

PARLIAMENT OF CEYLON

1st Session 1953



Parliament (Powers and Privileges) Act, No. 21 of 1953

Date of Assent : April 7, 1953

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AN ACT TO DECLARE AND DEFINE THE PRIVILEGES, IMMUNITIES AND POWERS OF THE TWO HOUSES OF PARLIAMENT AND OF THE MEMBERS THEREOF; TO SECURE FREEDOM OF SPEECH AND DEBATE OR PROCEEDINGS IN THE HOUSES; TO PROVIDE FOR THE PUNISHMENT OF BREACHES OF THE PRIVILEGES OF PARLIAMENT; AND TO GIVE PROTECTION TO PERSONS EMPLOYED IN THE PUBLICATION OF THE REPORTS, PAPERS, MINUTES, VOTES OR PROCEEDINGS OF THE HOUSES.

[Date of Assent: April 7, 1953.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Parliament (Powers and Privileges) Act, No. 21 of 1953.

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

“ Clerk ” means the Clerk of the House;

“ committee ” means any standing, select or other committee of the House;

“ House ” means each of the two Chambers of Parliament, namely, the Senate and the House of Representatives, and includes a committee;

“ member ” means a member of the House, and includes the President, the Speaker and any member presiding in the House or in committee;

“ officer of the House ” means any person who may from time to time be appointed to the staff of the House, whether permanently or temporarily, and includes the Clerk and any police officer on duty within the precincts of the House;

“ President ” or “ Speaker ” includes the member for the time being presiding over the House.

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PART I.

*Privileges, Immunities and Powers generally, and
supplemental provisions.*

Freedom of
speech and
debate.

3. There shall be freedom of speech, debate and proceedings in the House and such freedom of speech debate or proceedings shall not be liable to be impeached or questioned in any court or place out of the House.

Members not
liable to action
in certain cases.

4. No member shall be liable to any civil or criminal proceedings, arrest, imprisonment, or damages by reason of anything which he may have said in the House or by reason of any matter or thing which he may have brought before the House by petition, bill, resolution, motion or otherwise.

Freedom from
arrest in civil
proceedings.

5. Except for a contravention of this Act, no member shall be liable to arrest, detention, or molestation in respect of any debt or matter which may be the subject of civil proceedings while proceeding to, or in attendance at, or returning from, any meeting or sitting of the House:

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Provided that any person otherwise entitled to any immunity or privilege under this section who shall be deemed to have committed any act of insolvency may be dealt with under the Insolvency Ordinance as if he had not such immunity or privilege.

Person not
liable in
damages for acts
done under
authority of the
House.

6. No person shall be liable in damages or otherwise for any act done under the authority of the House and within its legal powers.

Immunities to
be the same as
those enjoyed
by House of
Commons.

7. The House and the members thereof shall hold, enjoy and exercise, in addition to the privileges, immunities and powers conferred by this Act, such and the like immunities as are for the time being held, enjoyed and exercised by the Commons House of the Parliament of the United Kingdom of Great Britain and Northern Ireland and by the members thereof.

Commons
Journals to
be *prima
facie* evidence
in inquiries
touching
privileges.

8. Subject to the provisions of this Act, a copy of the Journals of the Commons House of the Parliament of the United Kingdom of Great Britain and Northern Ireland, or of the proceedings of the said House, or of a report of any Committee of the said House, which has been or purports to have been printed by the order of or by the printer of the said House shall be received

as *prima facie* evidence without proof of its being such copy upon any inquiry touching the privileges, immunities and powers of the House or members thereof.

9. All privileges, immunities and powers of the House shall be part of the general and public law of Ceylon, and it shall not be necessary to plead the same, but the same shall in all courts in Ceylon be judicially noticed.

Privileges to be
noticed
judicially.

10. The House, and any committee which is duly authorised by an order of the House to send for persons, papers and records may order any person to attend before the House or before such committee, and to produce any paper, book, record or document in the possession or under the control of such person.

Power to
order
attendance
of witnesses

11. Any order to attend or to produce documents before the House or before any committee shall be notified to the person required to attend or produce documents by a summons under the hand of the Clerk issued by direction of the President or Speaker or the chairman of the committee; and in every such summons there shall be stated the time when and the place where the person summoned is required to attend and the particular documents which he is required to produce, and the summons shall be served on the person mentioned therein, either by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in Ceylon with some adult person; and there shall be paid to the person who attends on such summons, if he does not reside within five miles of the Chamber of the House, such sum for his expenses as may be prescribed by the President or Speaker.

Attendance to
be notified
by summons.

12. The House or a committee thereof may require that any facts, matters and things relating to the subject of inquiry before the House or such committee be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined upon oath or affirmation, which the President or Speaker or the chairman of the committee or person specially authorised for that purpose may administer.

Witnesses may
be examined
on oath.

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Objection to
answer question
or to produce
papers to be
reported to the
House for
decision.

13. If any person ordered to attend or produce any paper, book, record or document before the House or any committee refuses to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of inquiry, the President or Speaker or the chairman of the committee or the presiding member (as the case may be) may excuse the answering of such question or the production of such paper, book, record or document, or may order the answering or production thereof.

Penalty for
perjury before
House or
committee.

14. Any person who—

- (a) before the House or any committee (and whether or not that person has been sworn or has made a solemn affirmation or declaration), after being duly cautioned as to his liability to punishment under this section, intentionally gives a false answer to any question material to the subject of inquiry which may be put to him during the course of any examination; or
- (b) intentionally gives false evidence in the course of any statement made by him for the purposes of section 26 of this Act,

Cap. 16.

shall (in addition to any offence under Part II of this Act of which he may be guilty) be guilty of an offence under section 190 of the Penal Code.

No prosecution against such person for the offence under section 190 of the Penal Code shall be instituted except by or with the sanction of the Attorney-General.

Application of
practice of
House of
Commons as
to privileged
evidence.

15. Where any question arises in the House or any committee as to whether or not a person summoned to give evidence or to produce a document is entitled, in respect of such evidence or the production of such document, to any right or privilege, that question shall be determined according to the practice in similar matters for the time being obtaining in the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland.

Immunity of
witnesses
in respect
of evidence.

16. (1) Subject to the provisions of sub-section (3), a person who gives evidence before the House or a committee shall not be liable to any civil or criminal proceedings by reason of anything which he may have said in such evidence.

(2) Except in proceedings referred to in sub-section (3), no statement made by any person in evidence given before the House or a committee shall be admissible in evidence against that person in any civil or criminal proceedings.

(3) Nothing in the preceding provisions of this section shall prevent or be deemed to prevent the institution or maintenance of any proceedings against any person for an offence under section 190 of the Penal Code or for any offence under this Act in respect of any evidence given by him before the House or a committee.

17. No member or officer of the House and no shorthand writer employed to take minutes of evidence before the House or any committee shall give evidence elsewhere in respect of the contents of such evidence or of the contents of any manuscript or document laid before the House or any committee or in respect of any proceedings or examination had at the Bar or before any committee of the House without the special leave of the House first had and obtained.

Evidence of proceedings in the House or committee not to be given without leave.

18. Upon any inquiry touching the privileges, immunities and powers of the House or of any member, any copy of the minutes or proceedings of the House purporting to be printed by the Government Printer shall be admitted as evidence of such minutes or proceedings in all courts and places without any proof being given that such copy was so printed.

Matter printed by order of the House to be admitted as evidence.

19. Any person, being a defendant in any civil or criminal proceedings instituted for or on account or in respect of the publication by such person or by his servant, by order or under the authority of the House or any committee, of any reports, papers, minutes, votes or proceedings, may, on giving to the plaintiff or prosecutor (as the case may be) twenty-four hours' written notice of his intention, bring before the court in which such civil or criminal proceedings are being held a certificate under the hand of the President or Speaker or of the Clerk stating that the reports, papers, minutes, votes or proceedings in respect whereof such civil or criminal proceedings have been instituted were published by such person or by his servants by order or under the authority of the House or any committee, and such court shall thereupon immediately stay such civil or criminal proceedings and the same and every process issued therein shall be deemed to be finally determined.

Protection of persons responsible for publications authorised by the House.

Regulation of
admittance of
strangers.

20. (1) No stranger shall be entitled, as of right, to enter or to remain within the House or its precincts.

(2) The President or Speaker is hereby authorised to issue such orders as he may in his discretion deem necessary for the regulation of the admittance of strangers to the House or its precincts, and for the maintenance of order and decorum therein.

(3) Copies of orders made by the President or Speaker under this section shall be duly authenticated by the Clerk and exhibited in conspicuous positions within the precincts of the House; and such copies, when so authenticated and exhibited, shall be deemed to be sufficient notice to all persons affected thereby.

(4) The President or Speaker may at any time order any stranger to withdraw from the House or its precincts.

Person
disturbing
proceedings of
the House may
be arrested
without
warrant.

21. (1) Any person creating or joining in any disturbance in the House or in the precincts during its actual sitting may be arrested without warrant on the verbal or written order of the President or Speaker, and may be kept in the custody of an officer of the House pending the determination by the House whether or not such person should be punished for an offence under Part II, but no such person shall be kept in custody after the termination of the sitting.

(2) All police officers, constables and other persons are hereby required to assist in the apprehension and detention of any person in pursuance of any such order as aforesaid.

PART II.

Breaches of Privilege of Parliament and Punishment thereof.

Breaches of
privilege.

22. (1) Each of the acts and omissions specified in the Schedule to this Act is hereby declared to be a breach of the privileges of Parliament.

(2) Every breach of the privileges of Parliament which is specified in the Schedule to this Act (whether in Part A or Part B thereof) shall be an offence under this Part punishable by the Supreme Court under the provisions hereinafter contained in that behalf.

(3) Every breach of the privileges of Parliament which is specified in Part B of the Schedule to this Act and which is committed in respect of or in relation to any House shall be an offence under this Part punishable by that House under the provisions hereinafter contained in that behalf.

23. (1) Upon application made to the Supreme Court in that behalf by the Attorney-General and supported by evidence on affidavit, the Court—

Jurisdiction of Supreme Court in cases of breaches of privilege.

- (a) may, if satisfied after perusal of the application and such evidence that any member or other person appears to have committed any offence under this Part, cause notice to be served on such member or person calling upon him to show cause why he should not be punished for that offence; and
- (b) may, if no cause or no sufficient cause as aforesaid is shown to the satisfaction of the Court, after such inquiry as the Court may consider necessary, convict him of the offence and sentence him to imprisonment of either description for a term not exceeding two years or to a fine not exceeding five thousand rupees or to both such fine and imprisonment.

(2) The jurisdiction conferred on the Supreme Court by sub-section (1) of this section may be exercised by the Chief Justice or any Puisne Justice nominated for the purpose by him.

24. The proceedings and the procedure to be followed upon an application to the Supreme Court under section 23 shall, subject to such Rules if any as are hereby authorised to be made for the purpose under section 49 of the Courts Ordinance, be such as may be determined by the Chief Justice or the Puisne Justice hearing the application; and in relation to and for the purposes of such proceedings the Supreme Court shall have the same powers, whether of compelling the attendance of persons and the production of documents or otherwise, as the Court has in the exercise of its ordinary jurisdiction.

Procedure in the Supreme Court.

Cap. 6.

25. (1) An application under section 23 may be made to the Supreme Court by the Attorney-General in the case of any alleged offence under this Part committed in respect of or in relation to any House, only if—

Conditions precedent to making of application to Supreme Court.

- (a) the Attorney-General has furnished a report to the President or Speaker of that House stating that, in the opinion of the Attorney-General, there is sufficient evidence to warrant the taking of further steps under this Act in that case, and;

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(b) that House, after consideration of such report, has by resolution required the Attorney-General to make the application.

(2) The making of an application under section 23 by the Attorney-General in any case shall constitute conclusive evidence that the application has been duly made in accordance with the preceding provisions of this section.

Reference of
cases to
Attorney-
General with
statements.

26. (1) For the purpose of enabling the Attorney-General to furnish a report in relation to any case of an alleged offence under this Part, the President or the Speaker, as the case may be, may—

(a) on complaint of the alleged offence being made to him in chambers by any member, or

(b) if required so to do by resolution of the House, refer the case to the Attorney-General for report.

(2) Where a case is to be referred to the Attorney-General under sub-section (1) the President or the Speaker, or any other member, if authorised in writing so to do by the President or the Speaker, or the Clerk of the House if so authorised—

(a) shall record on oath or affirmation the statement of the member making the complaint of the alleged offence, and

(b) may record on oath or affirmation the statement of any other person whose evidence is or may be in the opinion of the President or Speaker relevant.

The statement of any person may be recorded under the preceding provisions of this section at any time after the case has been referred to the Attorney-General, if the President or the Speaker considers it necessary whether of his own motion or at the request of the Attorney-General.

(3) The provisions of sections 10 to 13 shall apply in all respects for the purpose of enabling statements to be recorded under sub-section (2) of this section in like manner as they apply for the purpose of enabling evidence to be taken by a committee, and for the purpose aforesaid the person authorised by or under sub-section (2) of this section to take such statement shall have the same powers as are conferred by those sections on a committee or the chairman thereof.

(4) The provisions of sections 15 to 17 shall apply to and in relation to any evidence given for the purposes of sub-section (2) of this section.

(5) Notwithstanding anything in the preceding provisions of this section, a person who is alleged to have committed an offence under this Part shall not be bound or compelled without his consent to make any statement under sub-section (2) in relation to that offence.

(6) Where a case is referred under sub-section (1) to the Attorney-General for report, the record of all statements taken under sub-section (2) shall be transmitted to the Attorney-General, and the Attorney-General shall, after consideration of such statements, report to the President or Speaker stating whether, there is, in the opinion of the Attorney-General, sufficient evidence, to warrant the taking of further steps under this Act in respect of an alleged offence under this Part; and such report shall contain, for the information of the House, a summary of the facts which in the opinion of the Attorney-General, are capable of being proved upon the evidence contained in the statements.

27. (1) Subject to the provisions of sub-sections (2) and (3), the House shall have power and jurisdiction to punish summarily any breach of the privileges of Parliament specified in Part B of the Schedule to this Act which is committed in respect of or in relation to that House by any member or any other person.

House's
jurisdiction over
offences
specified in
Part B of
Schedule.

(2) The House shall not be competent to punish any offence under this Part in any case which has been referred to the Attorney-General as hereinbefore provided, unless a report has been furnished by the Attorney-General under section 26 to the effect that in his opinion there is sufficient evidence to warrant the taking of further steps under this Act in respect of the alleged offence.

(3) The House shall not be competent to take cognizance of or punish any offence under this Part in any case in which an application has been made to the Supreme Court under section 23.

28. The punishment which may be imposed by the House for any offence under this Part shall be admonition at the Bar of the House or removal from the precincts of the House:

Punishment
which House
may impose.

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Provided, however, that in the case of an offence committed by a member of the House, the House may, in addition to or in lieu of any punishment hereinbefore specified, order his suspension from the service of the House for any period not exceeding one month:

Provided further that in the case of an offence committed by a person who is not a member, the House may also order that such person shall be prohibited from entering the House or its precincts for a period not exceeding six months.

Power of
arrest for
carrying out
punishment.

29. For the purpose of securing the attendance of any person at the Bar of the House for admonition under section 28 or of removing from the precincts of the House any person whose removal has been ordered under that section or whose entry has been prohibited under that section, it shall be lawful for the Gentleman-Usher or the Serjeant-at-Arms as the case may be or any other officer of the House or police officer, if ordered so to do by the President or the Speaker, to arrest such person without warrant at any place within the precincts of the House and to use such reasonable force as may be necessary for the purpose aforesaid.

Standing
Orders for
procedure in
cases of
each of
the
privileges.

30. The Standing Orders of the House may contain incidental or supplementary provision with respect to the procedure to be followed in the House or by the President or Speaker in cases of alleged offences under this Part, and may, in particular, provide for the appointment of Committees of Privilege, and their powers, functions and procedure.

Saving for
prosecutions
and civil
actions.

31. (1) Where any act or omission which is declared by this Act to constitute an offence under this Part also constitutes an offence under any other written law, a person who is guilty of such act or omission shall, notwithstanding anything in any other law, be liable to be tried and punished for both offences.

(2) Notwithstanding that any act or omission constitutes an offence under this Part, nothing in this Act shall be construed to prevent or restrict the institution or maintenance against any person of any civil action or proceeding for damages or for any other remedy which may be available in respect of or by reason of such act or omission.

32. Nothing in this Act shall confer or be construed to confer on the House any power to impose any punishment on any person other than the power to impose for any offence specified in Part B of the Schedule, any punishment authorised by section 28 of this Act.

Limitation of
power of
punishment
by House of
persons.

SCHEDULE.

PART A.

Offences to be punishable only by the Supreme Court

1. Assaulting, insulting or wilfully obstructing any member coming to or going from the House or on account of his conduct in the House or any committee, or endeavouring to compel any member by force, insult or menace to declare himself in favour of or against any proposition or matter depending or expected to be brought before the House or any committee.
2. Sending to a member any threatening letter or challenging a member to fight on account of his conduct in the House or committee.
3. Tampering with, deterring, threatening, beguiling or in any way unduly influencing any witness in regard to evidence to be given by him before the House or any committee.
4. Presenting to the House or to any committee any false, untrue, fabricated or falsified document with intent to deceive the House or any committee.
5. Wilfully publishing any false or perverted report of any debate or proceedings of the House or a committee or wilfully misrepresenting any speech made by a Member in the House or in committee.
6. Wilfully publishing any report of any debate or proceedings of the House or a committee the publication of which has been prohibited by the House or committee.
7. The publication of any defamatory statement reflecting on the proceedings and the character of the House.
8. The publication of any defamatory statement concerning any Member in respect of his conduct as a Member.
9. The offering to or acceptance by any member or officer of the House of a bribe to influence him in his conduct as such member or officer, or the offering to or acceptance by any member or officer of the House of any fee, compensation, gift or reward for or in respect of the promotion of or opposition to any Bill, resolution, matter, rule or thing submitted to or intended to be submitted to the House or any committee.
10. The printing of a copy of any Act or Ordinance or of any report, paper, minutes or notes or proceedings of the House or any committee, which purports to have been printed by the Government Printer or by or under the authority of the House or any committee but which in fact has not been so printed or the tendering in evidence of any such copy as aforesaid.
11. The abetment of any act or omission specified in any of the preceding paragraphs.

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PART B.

*Offences to be punishable either by the House or the
Supreme Court*

1. The wilful failure or refusal to obey any order or resolution of the House under this Act, or any order of the President or Speaker or any member which is duly made under this Act.
2. Wilful disobedience to any order for attendance or for production of papers, books, records, or documents made by the House or any committee duly authorised in that behalf unless such attendance or production be excused as provided in section 13 and section 15 of the Act.
3. Refusing to be examined before or to answer any lawful and relevant question put by the House or any such committee, unless such refusal be excused as provided in section 13 and section 15.
4. Assaulting, insulting or wilfully obstructing any member in the House or in committee or in the precincts of the House.
5. Assaulting or resisting or wilfully interfering with an officer of the House in the Chamber or in committee or in the precincts of the House.
6. Creating or joining in any disturbance in the Chamber or in committee or in the vicinity of the House while the House or any committee is sitting, knowing or having reasonable grounds to believe that proceedings of the House or committee are or are likely to be interrupted.
7. Disrespectful conduct in the precincts of the House.
8. Prevarication or other misconduct as a witness before the House or in committee.
9. The publication of any proceedings in a committee of the House before they are reported to the House.
10. The abetment of any act or omission specified in any of the preceding paragraphs.