against the interest of Cong. Speaker informed the House that Nanda had written to him that he had a purely private conversation with Morarka in the Lobby and that he had no intention to say anything derogatory to PAC or its Chairman, but he was sorry if a contrary impression had been created. After some discussion, the Speaker ruled:

“…If the language is intended or is likely to cause coercion or intimidation or any offensive language is used, even if it is outside the House in the lobby, certainly it is a breach of privilege, it comes under the discipline of the Speaker of this House, and this House can always take action against that… If such an incident occurred in the lobby, then the person aggrieved is actually the one who has been intimidated or coerced, or against whom such language had been used… If he brings a complaint then the Houses should take notice of it, not it is brought by other members who overhear him or who happen to be present there at that time…In view of what Shri Nanda had written that he is sorry that such an impression has been created, the matter is closed and there is nothing more that is required to be done by me.”⁹¹

5.7.2 Leave of House

When the Speaker gives his consent under r. 222 and holds that the matter proposed to be raised is in order, leave to raise qn. of privilege can be asked for only by the member who has given notice under r. 223. He cannot authorize another member to do so on his behalf.⁹²

Instances where, on an objection taken to leave being granted to raise a qn. of privilege, Speaker took sense of the House under sub-rule (2):

⁹¹. LS Deb., 21.4.1965, cc. 10238-75
⁹². LS Deb., 24.9.1958, cc. 8350-52

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(i) On 27 Sept. 1958, when Speaker held in order a qn. of privilege sought to be raised by a member (Masani) on 23 Sept. 1958, re. telegram alleged to have been sent by Chief Minister of Kerala to Home Minister and gave his consent to raise the matter, objection was taken to leave being granted. The Speaker requested members in favour of leave being granted to rise in their places and as more than 25 members rose, the Speaker declared that leave was granted.93

(ii) On 10 Feb. 1989, when a Member (A.B. Vajpayee) sought to raise a qn. of privilege re. certain remarks of the then Special Assistant to PM (M.O. Mathai) contained in his letter to Prime Minister, the Speaker asked members in favour of leave being granted to rise in their places. As more than 25 members rose, Speaker announced that leave was granted.94

(iii) On 5 Apr. 1967, when a member (Dr. Lohia) sought leave of the House to raise a question of privilege against Minister of External Affairs, Minister of Commerce and Prime Minister for alleged discrepancy between the statements made on their behalf by Minister of External Affairs and letters of Mrs. Svetlana to Dr. Lohia, objection to leave being granted was taken. The Speaker asked those members who were in favour of leave being granted to rise in their places. As more than 25 members rose, Speaker announced that leave was granted.95

5.7.3 Allowing Question of breach of privilege to be raised

(i) Conduct of a member (Mudgal Case).96

(ii) Arrest of a member (Dasaratha Deb Case).97

93. LS Deb., 27.9.1958, cc. 8987-9035
94. LS Deb., 10.2.1959, c. 149
95. LS Deb., 5.4.1967, cc. 2914-18
96. P. Deb. (II), 6.6.1951, cc. 16259-302

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(iii) Public speech by a member of RS (Sundarayya Case) allegedly disclosing a Committee’s proceedings.  

(iv) Telegram sent by Chief Minister of Kerala to Minister of Home Affairs allegedly casting reflections on certain members. (Namboodripad case).

(v) M.O. Mathai’s letter to Prime Minister casting aspersions on Parliament.

(vi) Pamphlet published by one Dhirendra Bhowmick casting aspersions on Speaker and House.

(vii) Report in a newsmagazine (Blitz Case) casting reflections on a member.

(viii) Conduct of certain members during President’s Address.

(ix) Statement made in Press re. contents of a report of PAC and a statement made by Chairman, Delhi Pradesh Bharat Sewak Samaj at a public meeting describing report of PAC as “Miss Mayo’s Report.”

(x) Publication of a news report in Indian Nation, Patna, containing certain remarks purported to have been made by Home Minister (G.L. Nanda) in a public speech about P.A.C. Report on Bharat Sevak Samaj which he denied.
(xi) Seizure of printed forms of a petition addressed to LS by a sub-inspector of police at Indore while arresting one Santosh Kharade under Sec. 151, Cr. P.C. \textsuperscript{106}

(xii) Question of privilege against a member (Madhu Limaye), for having alleged mala fides against the Speaker in a Writ Petition field by him in Court. \textsuperscript{107}

(xiii) Reflections on the Speaker and members of Parliamentary Committee on Demand for Punjabi Suba in a brouchure titled “Punjab at Cross-Roads” written and published by H.L. Sally of Chandigarh. \textsuperscript{108}

(xiv) Alleged intimidation of certain members by General Secy. Hind Mazdoor Panchayat, Bombay (George Fernandes) in telegrams sent to the Speaker and two members. \textsuperscript{109}

(xv) Qn. of privilege against one Col. Amrik Singh for a letter written by him to the Speaker which mentioned of a document alleged to have been signed by one Jit Paul showing an entry of payment of Rupees forty thousand against the name of Sardar Hukan Singh, Speaker. \textsuperscript{110}

(xvi) Qn. of privilege against one Jit Paul (partner of “Amin Chand Pyarelal”) allegedly for having printed and circulated a pamphlet purporting to be a petition to LS before its presentation to the House. \textsuperscript{111}

(xvii) Qn. of privilege against Editor, Stateman, re. editorial captioned “Home Truth” which allegedly suggested that Home Minister (G.L. Nanda) had wrongly denied that the source of a news item

\textsuperscript{106} LS Deb., 27.8.1965, cc. 2368-71
\textsuperscript{107} LS Deb., 29.11.1965, cc. 4399-4427
\textsuperscript{108} LS Deb., 4.3.1966, cc. 3902-03
\textsuperscript{109} LS Deb., 4.4.1966
\textsuperscript{110} LS Deb., 18.8.1966, cc. 5496-5506
\textsuperscript{111} LS Deb., 23.8.1966, c. 6423-27
published in Statement on 10 Aut. 1966 under the heading “Sabotage Plans by C.P.I. Claimed”, was Home Ministry\textsuperscript{112}

(xviii) Qn. of privilege against Aina (an Urdu newspaper of Srinagar) for an editorial under the caption “Yeh Naheen Hoga” allegedly casting aspersions on LS, its members and Speaker.\textsuperscript{113}

(xix) Qn. of privilege against District Magistrate Barabanki, for sending alleged incorrect information to Speaker re. arrest of a member (Ram Sewak Yadav) on 12 July 1966.\textsuperscript{114}

(xx) Alleged unauthorized and illegal detention of two members (Madhu Limaye and T.K. Chaudhuri) by Bihar Police at Patna Air Port on 9 Aug. 1966 during 1½ hours in which they were required to leave Bihar under externment order served on them.\textsuperscript{115}

(xxi) Qn. of privilege against a member (Madhu Limaye) for raising a qn. of privilege with alleged intention of maligning the Speaker.\textsuperscript{116}

(xxii) Alleged discrepancy between the statements of Minister of External Affairs on his own behalf and that of Commerce Minister and PM and letters from Mrs. Svetlana to a member (Dr. Lohia).\textsuperscript{117}

(xxiii) Non-intimation to Speaker about alleged arrest and release of a member (Swami Brahmanand).\textsuperscript{118}

\textsuperscript{112} LS Deb., 31.8.1966, cc. 8105-12
\textsuperscript{113} LS Deb., 25.8.1966, cc. 7062-69
\textsuperscript{114} LS Deb., 4.8.1966, cc. 2618-29
\textsuperscript{115} LS Deb., 18.8.1966, cc. 5494-96
\textsuperscript{116} LS Deb., 3.12.1966, cc. 7179-99
\textsuperscript{117} LS Deb., 5.4.1967, cc. 2914-3001
\textsuperscript{118} LS Deb., 7.4.1967, cc. 3534-43; 8.4.1967, cc. 3723-27
(xxiv) Qn. of privilege against Hindustan, re. editorial casting reflections on Parliament and members re. discussion on Hazari Report.\textsuperscript{119}

(xxv) Qn. of privilege against Hindustan Times re. article “Shades of the Star Chamber” allegedly casting reflections on Parliament and members.\textsuperscript{120}

(xxvi) Qn. of privilege against Kalinga, Cuttack, for misreporting speech of a member (P.K. Deo) in LS on 3 July 1967, in its issue 5 July 1967.\textsuperscript{121}

(xxvii) Qn. of privilege against Home Minister (Buta Singh), for allegedly misleading the House by concealing two volumes of Report of Justice Thakkar Commission on assassination of late Prime Minister, Smt. Indira Gandhi while laying it on the Table of House on 27 Mar. 1989.\textsuperscript{122}

5.7.4 Reference to Committee by Speaker

(i) Qn. of privilege re. arrest of a member (V.G. Deshpande) when House was in session.\textsuperscript{123}

(ii) Qn. of privilege re. speech of a member (Dr. S. Sinha) in House on 11 June 1952 allegedly calculated to lower prestige of another member (Renu Chakravarty) and thereby of House re. documents laid on Table by Dr. Sinha as false, fabricated and forged.\textsuperscript{124}

\textsuperscript{119} LS Deb., 5.6.1967, cc. 2946-57
\textsuperscript{120} LS Deb., 7.6.1967, cc. 3514-25
\textsuperscript{121} LS Deb., 13.7.1967, cc. 11581-605
\textsuperscript{122} LS Deb., 3.4.1989, cc. 274-394
\textsuperscript{123} HP Deb., (II), 27.5.1952
\textsuperscript{124} HP Deb., (II), 23.6.1952
(iii) A member (R.S. Yadav) in a telegram on 24 June 1957 to the Speaker alleged that he had been arrested on 10 June 1957 but had never been produced before a magistrate and therefore a breach of privilege had been committed. On 18 July 1957, the Speaker referred the matter to CPR. Committee reported to Speaker that there had been no breach of privilege Speaker withheld his consent.

(iv) A member (Ramanand Shastri) in a letter to Speaker complained of misbehavior of Dy. Supdt. Of Police (Complaints), Shaharanpur, towards him. On 18 July 1957, Speaker referred the matter to CPR who in their report to Speaker recommended no further action. Speaker directed that matter be closed.

(v) A member (Purshottamdas R. Patel) in a notice of qn. of privilege alleged that Dy. Supdt. Of Police Kalol had committed a breach of privilege by arresting him illegally and by giving incorrect information to the House about his arrest. On 27 Aug. 1958, Speaker referred the matter to CPR. Committee reported that no breach of privilege was involved. Speaker withheld his consent.

(vi) Dy. Minister of Labour, Abid Ali, in a letter of 27 Apr. 1959 to Speaker made a complaint re. certain alleged incorrect statements made in LS on 2 Apr. 1959 by Renu Chakravarty and S.M. Benerjee members about Chief Inspector of Mines. Speaker referred the matter to CPR.

(vii) A member (M.R. Masani) in a letter of 27 Nov. 1959, to Speaker, alleged that certain remarks in an article written by a Govt. officer in the journal “Indian Railways” (Nov. 1959 issue), constituted a breach of privilege Speaker referred the matter to CPR.
(viii) On 14 Aug. 1961, a member (Bhupesh Gupta) made certain remarks in RS imputing motives to CPR (LS) and its Chairman in connection with their 13R (Blitz Case). Speaker referred the matter to CPR.

(ix) Om Prakash Sharma, Local Commissioner, Punjab High Court requested Speaker for permission to examine Secy. LS on Commission and also to examine certain records of LS in a case styled as *Jagannatha Bajaj Vs. From Jamuna Devi* pending in court of District and Sessions Judge, Bikaner. Speaker referred the matter to CPR. 125

(x) A member (N. Sreekantan Nair) gave notice of qn. privilege against Manorama (a Malayalam newspaper) re. an editorial. The Speaker mentioned the mater in the House and referred it to C.P.R. 126

(xi) On 24 Aug 1966, a member (Madhu Limaye) made certain remarks against the Speaker in the House. After some discussion, Speaker referred matter to CPR on 25 Aug. 127

(xii) Hind Samachar (Urdu Daily), Jullundhur, in its issue of 6 Mar. 1966 published proceedings of Parliamentary Committee on Demand for Punjabi Suba before they were reported to the House. Speaker referred the mtter to CPR. 128

(xiii) It was brought to the notice of the Speaker by public Relations Officer ESSO, Standard Eastern Inc. New Delhi that a person named M.L. Vinayak, “Director, Public Relations Counsel of India, New Delhi,” was indulging in objectionable activities in connection with
firm’s lobbying work in Parl. Which included making out copies of proceedings of LS and RS and other papers and Reports laid on the Table, including those not available on sale, and supplying them to interested parties on payment. Speaker referred the matter to CPR.129

Subsequently, in 1974, when further complaints were received by Speaker against M.L. Vinayak, for issuing objectionable circular letters to private firms/individuals re. services which could be rendered to them by his firm re. business in Parl. And lobbying work in Parl. On payment, Speaker referred that matter to CPR.130

(xiv) On 26 Aug. 1968 a member (Yogendra Sharma) sought to raise a qn. of privilege against Aryavarta, Patna, for misreporting his speech in House. On matter being taken up with the newspaper and news agency, they expressed regret and published clarifications. Speaker referred papers to CPR who recommended that matter be closed. Speaker informed the House accordingly on 15 Nov. 1968 and House agreed.131

(xv) Secy. Trombay Fertilizer Commission of Inquiry, New Delhi, sent summons for furnishing certain records re. 26R (CPU-4LS) Speaker referred the matter to CPR.132

(xvi) M/s J.B. Dadachanji and Co. Advocates, New Delhi in a letter or 31 Mar. 1970, requesting Speaker for permission to serve summons on S. Chowdry. W and W. Officer, LS, to give evidence before Supreme Court in Election Pitions Nos. 4 and 5 of 1969- Sarvashri N. Sri Rama Reddy, Abdul Ghani Dar and other Vs. V.V. Giri (President of India) in respect of certain happenings in Central Hall of Parl. House,

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129. Committee submitted their Report to Speaker but it lapsed on dissolution of 3LS
130. 16 R (CPR)-5LS
131. LS Deb., 26.8.1968, cc. 1645-47 and 15.11.1968, cc. 245-47
132. 9 R (CPR-4LS)
Speaker referred the matter to CPR. CPR in their Report to Speaker, recommended that W & W Officer or any other Officer subordinate to him, as may be summoned by Supreme Court, should not be prevented from giving evidence in Supreme Court. Speaker permitted W & W Officer to give evidence in Supreme Court which he did.

(xvii) Dy. I.G. Police (Inv-I), C.B.I. New Delhi requested in letter of 12 July 1976, for making available to them “admitted writings” of George Fernandes, Ex. Member of Parliament for investigation of a case. The Speaker referred the matter to CPR. CPR in their Report to the Speaker recommended that two notices of 29 June 1967, purported to be in the handwriting of Fernandes and purported to bear his signatures might permission of House, be made available to C.B.I. Report laid on Table on 16 Aug. 1976. After House adapted Report on 20 Aug 1076, the said two notice were made available to C.B.I.-18R.133

(xviii) Allegations by a member (Lalji Bhai) in the House on 31 July 1978 against another member (Sher Singh) and the House committee. The Speaker expunged the allegations from LS proceedings referred the matter to CPR on 2 Sept. 1978. On 26 Apr. 1979, Speaker informed the House that CPR in their Report to him had reported that Lalji Bhai had expressed regret and tendered apology for his impugned remarks in LS. CPR had also expressed the view that the freedom of speech in Parliament under Art. 105 of Constitution should not be misused by a member for making unsubstantiated allegations of defamatory or incriminatory nature against any person and that the Committee considered it very unfortunate and regrettable that Lalji Bhai chose to make unsubstantiated allegations of a serious nature against another member and a Committee of the House in a very casual manner.

133 CPR 5LS
The Committee added that they deprecated this regrettable action of Lalji Bhai. However, in view of regret expressed and apology tendered by Lalji Bhai before the Committee, Committee recommended that no further action need be taken in the matter and that the matter may be dropped. No further action was taken by House in the matter.\textsuperscript{134}


(xx) Qn. of privilege given notice of by a member (Jyotirmoy Bosu) against another member (Mallikarjun) for reading out a letter in the House from an outsider S. Indrasain Reddy, Gen. Secy. Indian Youth Congress addressed to R. Venkataswamy, Mg. Dir. Sought India Viscose, Coimbatore, describing a letter read out earlier in House by Mrinal Gore, M.P. and a Photostat copy of which was sought to be laid on the Table by Jyotirmoy Bosu, as a forged one. Speaker referred the matter to CPR on 20 Feb., 1979. Matter, however, lapsed on dissolution of 6LS.

(xxi) Alleged advance disclosure to the Press Contents of Amdt. given notice of by PM to his motion re. 3R-CPR (6LS) qn. of privilege against Smt. Indira Gandhi and others. Speaker referred the to CPR on 3\textsuperscript{134}. LS Deb., 31.7.1977, cc. 266-67; 26.4.1979, cc. 243-44

\{289\}
Feb., 1979, as Committee of House. Matter, however, lapsed on dissolution of 6 LS. 135

(xxii) Qn. of privilege given notice of by a member, Bansi Lal, and Chairman E.C. LS, against Correspondent, Editor, Printer and Publisher of Current an English weekly of Bombay, for alleged premature publication of the proceedings of EC and casting of reflections on its Chairman in a news item published in Current its issue of 4 Aug. 1984. However, matter lapsed on dissolution of 7 LS on 31 Dec. 1984.

(xxiii) Qn. of privilege re. alleged assault on the manhandling of Km. Mamata Banerjee, MP, by police officials at Behala Police Station, 24, Parganas (West Bengal), on 12 Jan. 1986. On 24 Feb., 1986, the Speaker referred the matter to CPR. Committee reported to Speaker that since Km. Mamta Banerjee was not performing any Parliamentary duty when the incident took place, no case of breach of privilege was made out. Committee recommended that no further action be taken in the matter. Speaker directed that matter be dropped.

(xxiv) Qn. of privilege re. alleged non-intimation of arrest/detention of a member (Vidyacharan Shukla) at New Delhi and giving of wrong information to Speaker and through him to House on 16 Nov. 1987.136

(xxv) Request dt. 16 Mar. 1988 from DIG Police, CBI, Spl. Inv. Cell-II, New Delhi, for handing over of original letters and telegrams from two members S. Thangaraju, (LS) and Miss J. Jayalalitha, (RS) to Speaker, for investigation of a complaint by Thangaraju, that letters addressed to Speaker by him were got written under duress. On 5 Apr.

136 LS Deb., 17.11.1987, cc. 374-79
1988, Speaker referred matter to CPR, who in their report to Speaker inter alia recommended that instead of handing over required documents in original, DIG Police might be asked to come and inspect relevant documents as also to take photo copies thereof if he so desired and if at a latter stage, original documents were required for production in a court of law, a proper request might be made in accordance with procedure laid down in 1R (CPH-2LS). Report laid on the Table on 5 May 1988. After the House adopted the Report on 6 May 1988, DIG, CBI was informed accordingly. DSP, CBI inspected said documents on 12 May 1988 and photo copies thereof were made available to him.\footnote{137}

DIG Police, CBI, Spl. Inv. Cell-II, New Delhi in his letters dt. 17 May and 14 June 1988 again requested for making available letters in original from members (Thanagaraju and S. Jagathrakshakan) and certain other documents for investigation of above case and also permission to examine one or two officers of LS Sectt. Speaker referred the matter to CPR who in their report inter alia observed that there was still no indication in request from CBI that letters and other documents were required for production in a court of law, and, therefore, there was no reason to change their view expressed in the first report. CPR agreed to the facility of inspection and examination of original documents by CBI. CPR did not agree to grant permission for examination of LS officers. Report was adopted by House on 5 Sept. 1988.\footnote{138}

\footnote{137} 1R (CPH-12 May 988 and photo copies thereof were made available to him. 1R (CPH-8LS)
\footnote{138} 2R (CPR-8LS)
(xxvi) Qn. of privilege re. allegations made against a member (R. Prabhu) by another member (Rajveer Singh) on 12 Apr. 1990 during supplementaries on SQ 439 re. Inquiry into affairs of IFFCO Project. CPR in their report to the Speaker recommended that in view of denial of allegations by Prabhu and also that Rajveer singh had no mala fide intention, matter be dropped. Report was laid on the Table of the House on 12 Mar. 1991.

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