

CHAPTER 321

FEDERAL LEGISLATURE (PRIVILEGES, IMMUNITIES AND POWERS)

CHAPTER 321

THE FEDERAL LEGISLATURE (PRIVILEGES,
IMMUNITIES AND POWERS) ACT, 1958

ARRANGEMENT OF SECTIONS

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2. In this Act unless the context otherwise requires—<sup>Interpreta-
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- “chamber” means either the Senate or the House;
- “Clerk” means—
- (a) in relation to the Senate, the Clerk of the Senate;
 - (b) in relation to the House, the Clerk of the House;
- “committee” means any select, sessional, special, standing or other committee of either chamber or joint committee;
- “House” means the House of Representatives provided for under the Constitution;
- “joint committee” means any committee composed of members of both chambers appointed by corresponding orders of both chambers;
- “meeting” means any sitting or sittings of a chamber commencing when the chamber first meets after being summoned at any time and terminating when the chamber is adjourned sine die or at the conclusion of a session;
- “member” means a member of either chamber and, in relation to the House, includes the Speaker;
- “officer of the chamber” means any person who may from time to time be appointed to the staff of the chamber, whether permanently or temporarily and includes the Clerk and any police officer on duty within the precincts of either chamber;
- “order of a chamber” includes the standing orders of that chamber;
- “police officer” means a member of any Federal or Territorial police force;
- “President” means the President of the Senate and includes the Vice President and any member for the time being presiding over the Senate;
- “Senate” means the Senate provided for under the Constitution;

“session” shall have the same meaning as that assigned to it in article 116 of the Constitution;

“sitting” shall have the same meaning as that assigned to it in article 116 of the Constitution;

“Speaker” means the Speaker of the House and includes the deputy Speaker and any member for the time being presiding over the House;

“standing orders” means the standing orders of either Chamber made under article 26 or article 108 of the Constitution, and for the time being in force;

“stranger” means, in relation to each chamber, any person other than a member or an officer of that chamber.

PART II—IMMUNITIES

President,
Speaker
and
officers
not subject
to jurisdic-
tion of
courts.

3. Neither the President, the Speaker nor any officer of either chamber shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the President, the Speaker or such officer by or under the Constitution, this Act or any order of either chamber.

Immunity
of member
in respect
of state-
ments,
etc., in
Legislature.

4. No civil or criminal proceedings may be instituted against any member —

(a) in respect of words spoken before, or

(b) in respect of words written in a report to, or

(c) by reason of any matter or thing brought by petition, bill, motion or otherwise, before—

the chamber to which he belongs or a committee thereof, or a joint committee.

Immunity
of mem-
ber from
arrest on
civil
process.

5. (1) No member shall, during a session, be liable to arrest or imprisonment on any civil process, except for a debt the contraction of which constitutes a criminal offence.

(2) When a member of either chamber is—

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- (a) arrested or detained in custody upon the warrant or order of a court; or
- (b) sentenced by a court to a term of imprisonment,

the court shall, as soon as practicable, inform the President or the Speaker, as the case may be.

6. No person shall be liable for any act done under the authority of either chamber and within its legal powers or under any warrant issued by virtue of those powers.

Immunity of persons acting under authority of either chamber.

7. Notwithstanding anything contained in any other law to the contrary, no process issued by any court in the exercise of its civil jurisdiction shall be served or executed within the precincts of either chamber while the chamber is sitting or through the President, the Speaker, or any officer of the chamber.

No process to be served within precincts of either chamber.

8.(1) It shall not be lawful to require any member or any officer of either chamber—

Exemption of members, etc., from jury service, etc.

- (a) to serve on any jury or as an assessor in any court; or
- (b) during a sitting of the chamber of which he is a member or an officer, as the case may be, or on any day on which a committee of which he is a member or which he is required to attend as such officer, as the case may be, is sitting, to attend as a witness in any civil proceedings in a court or at any commission of inquiry or before any like authority empowered to summon witnesses.

(2) The production of a certificate signed by the President or the Speaker, as the case may be, shall be deemed sufficient proof of attendance on the Senate, or the House, respectively.

PART III—SUMMONING AND EXAMINATION OF WITNESSES

9. Either chamber or any committee authorised by an order of the chamber by which it was appointed or any joint committee authorised by an order of each chamber, to send for persons, papers and records, may order any person—

Chambers or committees may summon witnesses.

- (a) to attend before it and to give evidence;
- (b) to attend before it and produce any paper, book, record or other document in the possession or under the control of such person.

Service of
summons.

10. (1) Any order to attend to give evidence or produce documents before either chamber or before a committee (including a joint committee) in accordance with the provisions of section 9 of this Act shall be notified to the person required to attend or to produce documents by a summons under the hand of the Clerk, or the chairman of the committee, as the case may be.

(2) In every summons issued in accordance with the provisions of sub-section (1) of this section there shall be stated the time when and the place where the person summoned is required to attend and the document which he is required to produce.

(3) Every such summons shall be served by delivering it to the person to whom it is directed:

Provided that the President or the Speaker, as the case may be, may, if he is satisfied that for any reason personal service of a summons cannot be effected, order that service be effected by forwarding the same by registered post addressed to the person to whom it is directed at his last known place of abode or business.

(4) A summons issued in accordance with this section may be served—

- (a) when issued from a chamber, by an officer of that chamber,
- (b) when issued from a committee, by an officer of the chamber or chambers by which the committee was appointed,

or by a police officer.

(5) There shall be paid or tendered to any person summoned under this section, if he does not reside within four miles of the place of attendance specified in the summons, such sum for his expenses as may be authorised by order of the chamber concerned.

11. (1) If a person to whom a summons under section 10 of this Act is directed does not attend before the chamber or the committee at the time and place mentioned therein, the appropriate authority may, upon being satisfied that the summons was duly served or that the person to whom the summons is directed wilfully avoids service, issue a warrant to apprehend him and bring him, at a time and place to be stated in the warrant, before the chamber or the committee.

Issue of warrant if person evades service of summons or refuses to attend.

(2) A warrant issued under this section shall be executed by a police officer.

(3) The appropriate authority, on issuing a warrant under this section, may, if he thinks fit, by ordering an appropriate endorsement on the warrant, direct that the person mentioned in the warrant be released after arrest upon his entering into such a recognizance as may be required in the endorsement before a court of summary jurisdiction, conditioned for his appearance before the chamber or the committee, as the case may be.

(4) For the purposes of this section the appropriate authority shall be—

- (a) in the case of a summons issued for the attendance of a person before either chamber or a committee thereof (other than a joint committee), the President or the Speaker, as the case may be;
- (b) in the case of a summons issued for the attendance of a person before a joint committee, either the President or the Speaker.

12. Either chamber or any committee authorised to send for persons, papers and records may require that any facts, matters and things relating to the subject of inquiry before the chamber 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, which, in the case of either chamber, the Clerk, or in the case of a committee, the chairman or clerk attending the committee is hereby authorised to administer.

Witnesses may be examined on oath.

13. (1) When a person attending before either chamber or a committee pursuant to a summons issued under section

Recalcitrant witnesses.

10 of this Act, or brought before a chamber or committee by virtue of a warrant issued under section 11 of this Act, refuses to answer any questions put by the chamber or committee, or to produce any paper, book, record or other document which he has been required to produce by an order made under section 9 of this Act, (such person being in this section referred to as "the witness") and in the opinion of the President, the Speaker or the chairman, as the case may be —

- (a) such question, paper, book, record or other document is material to the subject of the enquiry of the chamber or the committee, and
- (b) no privilege exists in relation to such question, paper, book, record or other document under section 14 of this Act,

the President, Speaker or chairman, as the case may be, may refer such refusal to the Supreme Court.

(2) The Registrar of the Supreme Court shall fix a date for the consideration by the Court at the earliest opportunity of any reference made under this section, and shall cause notice of the date so fixed to be given to the Clerk of the chamber or chambers concerned, and to the witness.

(3) Upon consideration of a reference made under this section and —

- (a) upon proof by affidavit or otherwise of the relevant facts, and
- (b) after giving the witness an opportunity of showing cause why an order should not be made against him under this subsection,

the Supreme Court may make an order that the witness answer the question, or produce such paper, or other document, either forthwith or within such time as may be specified in the order.

(4) Any person who fails, without lawful excuse, to comply with an order made under subsection (3) of this section shall be guilty of contempt of court and may be proceeded against and punished accordingly.

(5) Rules of court may be made by the authority having for the time being power to make rules or orders regulating the practice and procedure of the Supreme Court for the purpose of regulating the practice and procedure relating to the consideration by the Court of references made under this section, and without prejudice to the generality of the foregoing provision, such rules may —

- (a) prescribe the matters required to be set forth in any affidavit made for the purpose of this section and the person who shall depose to the facts contained in any such affidavit;
- (b) prescribe the manner in which proof shall be given of the facts relevant to the subject matter of any reference made under this section.

PART IV—PRIVILEGES AND PROTECTION

14. (1) Every person summoned to attend, to give ^{Privileges} evidence or to produce any paper, book, record or document ^{of} witnesses. before either chamber or a committee shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as before the Supreme Court of Judicature in England.

(2) No officer of the public service of the Federation ^{privileged} or of a Territory, except with the consent of the Governor-^{evidence.} General or the Governor of the Territory concerned as the case may be, shall be required —

- (a) to produce before either chamber or a committee any paper, book, record or other document; or
- (b) to give before either chamber or a committee any evidence on any matter,

if such paper, book, record or other document or such evidence is stated by the public officer to form part of or to relate to the unpublished official records of any naval, military, air force or civil department, or to relate to any affairs of State nor shall evidence on such matter or of the contents of any such paper, book, record or other document be given by any other witness or in any other manner.

Evidence of witnesses before chamber or committee privileged.

15. (1) Subject to the provisions of sub-section (3) of this section, a person who gives evidence before either chamber 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) of this section, no statement made by any person in evidence given before either chamber 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 be construed to prevent the institution or maintenance of any proceedings against any person for an offence under section 21 or section 22 of this Act.

Evidence of proceedings before chamber or committee not admissible except with consent of President or Speaker.

16. No evidence relating to any of the following matters, that is to say —

- (a) debates or proceedings in either chamber;
- (b) the contents of the minutes of evidence taken or any document laid before either chamber or a committee or any proceedings of or before, or any examination had before, either chamber or any such committee,

shall be admissible in any proceedings before a court or person authorised by law to take evidence unless the court or such last mentioned person is satisfied that permission has been given —

- (a) in the case of either chamber or a committee thereof (other than a joint committee), by the President or the Speaker, as the case may be,
- (b) in the case of a joint committee, by either the President or the Speaker,

for such evidence to be given.

Protection of person responsible for publications authorised by chamber.

17. 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 either chamber, of any report, 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 the Speaker, as the case may be, 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 servant by order or under the authority of the chamber, with an affidavit verifying such certificate 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.

18. In any civil or criminal proceedings instituted for publishing any extract from or abstract of any report, paper, minutes or proceedings of either chamber, other than proceedings instituted for publishing any such extract or abstract contrary to the provisions of this Act, if the court or jury, as the case may be, is satisfied that such extract or abstract was published bona fide without malice, judgment shall be entered for the defendant, or the accused shall be acquitted, as the case may be.

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

PART V—OFFENCES BY WITNESSES

20. Any person who —

- (a) fails without reasonable excuse, the proof whereof shall be upon him, to attend before either chamber or a committee when so required by an order made under the provisions of section 9 of this Act; or
- (b) refuses to be examined before, or to answer any questions put by, the chamber or a committee, or to produce any paper, book, record

Witnesses failing to attend, or refusing to answer questions or produce documents, etc., guilty of an offence.

or other document which he has been required to produce by an order made under the provisions of section 9 of this Act, unless such question or paper, book, record or other document is not, in the opinion of the President, the Speaker or the chairman of the committee, as the case may be, material to the subject of the inquiry of the chamber or committee or such refusal is allowed under the provisions of section 14 of this Act,

shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one hundred and twenty dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Making
false
statements
to chamber
or committee
an
offence.

21. Any person who in the course of giving evidence before either chamber or a committee wilfully makes a statement material to the subject of the enquiry of the chamber or committee knowing the statement to be false or not believing it to be true, shall —

- (a) if the statement was made on oath, be guilty of a felony and on conviction on indictment shall be liable to imprisonment for a term not exceeding seven years or to a fine, or to both such imprisonment and fine;
- (b) if the statement was made otherwise than on oath, be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

Presenting
false
documents
to chamber
or committee
an
offence.

22. Any person who presents to either chamber or a committee any false, untrue, fabricated or falsified document with intent to deceive the chamber or committee shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

PART VI—RIGHTS OF AND OFFENCES BY
STRANGERS

23. (1) No stranger shall be entitled to enter or remain within either chamber or the precincts of either chamber without the authority of the President or the Speaker, as the case may be.

Restrictions
on rights
of
strangers
to enter
either
chamber.

(2) The President, in the case of the Senate, and the Speaker in the case of the House, may at any time order any stranger to withdraw from the chamber or from the precincts of the chamber, and if any such person shall fail to obey such order he may be forcibly removed from the chamber or from the precincts of the chamber by any officer of the chamber and no proceedings shall lie in any court against the President, or the Speaker, as the case may be, or against such officer in respect of such removal.

(3) Nothing in this section contained shall be construed so as to prevent any member from going to or coming from the chamber or the precincts of the chamber of which he is a member.

24. Any person who —

- (a) being a stranger enters either chamber or the precincts of that chamber without permission duly granted under the authority of the President or the Speaker, as the case may be, contrary to the provisions of section 23 of this Act, or being therein with such permission refuses to leave at the order of the President or the Speaker, as the case may be; or
- (b) being admitted to either chamber or to the precincts of that chamber as a stranger contravenes any rule made by the President or the Speaker, as the case may be, under the standing orders of the chamber in question relating to the admission of strangers; or
- (c) attends any sitting of either chamber as a representative of any journal after a general permission granted under the standing orders

Offences by
strangers
with
respect to
right of
entry into
chamber.

of that chamber to the representative or representatives of that journal has been revoked,

shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one hundred and twenty dollars or to a term of imprisonment not exceeding three months or to both such fine and imprisonment.

Offences by
strangers
with
respect to
inter-
ference
with
members or
privileges
of chamber.

25. Any stranger who —

- (a) assaults, hinders, obstructs or insults any member coming to, going from or being within the chamber or the precincts of the chamber to which the member belongs; or
- (b) interferes with, resists or obstructs any officer of either chamber while in the execution of his duty; or
- (c) creates or joins in any disturbance which interrupts or is liable to interrupt the proceedings of either chamber while it is sitting;

shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Arrest of
persons
committing
offences
against
sections 24
and 25

26. (1) An officer of either chamber may, without an order from a court and without a warrant, arrest —

- (a) any person who commits, in relation to the chamber of which he is an officer, an offence contrary to section 24 or section 25 of this Act in his presence;
- (b) any person within the chamber or the precincts of the chamber of which he is an officer whom he reasonably suspects of having committed an offence contrary to either of the said sections.

(2) Any person arrested under the provisions of this section may be kept in custody within the precincts of the chamber until the President or the Speaker, as the case may be, orders his release but no such person shall be kept in custody after the termination of the sitting of the chamber during which he was arrested.

PART VII—CONDUCT OF MEMBERS

27. (1) Any member who —

(a) being a member of a committee, publishes to any person not being a member of the chamber or chambers by which the committee was appointed any evidence taken by the committee before it has been reported to that chamber or both chambers as the case may be; or

Acts constituting contempt by members.

(b) assaults or obstructs any officer of the chamber to which he belongs while in the execution of his duty; or

(c) is convicted of any offence under this Act, shall be guilty of contempt of the chamber to which he belongs.

(2) Where any member is guilty of contempt under this Act, the chamber may order such member to be reprimanded by the President or the Speaker, as the case may be, or suspend him from the service of the chamber for such period as it may determine :

Suspension of member guilty of contempt.

Provided that such period shall not extend beyond the last day of the meeting next following that in which the resolution is passed, or of the session in which the resolution is passed, whichever shall first occur.

(3) No salary or allowance payable to a member for his service as such shall be paid in respect of any period during which he is suspended under the provisions of this Act from the service of the chamber to which he belongs.

No salary payable during period of suspension.

(4) Nothing in this section contained shall be construed so as to preclude the bringing of proceedings, civil or

criminal, against any member in respect of any act or thing done contrary to paragraph (b) of sub-section (1) of this section.

Members to disclose interest before entering discussion.

28. (1) A member shall not in or before the chamber to which he belongs take part in the discussion of any matter in which he has a direct pecuniary interest without disclosing the extent of that interest.

(2) Any member who acts in contravention of this section may be adjudged guilty of contempt by the chamber and shall be liable to the penalties provided in section 27 of this Act for such contempt.

Suspended member excluded from chamber.

29. A member who has been suspended from the service of the chamber to which he belongs shall not enter or remain within the chamber or the precincts of the chamber while such suspension remains in force, and, if any such member is found within the chamber or the precincts of the chamber in contravention of this section, he may be forcibly removed therefrom by any officer of the chamber and no proceedings shall lie in any court against such officer in respect of such removal.

Member seeking or accepting bribes commits an offence.

30. Any member who accepts or obtains or attempts to obtain for himself or for any other person any bribe, fee, compensation, gift, reward or benefit of any kind for speaking, voting or acting as such member or for refraining from so speaking, voting or acting or on account of his having so spoken, voted or acted or having so refrained shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, and, in addition, shall forfeit the amount of the value of the bribe, fee, compensation, gift, reward or benefit accepted or received by him.

PART VIII—OTHER OFFENCES

Bribery of, violence or threats to a member an offence.

31. Any person who —

- (a) offers to any member any bribe, fee, compensation, gift or reward or benefit of any kind for speaking, voting or acting as such member

or for refraining from so speaking, voting or acting or on account of his having so spoken, voted or acted or having so refrained;

- (b) makes use of or threatens to make use of any force, violence or restraint or inflicts or threatens to inflict any temporal or spiritual injury, damage, harm or loss upon or against a member —
- (i) with the intent thereby to influence such member in the manner in which he discharges his functions as a member in the chamber to which he belongs or in any committee thereof, or
- (ii) on account of the manner in which he had discharged his functions as a member in the chamber to which he belongs or in any committee thereof,

shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

32. (1) Any person who —

- (a) publishes any statement, whether in writing or otherwise, which falsely or scandalously defames either chamber or any committee, or which reflects on the character of the President or the Speaker or the chairman of a committee in the discharge of his duty as such; or
- (b) publishes any writing containing a gross, wilful or scandalous misrepresentation of the proceedings of either chamber or any committee thereof or of the speech of any member in the proceedings of either chamber or any committee thereof; or

Defama-
tory, mis-
leading or
prohibited
publica-
tions—
offences.

- (c) publishes any writing containing any false or scandalous libel on any member touching his conduct as a member; or
- (d) publishes to any person other than a member of the chamber by which a committee was appointed, or in the case of a joint committee, other than a member of either chamber, any report of the committee or of any evidence given before or any documents presented to the committee or any extract from such documents, before such committee has presented its report to the chamber or chambers by which the committee was appointed; or
- (e) publishes any report or statements purporting to be a report of the proceedings of either chamber in any case —
 - (i) where such proceedings have been conducted after exclusion of the public by order of the chamber; or
 - (ii) where such publication has been expressly prohibited by order of the chamber,

shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(2) In this section “publish” in relation to any writing, means exhibiting in public or causing to be read or seen or showing or delivering, or causing to be shown or delivered, with intent that the writing may be read or seen by any person.

Unauthorised-printing of Acts, etc., an offence.

33. Any person who shall print or cause to be printed a copy of any Act of the Federal Legislature now or hereafter in force, or a copy of any report, paper, minutes or votes or proceedings of either chamber or a committee as purporting to have been printed by the Government Printer or by or under the authority of either chamber or by or under

the authority of the President or the Speaker, and the same is not so printed, or shall tender in evidence any such copy as purporting to be so printed knowing that the same was not so printed, shall be guilty of an offence and shall be liable upon conviction by a court of summary jurisdiction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

PART IX—MISCELLANEOUS

34. The powers of the President and the Speaker under this Act shall be supplemental to any powers conferred on them by the Constitution, or standing orders.

Powers of President and Speaker under this Act supplemental.

35. For the purposes of this Act, it shall be lawful for the person who fills the office of Speaker at the time of dissolution of the House to exercise all the powers conferred by this Act on the Speaker until the House is again summoned or until another person has been appointed in accordance with the provisions of the Constitution.

Speaker to act notwithstanding dissolution of House.

36. (1) No prosecution for an offence under this Act shall be instituted —

No prosecution without consent of the Attorney General.

(a) unless the matter giving rise to the prosecution has been reported to the Attorney General, in the case of a matter relating to the Senate, by the President, and in the case of a matter relating to the House, by the Speaker;

(b) except by or on behalf of the Attorney General.

(2) A certificate under the hand of the Attorney General that the requirement of paragraph (a) of subsection (1) of this section has been complied with shall be conclusive evidence of the fact of such compliance.