

Sanctions from the Standing Committee on Privileges (across Canada)

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Question: In your jurisdiction's equivalent to the Standing Committee on Privileges, which sanctions have been handed out over the past 20 years? In addition, can you provide any sources for the rationale of those sanctions?

Answers

Alberta

During the past 20 years in Alberta, the Standing Committee on Privileges and Elections, Standing Orders and Printing only met in 2007 and 2008. No sanctions were handed out at that time.

British Columbia

In 2002 a matter of privilege was referred to the Select Standing Committee On Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills:

Report on a Matter of Privilege, Select Standing Committee On Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills

“pertaining to the premature disclosure of a confidential draft report of the Select Standing Committee on Education, which was referred to the Committee by the House on April 2, 2002.”

“The Committee recommends that the Member for Vancouver-Mount Pleasant **make an unqualified apology** in a form satisfactory to the Speaker from her place in the House, as soon as is practicable. **After such an apology is made, the Committee recommends no further action** be taken against the Member for Vancouver-Mount Pleasant.”

The above is the only incident we found within the scope of 20 years.

It's pretty rare that a matter would be ruled a breach of privilege. In *Parliamentary Procedure in British Columbia, 4th edition* (2008), former Clerk of the House, E. George MacMinn, states that in BC “the House has yet to definitively express itself on the extent to which its punitive powers ought to be applied in given cases of breach of privilege” (see attached).

Ontario

At the Legislative Assembly of Ontario, only the House has the power to decide whether there has been a breach of privilege or contempt of the House, and if so, whether to impose a punishment. The committee is limited to making recommendations in its report to the House.

Privilege matters are typically (though not always) referred to the Standing Committee on the Legislative Assembly (SCLA) for consideration and report. In the past 20 years, no committee report has recommended sanctions in relation to a matter of privilege or contempt.

Prince Edward Island

No committee tasked with consideration of matters of privilege has issued a sanction in the past 20 years in PEI. The current committee tasked with privilege matters is the Standing Committee on Rules, Regulations, Private Bills and Privileges; in previous years it had a slightly different name and mandate. The current committee dealt with a *prima facie* breach of privilege matter in its most recent report but did not recommend any sanctions; and a previous committee in 1998 investigated a matter in which a member alleged that a letter and a telephone call he received constituted a threat, but found insufficient grounds to recommend sanction. That 1998 committee's report is not online. The privileges committee more commonly reports on rule changes and private bills.

Northwest Territories

The Northwest Territories equivalent committee is Standing Committee on Rules and Procedures

There has been no instance of any committee handing out a sanction in the past 20 years.

Quebec

The Commission of the National Assembly (CAN) did no investigation on questions of privilege in the past 20 years. The reason is this: in the few cases where a question of privilege has been declared admissible *prima facie* by the Chairman, the Member who raised the question decided not to pursue the approach by presenting a motion that an investigation is taking place. That said, it happened on a few occasions that persons covered by a declared admissible *prima facie* question of privilege have been sent a letter of apology to the Assembly. Members therefore considered that the case was closed.

Moreover, the latest survey which took place in the CAN goes back to 1986-1987 (case Garon-Page). After the investigation, the commission concluded that the majority of the votes that the charge against the Minister was unfounded and recommended that the opposition Member who raised the question of privilege be reprimanded, in accordance with the provisions of the Act

respecting the National Assembly and regulation. Subsequently, the Assembly adopted the report of the Committee and recommended punishment.

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BRITISH CO

FOURTH E

E. GEORGE MacMIN
Clerk of the House, Br

2008

"The Speaker of the House of Commons yesterday privately notified Opposition leaders that Spain will be 'out of order' in the Debate on the Adjournment of the House of Commons next Thursday.

"This disgraceful ruling is based nominally on the allegation that there has been 'too much talk about Spain already'."

Mr. Speaker FitzRoy: "My ruling is that the Honourable Member has established a *prima facie* case of breach of Privilege against this paper. The Honourable Member will please bring a copy of the newspaper to the Table."

Mr. Adams: "I beg to move,

"That the statements complained of contained in the article in the *Daily Worker* are a gross libel on Mr. Speaker, and that the publication of the article is a gross breach of the Privileges of this House."

Another member: "On a point of Order. Will you give your Ruling, Sir, as to the procedure? If a *prima facie* case has been made out, is not the next step to call the editor of this paper before the House?"

Mr. Speaker FitzRoy: "That step is sometimes taken, but by no means on every occasion. The Honourable Member is entitled to make whatever Motion he likes, and it is for the House to decide what action it will take." (*H.C. Deb.*, 1937-38, 334, cc. 1317-18, Apr. 14, 1938.) (Contempt found.)

It is noteworthy that at Westminster there has been a decided reluctance to apply the sanctions applicable on a breach of privilege. A report from the United Kingdom House of Commons Committee on Privileges (1984-85 session) quoted with approval an earlier decision of the House (Feb. 6, 1978), stating that the House should exercise its penal jurisdiction:

- "(i) as sparingly as possible and,
- (ii) only when satisfied that it was essential to do so in order to provide reasonable protection for the House and its Members or Officers from obstruction or threats of obstruction causing, or likely to cause, substantive interference with the performance of their functions." (*C.J.* (1977-78), p. 170).

The 1985 Report of the Committee of the United Kingdom House of Commons went on to say that the decision of 1978 embodied the "modern approach" to matters of privilege and while not in any way relinquishing their right to pronounce on matters of privilege, only in cases of "substantive interference" with the House functions would the House be prepared to consider punishment. In British Columbia the House has yet to definitely express itself on the extent to which its punitive powers ought to be applied in given cases of breach of privilege (See cases referred to in Appendix E and *B.C. Journals*, March 22, 1892, p. 92; December 1, 1921 (2nd session), p. 151; November 28, 1938, pp. 68 and 69).

With reference to the abuse of the right to raise matters of privilege, see notes to Standing Order 17.

Author's note No. 1: Rather than view in on Parliament to assert its jurisdiction in my application should be limited to leaks from Select of the Committee's Report makes it clear that "to the problem of leaks from Select Committee Select Committee on Parliamentary Privilege Australia, October, 1984, being Parliamentary

Author's note No. 2: In December 19 the U.K. Environment Committee and a special the Committee in February of 1986. That re "serious interference with the work of the C The Times reporter be suspended for six mon to The Times be reduced by one for six mon In spite of the clear wording of this report, th recommendations of the Committee on Privile

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As described in May's 23rd edition, or omission which obstructs or impede performance of its functions, or which c Officer of such House in the discharge of directly or indirectly, to produce such resu contempt even though there is no precede

Numerous examples of contempts a beginning at page 128.

Standing O

STANDING ORDER 27 — (Orders of the Day, other than taken up according to the preced Order Paper.

(2) Whenever Government Government orders may be call Government thinks fit, and t Government orders at the head o Monday morning.

(3) Notwithstanding Standi urgent Government business m Speaker, be considered on Monda over any other business.

The combined effect of Standing Government unfettered discretion in the Government Motions on Notice on every This result flows not only from the work