

LOK SABHA

**THE JUDGES (INQUIRY) BILL,  
1964**

**Report of the Joint Committee**

*(Presented on the 17th May, 1966)*



**LOK SABHA SECRETARIAT  
NEW DELHI**

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JOINT COMMITTEE ON THE JUDGES (INQUIRY) BILL, 1964

Composition of the Committee

Shri S. V. Krishnamoorthy Rao—*Chairman*

MEMBERS

*Lok Sabha*

2. Shri N. C. Chatterjee
- \*3. Shri Sachindra Chaudhuri
4. Shri Homi F. Daji
5. Shri R. G. Dubey
6. Shri Hari Vishnu Kamath
7. Shri Harekrushna Mahatab
- @8. Shri Shankarrao Shantaram More
9. Shri Gulzarilal Nanda
10. Shri Ghanshyamlal Oza
11. Shri Tika Ram Paliwal
12. Shri Raghunath Singh
13. Shri Shivram Rango Rane
14. Shri N. G. Ranga
15. Shri Sham Lal Saraf
16. Dr. L. M. Singhvi
17. Shrimati Tarkeshwari Sinha
18. Shri U. M. Trivedi
19. Shri T. Abdul Wahid
20. Shri Jaganath Rao

*Rajya Sabha*

21. Shrimati C. Ammannappa Raja
22. Shri Jaisukhlal Hathi

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\*Resigned w.e.f. 10th January, 1966.

@Expired on the 6th March, 1966.

(iv)

23. Shri Akbar Ali Khan
24. Shri R. S. Khandekar
25. Shri Debabrata Mookerjee
26. Shri G. S. Pathak
27. Shri M. Ruthnaswamy
28. Shri P. N. Sapru
29. Shri D. L. Sen Gupta
30. Shri K. K. Shah

#### DRAFTSMEN

1. Shri S. P. Sen Varma, *Secretary, Legislative Department, Ministry of Law.*
2. Shri S. K. Maitra, *Additional Draftsman, Ministry of Law.*

#### REPRESENTATIVES OF THE MINISTRY

1. Shri C. P. Gupta, *Joint Secretary, Ministry of Home Affairs.*
2. Shri Mangli Prasad, *Deputy Secretary, Ministry of Home Affairs.*

#### SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

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\*Ceased to be members of the Joint Committee consequent on their retirement from Rajya Sabha with effect from the 2nd April, 1966 but were re-appointed by Rajya Sabha on the 7th April, 1966 on their re-election to that House.

## REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill\* to regulate the procedure for the investigation and proof of the misbehaviour or incapacity of a Judge of the Supreme Court or of a High Court and for the presentation of an address by Parliament to the President was referred, having been authorised to submit the Report on their behalf, present their Report, with the Bill as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 14th February, 1964. The motion for consideration of the Bill was moved by Shri Jaganath Rao, the then Deputy Minister in the Ministry of Law, on the 21st September, 1965. On the 22nd September, 1965, Shri Jaganath Rao moved a motion for reference of the Bill to a Joint Committee which was adopted on the same day (Appendix I).

3. Rajya Sabha discussed the motion on the 29th and 30th November, 1965 and concurred in the said motion on the 30th November, 1965 (Appendix II).

4. The message from Rajya Sabha was reported to Lok Sabha on the 2nd December, 1965.

5. The Committee held nine sittings in all.

6. The first sitting of the Committee was held on the 4th December, 1965, to draw up their programme of work. The Committee at this sitting decided to hear evidence from associations etc., desirous of presenting their views before the Committee and to issue a press communique inviting memoranda for the purpose. The Committee also decided to invite the views of the Supreme Court, all High Courts, all Bar Councils, the Indian Law Institute, the Indian Institute of Public Administration and the Institute of Constitutional and Parliamentary Studies, on the provisions of the Bill and to inform them that they could also give oral evidence before the Committee if they so desired.

7. Eighteen memoranda/representations/suggestions were received by the Committee from the Supreme Court, different High Courts/associations/individuals as mentioned in Appendix III.

8. The second sitting of the Committee, held on the 13th January, 1966, was adjourned immediately after adopting a condolence resolu-

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\*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 14th February, 1964.

tion on the passing away of the late Prime Minister Lal Bahadur Shastri.

9. The Committee at their third sitting held on the 14th January, 1966, formulated their programme of hearing oral evidence of witnesses.

10. At their fourth to sixth sittings held on the 15th and 17th January and 14th February, 1966, respectively, the Committee heard the evidence given by four associations/individuals mentioned in Appendix IV.

11. The Report of the Committee was to be presented by the 28th February, 1966. As this could not be done, the Committee, at their sixth sitting held on the 14th February, 1966, decided to ask for extension of time for presentation of their Report upto the 31st March, 1966. Necessary motion was brought before the House and adopted on the 23rd February, 1966. At their seventh sitting held on the 9th March, 1966, the Committee decided to ask for further extension of time upto the last day of the current (Fourteenth) Session which was granted by the House on the 24th March, 1966.

12. The Committee have decided that the evidence given before them should be printed and laid on the Tables of both the Houses *in extenso*.

13. The Committee considered the Bill clause-by-clause at their eighth sitting held on the 9th May, 1966.

14. The Committee considered and adopted the Report on the 13th May, 1966.

15. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

16. *Clause 1 and enacting formula.*—The changes made therein are of a consequential nature.

17. *Clause 2.*—In view of the amendments made in clauses 3, 4 and 7, the definitions of the terms "Speaker" and "Chairman" have been inserted in the clause and for the expression "Special Tribunal", the expression "Committee" has been substituted with a view to ensuring that the Committee may not be subject to writ jurisdiction of the Supreme Court & the High Courts.

Consequential changes have accordingly been made in other clauses of the Bill.

18. *Clause 3.*—The Committee are of the view that to ensure and maintain the independence of the judiciary, the Executive should be excluded from every stage of the procedure for investigation of the alleged misbehaviour or incapacity of a Judge and that the initiation of any proceeding against a Judge should be made in Parliament by a notice of a motion. The Committee also feel that no motion for presenting an address to the President praying for the removal of a Judge should be admitted unless the notice of such motion is signed in the case of a motion in the Lok Sabha, by not less than one hundred members of that House and in the case of a motion in Rajya Sabha, by not less than fifty members of that House. Further, the Committee are of the opinion that the Speaker or the Chairman or both, as the case may be, may, after consulting such persons as they think fit, and after considering such materials, as may be available, either admit or reject the motion and that if they admit the motion, then they should keep the motion pending and constitute a Committee consisting of three members, one each to be chosen from amongst the Chief Justice and other Judges of the Supreme Court, Chief Justices of the High Courts and distinguished Jurists, respectively.

Sub-clauses (1) and (2) of the clause have been redrafted accordingly to provide for these matters and also to provide for the manner of disposal of notices of such motions when tabled in either House or in both Houses of Parliament.

The amendments made in sub-clauses (5) and (8) are consequential and clarificatory in nature.

19. *Clause 4.*—Consequent on the amendments made in clause 3, sub-clauses (2) and (3) of the clause have been substituted to provide for the submission of the report of the investigating Committee to the Speaker or the Chairman, or both, as the case may be, and its being caused to be laid before both the Houses of Parliament.

20. *Clause 6.*—The Committee feel that if the investigating Committee exonerates the Judge, no further action should be taken on the motion. If, however, the report of the investigating Committee contains a finding that the Judge is guilty of any misbehaviour or suffers from any incapacity, then the motion, together with the report of the investigating Committee, should be taken up for consideration by the House or Houses in which it is pending. If the motion is adopted by each House in accordance with the provisions of clause

(viii)

(4) of article 124 or, as the case may be, in accordance with that clause read with article 218, of the Constitution, then the misbehaviour or incapacity of the Judge should be deemed to have been proved and an address for the removal of that Judge should be presented to the President by each House in the prescribed manner.

The clause has been substituted accordingly.

21. *Clause 7.*—The Committee are of the view that instead of the Central Government, a Joint Committee of Parliament, consisting of fifteen members of whom five to be nominated by the Chairman and ten to be nominated by the Speaker, should be constituted and that Committee should have the power to make rules for carrying out the purposes of the Act. The rules so made should be published in the Gazette after their approval by the Chairman and the Speaker.

The clause has been substituted accordingly.

22. The Committee recommend that the Bill, as amended, be passed.

NEW DELHI;

The 13th May, 1966.

S. V. KRISHNAMOORTHY RAO,  
Chairman,  
Joint Committee.



## MINUTES OF DISSENT

### I

I am constrained to append this minute of dissent because in spite of certain fundamental changes on which I and some other esteemed colleagues in the Committee had insisted and which have been accepted, the Bill as it emerges from the Joint Select Committee is a somewhat inelegant and cumbersome piece of legislation. In particular, my dissociation and dissent is directed against clause 3(1) of the Bill which sets forth the procedure for notifying a motion for presenting an address to the President praying for the removal of a Judge and against clause 3(2) which provides for the constitution of a Committee which would make an investigation into the grounds on which the removal of a Judge is prayed for.

2. When the Judges (Inquiry) Bill, 1964 was discussed in the Lok Sabha, some of us had strenuously opposed clause 3(1) of the Bill as introduced in Lok Sabha on 14th February, 1964. Clause 3(1) of the Bill was in the following terms:

“If the President, on receipt of a report or otherwise, is of opinion that there are good grounds for making an investigation into the misbehaviour or incapacity of a Judge, he may constitute a Special Tribunal for the purpose of making such an investigation and forward the grounds of such investigation to the Special Tribunal.”

Clauses 4 and 6 of the original Bill were as follows:—

- “4. (1) Subject to any rules that may be made in this behalf, the Special Tribunal shall have power to regulate its own procedure in making the investigation and shall give a reasonable opportunity to the Judge of cross-examining witnesses, adducing evidence on behalf of the defence and of being heard.
- (2) After the close of the investigation, the Special Tribunal shall submit its report to the President stating therein its findings on each of the charges separately with such observations on the whole case as it may think fit.
- (3) The President shall cause the report submitted under subsection (2) to be laid before each House of Parliament.”

(ix)

"6. Each House of Parliament may take into consideration the report of the Special Tribunal in relation to the misbehaviour or incapacity of a Judge and if the Judge is to be removed from his office on the ground of proved misbehaviour or incapacity, it shall present an address to the President for such removal through the Speaker of the House of the People, or the Chairman of the Council of States, as the case may be."

3. The main objection to clause 3(1) and the sequence of steps adumbrated in clauses 4 and 6 of the original Bill was that it would not be in consonance with our Constitution to divest the Parliament of its powers under Article 124 and that the vesting of powers of initiating investigation and of constituting the Special Tribunal in the President (and through him in the Council of Ministers) would be repugnant to the independence of the judiciary. In repelling and rejecting the idea of executive initiative and intervention in instituting investigation into the conduct of judges and by preserving the parliamentary power in respect of impeachment of judges, the Joint Select Committee has made a contribution of enduring significance to the institutional framework of our Constitution.

4. My regret and disappointment, however, arise from the fact that the substitute procedures embodied in the present Bill are ungainly, inelegant and pointless and savour somewhat of a lack of confidence in the Parliament.

5. Clause 3(1) in the present Bill requires that an impeachment motion should, in the case of a notice given in the House of the People, be signed by one hundred members of that House. In the case of a notice given in the Council of States, the prescribed number of signatories is fifty. If I may say so with respect, the provision is in conception and in effect an institutional excess. It means that even a preliminary notice would necessitate a kind of a campaign among Members of Parliament, who may themselves want to hold a preliminary investigation of their own before subscribing to such a notice. To secure the sponsorship of one hundred members of Lok Sabha or of fifty members of Rajya Sabha, a member, left to his own individual resources, would perhaps have to circulate memoranda and statements and other evidence. He would have to canvass and to pamphleteer. He would have to repeat his grounds of impeachment from member to member, inside as well as outside Parliament House, resulting in a distasteful din of whispers and other unseemly complications. And this, most certainly will not add to the dignity of the Parliament or that of the judiciary.

6. I, for one, fail to comprehend the rationale or the proposed requirement of one hundred or fifty signatories (as the case may be) for a notice of motion. It puts an inordinate measure of faith in a signature campaign and does not consider the intrinsic persuasiveness or otherwise of the allegations to be a sufficient basis. The procedure extinguishes private members' rights to raise and initiate such issues, and in that context it is alien to parliamentary procedure. Moreover the requirement is plainly redundant in view of the fact that clause 3(1) itself provides that after a notice of a motion is given,

“...then, the Speaker or, as the case may be, the Chairman may, after consulting such persons, if any, as he thinks fit and after considering such materials, if any, as may be available to him, either admit the motion or refuse to admit the same.”

I would have thought that this power of the Speaker to admit the motion or to refuse to admit the same should suffice as a safeguard. As Shri M. N. Kaul pointed out in his illuminating testimony: “Speaker Patel put it in those early days when he laid the foundation of parliamentary procedure in India that the most fundamental power of the Speaker is to admit a motion. Nothing can come before Parliament unless the Speaker admits it. That power is final and cannot be questioned. You can remove the Speaker but you cannot question his decision whether a motion should be admitted or not. Until a Member gives notice, the Speaker has no powers, but the moment a member gives notice, all the powers of the Speaker-come into play and then he has to exercise those powers with great skill and caution and for the public good.” The present Bill provides both for a specified number of sponsoring signatories and for the Speaker's final discretion to admit or to refuse to admit a motion. I personally think that the Speaker's power to admit or refuse to admit provides an adequate and satisfactory safeguard, and to seek to fortify it any further is like wearing (obsessively and pessimistically) a pair of suspenders in addition to a belt round the waist. Even if a specified number were considered a pre-requisite safeguard, the requirement of one hundred sponsoring signatories in the case of Lok Sabha and of fifty in the case of Rajya Sabha is excessive. As I have pointed out earlier, the requirement, in the process of its operation, would be embarrassing and unseemly. Once there are a hundred (in the case of Lok Sabha) or fifty (in the case of Rajya Sabha) sponsoring signatures, the exercise of the Speaker's power to admit or to refuse to admit will be vulnerable, because the considerations of the intrinsic merit of the motion and the materials on which it is based will tend to recede into the background against the not inconsiderable weight

of nearly one-fifth of the total membership of the House subscribing to a notice of a motion.

7. I may mention here that this excessive concern for providing impregnable safeguards is not justified by past experience. As Shri Kaul told the Committee, no more than three cases under Article 124 of the Constitution came to Lok Sabha in all these years, and only one motion ever succeeded in gaining admission. As one who sponsored that motion which was admitted and inscribed on the order paper, I am intimately familiar with the difficult and prolonged precautionary mechanics preceding the admission of the motion by the Speaker. Every word of the motion, every syllable and comma, was carefully put in; the grounds mentioned in the motion had been closely and critically studied. Only after the Speaker was fully satisfied was the motion admitted. Describing the concatenation of events in that particular case, Shri Kaul observed:

“ . . . One of your colleagues will be able to give all the facts; I am concerned only with the procedural aspects and what happened so far as the Speaker is concerned. We showed all the precedents and advised him as to how the matter stood. We said that if a motion in regard to this is put on the order paper, we have to see that every word, every comma, every syllable of that motion is *prima facie* shown to have a basis. Otherwise the Speaker will not put it down on the order paper, it will not see the light of day, it will not come before Parliament. I should like to correct the impression . . . that the moment a Member shoots a Notice . . . the whole thing may be made public. There is the able screening activity by the Speaker in this matter and he looks into it personally . . . So far as the judiciary is concerned, Parliament has been most careful, and very few notices have come; and those that have been given have been absolutely clear notices . . . In this particular case the Member concerned was in the fortunate position of citing chapter and verse. Because he tried every recourse, he was in long and continuous correspondence with the Minister concerned, and everything he put down in his motion was authenticated by a ministerial statement . . . Or it was public knowledge and about which he was prepared to satisfy the Speaker.”

Clearly, the apprehensions and the anxiety which are invoked or conjured to justify the battlements of an impregnable fortress in this

case are not founded in past experience. In fact Parliament has itself been a bastion of the independence of the judiciary and this is as it should be.

8. Indeed, if precaution is to be interposed between a notice by a Member and the admission of the motion by the Speaker, it could be done more appropriately by a referral of the matter to a Judiciary Committee of one or both Houses. Such a Committee could screen and scrutinise the grounds of a motion praying for the removal of a judge and could report to the Speaker if, *prima facie*, the motion is admissible. This would secure closer and more considered scrutiny than the fanfare of one hundred (in the case of Lok Sabha) or fifty signatures (in the case of Rajya Sabha). Alternatively, the required number of sponsoring signatories should be considerably reduced. I may make it clear that this second alternative meets only with my reluctant concurrence and not with my wholehearted support.

9. Regarding the constitution of the investigating Committee, I may cite Shri M. C. Setalvad who pointed out that in the U.K., the U.S.A., Australia and Canada, the task of investigation is entrusted either to the House as a whole or to its Committee. In this connection, Shri Setalvad had this to say in his evidence before the Committee:—

“The main matter is, even if the Tribunal is to be appointed and if legislation is thought necessary for that purpose, the legislation should provide that the Tribunal should come in at the option of the House after a motion has been initiated in the House and the House considers an investigation necessary. It must be the House which must primarily decide whether an investigation should take place and if so by what agency. It may be that a case may be so clear on a motion in the House, on investigation by the Speaker, that no investigation may be necessary. Or the charge may be so frivolous, . . . that the House may at once form the view that . . . it is a frivolous charge, it need not be investigated at all. All these functions are functions of the House . . . . If it chooses to take . . . . the course of making an inquiry, again it should be open to it to choose the method of the enquiry. It may make an enquiry by a Committee of both the Houses or it may make the enquiry by a Committee of the whole House as has been done in some countries or in some other manner; and if the legislature may well provide that in the event

of the House choosing to make an enquiry by a tribunal—the tribunal may consist of X, Y, Z,—such a provision would be an optional provision of which the House may take advantage if it so desires, but not necessarily.”

10. The present Bill seeks to provide only the modality of a tribunal clothed in the nomenclature of a Committee. The Committee contemplated in the Bill may well be considered a tribunal or an “authority” within the meaning of Articles 226 and 227 of the Constitution, rendering its work subject to judicial review and supervision. What is more, the Parliament is not left with any choice in the matter and the procedure of parliamentary committee has been wholly excluded. With this I am not in agreement.

11. In both these matters in respect of which I have dissented from my esteemed colleagues in the Joint Select Committee, there appears to be an imprint on the provisions of the Bill of the now defunct Burmese Constitution, which provided that a notice of such resolution should be signed by not less than one-fourth of the total membership of either Chamber of Parliament and further that the charge would be investigated by a special tribunal (S. 143 of the Burmese Constitution). In the Burmese case, the special tribunal was to consist of the President or his nominee and the Speakers of the Chamber of Nationalities and the Chamber of Deputies. I feel that the Burmese analogue is neither inspiring nor instructive; and that the more highly evolved procedures of other democratic constitutions which have been tried and tested for centuries would have served us better.

12. Before I conclude, I would like to emphasize that I yield to none in my profound respect for our judiciary and in my concern for the preservation of its independence and its exalted status. I feel that the suggestions I have made would be far more conducive to judicial integrity and independence and to the evolution of a more consistent and harmonious framework of institutions and procedures under the Constitution.

NEW DELHI;  
*The 16th May, 1966.*

L. M. SINGHVI

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II

I agree with the dissent note of Dr. L. M. Singhvi on clause 3 of the Judges (Inquiry) Bill, 1964, for the same reasons.

NEW DELHI;  
*The 16th May, 1966.*

HOMI F. DAJI

III

*Clause 3 (1) (a) and (b)*

I do not agree with the numbers 100 and 50, respectively, mentioned in the above sub-clauses. They are too excessive and will defeat the very purpose of the Bill. The number of members of Lok Sabha and Rajya Sabha according to me should be 50 and 25, respectively.

NEW DELHI;  
The 16th May, 1966.

R. S. KHANDEKAR.

IV

The Bill, as originally introduced in the Lok Sabha in 1964, and moved for consideration in 1965 after having been in cold storage for over eighteen months, was marked by several undesirable features, the most obnoxious being the power sought to be vested in the Executive to initiate an inquiry into the alleged misbehaviour or incapacity of a Judge. When, after resurrecting, or rather, defreezing the Bill, I moved that, constitutionally and otherwise important as it was, it be referred to a Select Committee, my motion was at first resisted by Government: it is however a matter for gratification that mounting pressure in the House compelled Government to accept it, and subsequently the Minister moved a motion for reference of the Bill to a Joint Committee.

2. I am glad to state that the Committee has transformed the Bill beyond recognition, and rightly so: the Executive is no longer in the picture, except at the very last stage of the Presidential imprimatur on the address by Parliament which has now been reinvested with necessary and adequate powers in conformity with the spirit and letter of the Constitution. This metamorphosis of the Bill reinforces, one again, the plea which I have often made in the House that all Bills, other than those of a routine or minor character, should as a rule be referred to a Select or Joint Committee.

3. Nevertheless there is scope for improvement or amendment. Clause 3 provides that the notice of a motion for presenting an address to the President praying for the removal of a Judge shall be signed by not less than one hundred members of the Lok Sabha, or not less than fifty members of the Rajya Sabha. In view of this stringent stipulation which will serve to safeguard a member of the higher Judiciary, the last bastion of democracy, against any unfair proceeding or an unseemly smear-campaign in Parliament, it should be provided that the Speaker or Chairman, as the case may be, shall

(xvi)

*ipso facto* admit the motion, or if the option to admit or not to admit is allowed to remain with the Speaker and Chairman, the number of members required to back the notice of motion may be substantially reduced. In any case, where the Speaker or Chairman refuses to admit the motion, the grounds for such refusal shall be recorded in writing.

4. There is no valid reason why the word "Tribunal" should be substituted by the word "Committee". I agree that we should be reasonably cautious, even considerate, in this matter of an inquiry against a Judge, but we need not be squeamish. Once an inquiry or investigation has been set in motion, the word "Committee" in connexion therewith is somewhat inappropriate; the word "Commission" is perhaps better, but as it has a special connotation it is ruled out. I, therefore, certainly prefer the word "Tribunal" which is by no means malodorous or objectionable in this particular context.

5. It should be provided that on the presentation of an address to the President praying for the removal of a Judge, the President shall remove the Judge from office forthwith.

NEW DELHI;  
The 16th May, 1965.

HARI VISHNU KAMATH.



Bill No. 5-B of 1964

THE JUDGES (INQUIRY) BILL, 1964

(AS REPORTED BY THE JOINT COMMITTEE)

[Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]

A

BILL

*to regulate the procedure for the investigation and proof of the misbehaviour or incapacity of a Judge of the Supreme Court or of a High Court and for the presentation of an address by Parliament to the President.*

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Judges (Inquiry) Act, 1966.

Short title  
and com-  
mence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Defini-  
tions.

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

(a) “Chairman” means the Chairman of the Council of States;

(b) “Committee” means a committee constituted under section 3;

(c) “Judge” means a Judge of the Supreme Court or of a High Court and includes the Chief Justice of India and the Chief Justice of a High Court;

(d) “prescribed” means prescribed by rules made under this Act;

(e) “Speaker” means the Speaker of the House of the People.

Investiga-  
tion into  
mis-  
behaviour  
or in-  
capacity  
of Judge  
by Com-  
mittee.

3. (1) If notice is given of a motion for presenting an address to the President praying for the removal of a Judge signed,—

(a) in the case of a notice given in the House of the People, by not less than one hundred members of that House;

(b) in the case of a notice given in the Council of States, by not less than fifty members of that Council,

then, the Speaker or, as the case may be, the Chairman may, after consulting such persons, if any, as he thinks fit and after considering such materials, if any, as may be available to him, either admit the motion or refuse to admit the same.

(2) If the motion referred to in sub-section (1) is admitted, the Speaker or, as the case may be, the Chairman shall keep the motion pending and constitute, as soon as may be, for the purpose of making an investigation into the grounds on which the removal of a Judge is prayed for, a Committee consisting of three members of whom—

(a) one shall be chosen from among the Chief Justice and other Judges of the Supreme Court;

(b) one shall be chosen from among the Chief Justices of the High Courts; and

(c) one shall be chosen from among persons who are, in the opinion of the Speaker or, as the case may be, the Chairman, distinguished jurists:

Provided that where notices of a motion referred to in sub-section (1) are given on the same day in both Houses of Parliament, no Committee shall be constituted unless the motion

has been admitted in both Houses and where such motion has been admitted in both Houses, the Committee shall be constituted jointly by the Speaker and the Chairman:

5 Provided further that where notices of a motion as aforesaid are given in the Houses on different dates, the notice which is given later shall stand rejected.

(3) The Committee shall frame definite charges against the Judge on the basis of which the investigation is proposed to be held.

(4) Such charges together with a statement of the grounds on 10 which each charge is based shall be communicated to the Judge and he shall be given a reasonable opportunity of presenting a written statement of defence within such time as may be specified in this behalf by the Committee.

(5) Where it is alleged that the Judge is unable to discharge 15 the duties of his office efficiently due to any physical or mental incapacity and the allegation is denied, the Committee may arrange for the medical examination of the Judge by such Medical Board as may be appointed by the Speaker or, as the case may be, the Chairman or, where the Committee is constituted jointly by the Speaker 20 and the Chairman, by both of them, for the purpose and the Judge shall submit himself to such medical examination within the time specified in this behalf by the Committee.

(6) The Medical Board shall undertake such medical examination of the Judge as may be considered necessary and submit a report to 25 the Committee stating therein whether the incapacity is such as to render the Judge unfit to continue in office.

(7) The Committee may, after considering the written statement of the Judge and the medical report, if any, amend the charges framed under sub-section (3) and in such a case, the Judge shall be given a 30 reasonable opportunity of presenting a fresh written statement of defence.

(8) The Central Government may, if required by the Speaker or the Chairman, or both, as the case may be, appoint an advocate to 35 conduct the case against the Judge.

4. (1) Subject to any rules that may be made in this behalf, the 35 Committee shall have power to regulate its own procedure in making the investigation and shall give a reasonable opportunity to the Judge of cross-examining witnesses, adducing evidence \* \* \* and of being heard in his defence.

Report of  
Committee.

(2) At the conclusion of the investigation, the Committee shall submit its report to the Speaker or, as the case may be, to the Chairman or where the Committee has been constituted jointly by the Speaker and the Chairman, to both of them, stating therein its findings on each of the charges separately with such observations on the whole case as it thinks fit. 5

(3) The Speaker or the Chairman or both of them shall cause the report submitted under sub-section (2) to be laid, as soon as may be, respectively before the House of the People and the Council of States.

Powers of  
Committee.

5. For the purpose of making any investigation under this Act, 10  
the Committee shall have the powers of a civil court while trying a  
suit under the Code of Civil Procedure, 1908, in respect of the follow- 5 of 1908.  
ing matters, namely:—

(a) summoning and enforcing the attendance of any person  
and examining him on oath; 15

(b) requiring the discovery and production of documents;

(c) receiving evidence on oath;

(d) issuing commissions for the examination of witnesses or  
documents;

(e) such other matters as may be prescribed. 20

Considera-  
tion of  
report and  
procedure  
for pre-  
sentation  
of an  
address  
for re-  
moval of  
Judge.

6. (1) If the report of the Committee contains a finding that the  
Judge is not guilty of any misbehaviour or does not suffer from  
any incapacity, then, no further steps shall be taken in either House  
of Parliament in relation to the report and the motion pending in  
the House or the Houses shall stand rejected. 25

(2) If the report of the Committee contains a finding that the  
Judge is guilty of any misbehaviour or suffers from any incapacity,  
then, the motion referred to in sub-section (1) of section 3 shall,  
together with the report of the Committee, be taken up for considera-  
tion by the House or Houses in which it is pending. 30

(3) If the motion is adopted by each House of Parliament in  
accordance with the provisions of clause (4) of article 124 or, as the  
case may be, in accordance with that clause read with article 218, of  
the Constitution, then, the misbehaviour or incapacity of the Judge  
shall be deemed to have been proved and an address praying for the 35  
removal of the Judge shall be presented in the manner prescribed to  
the President by each House of Parliament in the same session in  
which the motion has been adopted.

7. (1) There shall be constituted a Joint Committee of both Houses of Parliament in accordance with the provisions hereinafter contained for the purpose of making rules to carry out the purposes of this Act.

Power to  
make  
rules.

5 (2) The Joint Committee shall consist of fifteen members of whom ten shall be nominated by the Speaker and five shall be nominated by the Chairman.

(3) The Joint Committee shall elect its own Chairman and shall have power to regulate its own procedure.

10 (4) Without prejudice to the generality of the provisions of subsection (1), the Joint Committee may make rules to provide for the following among other matters, namely:—

(a) the manner of transmission of a motion adopted in one House to the other House;

15 (b) the manner of presentation of an address to the President for the removal of a Judge;

(c) the travelling and other allowances payable to the members of the Committee and the witnesses who may be required to attend such Committee;

20 (d) the facilities which may be accorded to the Judge for defending himself;

(e) any other matter which has to be or which may be provided for by rules or in respect of which provision is, in the opinion of the Joint Committee, necessary.

25 (5) Any rules made under this section shall not take effect until they are approved and confirmed both by the Speaker and the Chairman and are published in the Official Gazette, and such publication of the rules shall be conclusive proof that they have been duly made.

## APPENDIX I.

(Vide Para 2 of the Report)

*Motion in Lok Sabha for reference of the Bill to Joint Committee.*

"That the Bill to regulate the procedure for the investigation and proof of the misbehaviour or incapacity of a Judge of the Supreme Court or of a High Court and for the presentation of an address by Parliament to the President be referred to a Joint Committee of the Houses consisting of 30 members, 20 from this House, namely:—

1. Shri S. V. Krishnamoorthy Rao
2. Shri N. C. Chatterjee
3. Shri Sachindra Chaudhuri
4. Shri Homi F. Daji
5. Shri R. G. Dubey
6. Shri Hari Vishnu Kamath
7. Shri Harekrushna Mahatab
8. Shri Shankarrao Shantaram More
9. Shri Gulzarilal Nanda
10. Shri Ghanshyamlal Oza
11. Shri Tika Ram Paliwal
12. Shri Raghunath Singh
13. Shri Shivram Rango Rane
14. Shri N. G. Ranga
15. Shri Sham Lal Saraf
16. Dr. L. M. Singhvi
17. Shrimati Tarkeshwari Sinha
18. Shri U. M. Trivedi
19. Shri T. Abdul Wahid, and
20. Shri Jaganath Rao

and 10 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the 28th February, 1966;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 10 members to be appointed by Rajya Sabha to the Joint Committee."

## APPENDIX II

(Vide Para 3 of the Report)

### *Motion in Rajya Sabha*

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to regulate the procedure for the investigation and proof of the misbehaviour or incapacity of a Judge of the Supreme Court or of a High Court and for the presentation of an address by Parliament to the President, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shrimati C. Ammannna Raja
2. Shri Jaisukhlal Hathi
3. Shri Akbar Ali Khan
4. Shri R. S. Khandekar
5. Shri Debabrata Mookerjee
6. Shri G. S. Pathak
7. Prof. M. Ruthnaswamy
8. Shri P. N. Sapru
9. Shri D. L. Sen Gupta
10. Shri K. K. Shah."



### APPENDIX III

(Vide Para 7 of the Report)

*Statement of memoranda/representations/suggestions received by the Joint Committee*

Sl. No.	Name of document	From whom received	Action taken
1	2	3	4
1	Memorandum	Bar Council of West Bengal, Calcutta	Circulated to members and evidence of the Bar Council taken on the 15th January, 1966.
2	Do.	The Institute of Constitutional and Parliamentary Studies, New Delhi.	Circulated to members and evidence of the Institute taken on the 17th January & 14th February, 1966.
3	Do.	The Indian Commission of Jurists, New Delhi.	Circulated to members and evidence of the Commission taken on the 14th February, 1966.
4	Do.	The Indian Law Institute, New Delhi.	Circulated to Members.
5	Representation	Shri M. Mathew, Madras.	Do.
6	Do.]	Shri V. Kuppaswamy Mudaliar, Village] Naga-vedu, Arkonam Taluk, (N.A. Dt.)	Do.
7	Suggestions	Supreme Court of India, New Delhi.	Do.
8	Do.]	High Court of Gujarat, Ahmedabad.	Do.
9	Do.]	High Court of Andhra Pradesh, Hyderabad.	Do.
10	Do.	High Court of Judicature at Allahabad.	Do.

1	2	3	4
11	Suggestions	High Court of Madhya Pradesh, Jabalpur.	Circulated to Members
12	Do.	High Court of Orissa, Cuttack.	Do.
13	Do.	High Court of Rajasthan, Jodhpur.	Do.
14	Do.	High Court of Judicature at Patna	Do.
15	Do.	Bombay High Court, Bombay	Do.
16	Do.	Bar Council of Andhra Pradesh, Hyderabad.	Do.
17	Do.	Bar Council of Kerala, Ernakulam.	Do.
18	Do.	Bar Council of Punjab, Chandigarh.	Do.

## APPENDIX IV

(Vide Para 10 of the Report)

*List of Associations etc. who gave evidence before the Joint Committee*

Serial No.	Names of Associations etc.	Dates on which evidence was taken
1	Shri C. K. Daphtary, Attorney General of India	15-1-1966
2	Bar Council of West Bengal, Calcutta	15-1-1966
3	The Institute of Constitutional and Parliamentary Studies, New Delhi.	17-1-1966 and 14-2-1966
4	The Indian Commission of Jurists, New Delhi	14-2-1966

**APPENDIX V**  
**MINUTES OF THE SITTINGS OF THE JOINT COMMITTEE**  
**ON THE JUDGES (INQUIRY) BILL, 1964.**

**I**  
**First Sitting**

The Committee met on Saturday, the 4th December, 1965, from 11.00 to 11.55 hours.

**PRESENT**

Shri S. V. Krishnamoorthy Rao—*Chairman.*

**MEMBERS**

*Lok Sabha*

2. Shri N. C. Chatterjee
3. Shri Hari Vishnu Kamath
4. Shri Ghanshyamlal Oza
5. Shri Raghunath Singh
6. Shri Shivram Rango Rane
7. Dr. L. M. Singhvi
8. Shri Jaganath Rao

*Rajya Sabha*

9. Shri Debabrata Mookerjee
10. Shri P. N. Saprú.

Shri L. N. Mishra, Deputy Minister in the Ministry of Home Affairs, was also present.

**REPRESENTATIVE OF THE MINISTRY**

Shri Mangli Prasad, *Under Secretary, Ministry of Home Affairs.*

**SECRETARIAT**

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee considered whether any evidence should be heard by them. The Committee decided that a Press Communiqué

be issued advising associations, public bodies and individuals, who are desirous of presenting their suggestions or views or of giving evidence before the Committee in respect of the Bill, to send written memoranda thereon to the Lok Sabha Secretariat by the 8th January, 1966, at the latest.

3. The Committee decided that the Supreme Court, High Courts, all Bar Councils, the Indian Law Institute, the Indian Institute of Public Administration and the Institute of Constitutional and Parliamentary Studies should also be addressed to send their comments or suggestions, if they so desire, on the provisions of the Bill. They could also give oral evidence before the Committee, if desired by them.

4. The Committee authorised the Chairman to select the parties, after receipt of written memoranda, to be asked to send their representatives to give oral evidence.

5. The Committee desired that the Ministry of Home Affairs might be asked to furnish material giving information re: procedure followed in U.S.A. and other Commonwealth countries for removal of Judges from office.

6. The Committee decided to sit from the 12th January, 1966, onwards for hearing oral evidence, if any, and for clause by clause consideration of the Bill.

7. The Chairman suggested that amendments, if any, might be sent to the Lok Sabha Secretariat by the 12th January, 1966.

8. The Committee then adjourned to meet again on Wednesday, the 12th January, 1966 at 11.00 hours.

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## II

### Second Sitting

The Committee met on Thursday, the 13th January, 1966, from 11.00 to 11.05 hours.

#### PRESENT

Shri S. V. Krishnamoorthy Rao—*Chairman.*

#### MEMBERS

*Lok Sabha*

2. Shri N. C. Chatterjee
3. Shri Harekrushna Mahatab
4. Shri Ghanshyamlal Oza

5. Shri Tika Ram Paliwal
6. Shri N. G. Ranga
7. Shri Sham Lal Saraf
8. Dr. L. M. Singhvi
9. Shri U. M. Trivedi
10. Shri T. Abdul Wahid
11. Shri Jaganath Rao

*Rajya Sabha*

12. Shrimati C. Ammannappa Raja
13. Shri Jaisukhlal Hathi
14. Shri Akbar Ali Khan
15. Shri R. S. Khandekar
16. Shri Debabrata Mookerjee
17. Shri G. S. Pathak
18. Shri P. N. Sapro
19. Shri D. L. Sen Gupta
20. Shri K. K. Shah

DRAFTSMAN

Shri S. K. Maitra, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Chairman made an obituary reference to the sad and sudden passing away of Shri Lal Bahadur Shastri, the Prime Minister. The Committee, then, passed the following condolence resolution and the members stood in silence for two minutes, as a mark of respect:—

“The Joint Committee on the Judges (Inquiry) Bill, 1964 place on record their profound sense of grief and sorrow on the very sad and sudden demise of Shri Lal Bahadur Shastri, our Prime Minister, at Tashkent on the 11th January, 1966, where he had gone on a great mission in search of peace and had laboured hard to achieve it, and convey their heart-felt condolences to the bereaved family.”

3. The Committee then adjourned to meet again on Friday, the 14th January, 1966 at 11.00 hours.

## III

## Third Sitting

The Committee met on Friday, the 14th January, 1966, from 11.00 to 11.45 hours.

## PRESENT

Shri S. V. Krishnamoorthy Rao—*Chairman.*

## MEMBERS

*Lok Sabha*

2. Shri Hari Vishnu Kamath
3. Shri Harekrushna Mahatab
4. Shri Ghanshyamlal Oza
5. Shri Tika Ram Paliwal
6. Shri Shivram Rango Rane
7. Shri N. G. Ranga
8. Shri Sham Lal Saraf
9. Dr. L. M. Singhvi
10. Shri U. M. Trivedi
11. Shri T. Abdul Wahid
12. Shri Jaganath Rao

*Rajya Sabha*

13. Shrimati C. Ammanna Raja
14. Shri Jaisukhlal Hathi
15. Shri Akbar Ali Khan
16. Shri R. S. Khandekar
17. Shri Debabrata Mookerjee
18. Shri G. S. Pathak
19. Shri M. Ruthnaswamy
20. Shri P. N. Saprú
21. Shri D. L. Sen Gupta
22. Shri K. K. Shah.

## DRAFTSMAN

Shri S. K. Maitra, *Additional Draftsman, Ministry of Law.*

## REPRESENTATIVE OF THE MINISTRY

Shri Mangli Prasad, *Under Secretary, Ministry of Home Affairs.*

## SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee decided to hear the evidence of the representatives of the West Bengal Bar Council, Calcutta at 11.00 hours on Friday, the 15th January, 1966.

3. The Committee also decided to call the following witnesses for giving oral evidence before them on the dates noted against each:—

- (i) Shri C. K. Daphtary, Attorney-General of India, on Saturday, the 15th January, 1966 at 14.30 hours.
- (ii) Shri M. C. Setalvad, former Attorney-General of India and President, Indian Commission of Jurists, on Monday, the 17th January, 1966 at 11.00 hours.
- (iii) Shri M. N. Kaul, Director, Institute of Constitutional and Parliamentary Studies, New Delhi, on Monday, the 17th January, 1966 at 14.30 hours.

4. After some discussion, the Committee further decided to meet on the 12th February, 1966 at 10.00 hours and thereafter at 14.00 hours on the 14th February, 1966 to take up clause-by-clause consideration of the Bill.

5. The Committee then adjourned to meet again at 11.00 hours on Saturday, the 15th January, 1966.

## IV

## Fourth Sitting

The Committee met on Saturday, the 15th January, 1966, from 11.00 to 13.15 hours and again from 15.00 to 17.15 hours.

## PRESENT

Shri S. V. Krishnamoorthy Rao—*Chairman.*

## MEMBERS

*Lok Sabha*

- 2. Shri N. C. Chatterjee
- 3. Shri Hari Vishnu Kamath
- 4. Shri Harekrushna Mahatab



5. Shri Tika Ram Paliwal
6. Shri Shivram Rango Rane
7. Shri N. G. Ranga
8. Shri Sham Lal Saraf
9. Dr. L. M. Singhvi
10. Shrimati Tarkeshwari Sinha
11. Shri T. Abdul Wahid
12. Shri Jaganath Rao

*Rajya Sabha*

13. Shrimati C. Ammanna Raja
14. Shri Jaisukhlal Hathi
15. Shri Akbar Ali Khan
16. Shri Debabrata Mookerjee
17. Shri G. S. Pathak
18. Shri M. Ruthnaswamy
19. Shri P. N. Saprú
20. Shri D. L. Sen Gupta
21. Shri K. K. Shah.

DRAFTSMAN

Shri R. C. S. Sarkar, *Secretary, Legislative Department,  
Ministry of Law.*

Shri S. K. Maitra, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVE OF THE MINISTRY

Shri Mangli Prasad, *Under Secretary, Ministry of Home  
Affairs.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESSES

- I. Shri C. K. Daphtary, *Attorney-General of India.*
- II. West Bengal Bar Council, Calcutta.
  1. Shri P. Marman
  2. Shri B. Bajpayee
  3. Shri D. Sen.

2. The Committee heard the evidence given by the above witnesses.

3. A verbatim record of the evidence given was taken.

4. The Committee then adjourned to meet again on Monday, the 17th January, 1966 at 14.30 hours for hearing further oral evidence on the Bill.

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V

**Fifth Sitting**

The Committee met on Monday, the 17th January, 1966. from 14.30 to 17.15 hours.

**PRESENT**

Shri S. V. Krishnamoorthy Rao—*Chairman.*

**MEMBERS**

*Lok Sabha*

2. Shri Hari Vishnu Kamath
3. Shri Harekrushna Mahatab
4. Shri Ghanshyamlal Oza
5. Shri Tika Ram Paliwal
6. Shri Shivram Rango Rane
7. Shri Sham Lal Saraf
8. Dr. L. M. Singhvi
9. Shri T. Abdul Wahid
10. Shri Jaganath Rao

*Rajya Sabha*

11. Shrimati C. Ammanna Raja
12. Shri Jaisukhlal Hathi
13. Shri Akbar Ali Khan
14. Shri Debabrata Mookerjee
15. Shri G. S. Pathak
16. Shri M. Ruthnaswamy

17. Shri P. N. Sapru
18. Shri K. K. Shah.

DRAFTSMAN

Shri S. K. Maitra, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY

Shri L. P. Singh, *Home Secretary, Ministry of Home Affairs.*  
Shri Mangli Prasad, *Under Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESS

I. *The Institute of Constitutional and Parliamentary Studies, New Delhi*

Shri M. N. Kaul.

2. The Committee heard the evidence given by the witness mentioned above.
3. A verbatim record of the evidence given was taken.
4. As Shri M. C. Setalvad had not yet returned from abroad, the Committee decided to hear his evidence on the 14th February, 1966.
5. The Committee also decided to cancel the sitting fixed for the 12th February, 1966.
6. The Committee then adjourned to meet again on Monday, the 14th February, 1966 at 15.00 hours.

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VI

Sixth Sitting

The Committee met on Monday, the 14th February, 1966, from 15.00 to 16.30 hours.

PRESENT

Shri S. V. Krishnamoorthy Rao—*Chairman.*

MEMBERS

*Lok Sabha*

2. Shri Homi F. Daji
3. Shri Hari Vishnu Kamath

4. Shri Shivram Rango Rane
5. Dr. L. M. Singhvi
6. Shri T. Abdul Wahid
7. Shri Jaganath Rao

*Rajya Sabha*

8. Shrimati C. Ammannanna Raja
9. Shri Jaisukhlal Hathi
10. Shri R. S. Khandekar
11. Shri Debabrata Mookerjee
12. Shri P. N. Sapru
13. Shri D. L. Sen Gupta
14. Shri K. K. Shah

Shri C. R. Pattabhi Raman, Minister of State in the Ministry of Law, was also present.

DRAFTSMAN

Shri S. K. Maitra, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVE OF THE MINISTRY

Shri Mangli Prasad, *Under Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESS

Shri M. C. Setalvad, *former Attorney-General of India, Vice-President, The Institute of Constitutional and Parliamentary Studies and President, The Indian Commission of Jurists, New Delhi.*

2. The Committee heard the evidence given by the witness mentioned above.
3. A verbatim record of the evidence given was taken.
4. The Committee decided that the evidence given before them should be printed and laid on the Table of the House and that the

memoranda submitted to the Committee by the Associations and others be placed in the Parliament Library for reference by Members of Parliament.

5. The Committee then decided to ask for extension of time for the presentation of their Report upto the 31st March, 1966 and authorised the Chairman, and, in his absence, Shri Shivram Rango Rane, to move the necessary motion in Lok Sabha in this behalf during the week commencing the 21st February, 1966.

6. The Committee also decided to meet next on the 9th and 10th March, 1966 at 16.00 hours for taking up clause-by-clause consideration of the Bill.

7. The Committee then adjourned.

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## VII

### Seventh Sitting

The Committee met on Wednesday, the 9th March, 1966, from 16.00 to 16.50 hours.

#### PRESENT

Shri S. V. Krishnamoorthy Rao—*Chairman.*

#### MEMBERS

##### *Lok Sabha*

2. Shri N. C. Chatterjee
3. Shri Homi F. Daji
4. Shri Raghunath Singh
5. Shri N. G. Ranga
6. Shri Sham Lal Saraf
7. Dr. L. M. Singhvi
8. Shri T. Abdul Wahid
9. Shri Jaganath Rao.

##### *Rajya Sabha*

10. Shrimati C. Ammanna Raja
11. Shri Jaisukhlal Hathi
12. Shri R. S. Khandekar
13. Shri Debabrata Mookerjee
14. Shri G. S. Pathak
15. Shri P. N. Saprú

**DRAFTSMEN**

Shri S. P. Sen Varma, *Secretary Legislative Department,  
Ministry of Law.*

Shri S. K. Maitra, *Additional Draftsman, Ministry of Law.*

**REPRESENTATIVES OF THE MINISTRY**

Shri C. P. Gupta, *Joint Secretary, Ministry of Home Affairs.*

Shri Mangli Prasad, *Deputy Secretary, Ministry of Home  
Affairs.*

**SECRETARIAT**

Shri M. C. Chawla—*Deputy Secretary.*

2. At the outset, the Minister of Law (Shri G. S. Pathak) stated that Government needed some more time to redraft certain clauses of the Bill with a view to exclude the Executive from initiating the motion for the removal of a Judge from office and to ensure that the initiative rested with Parliament.

3. In view of the statement made by the Minister of Law, the Committee decided to ask for further extension of time for presentation of their Report upto the last day of the current (Fourteenth) Session.

4. The Committee authorised the Chairman to move the necessary motion in the House on a convenient date.

The Committee then adjourned.

**VIII****Eighth Sitting**

The Committee met on Monday, the 9th May, 1966, from 15.00 to 16.55 hours.

**PRESENT**

Shri S. V. Krishnamoorthy Rao—*Chairman.*

**MEMBERS***Lok Sabha*

2. Shri Hari Vishnu Kamath
3. Shri Harekrushna Mahatab

4. Shri Raghunath Singh ]
5. Shri Shivram Rango Rane
6. Shri N. G. Ranga
7. Shri Sham Lal Saraf
8. Shri T. Abdul Wahid
9. Shri Jaganath Rao

*Rajya Sabha*

10. Shri Jaisukhlal Hathi
11. Shri Akbar Ali Khan
12. Shri R. S. Khandekar
13. Shri G. S. Pathak

DRAFTSMEN

Shri S. P. Sen Varma, *Secretary, Legislative Department,  
Ministry of Law.*

Shri S. K. Maitra, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY

Shri C. P. Gupta, *Joint Secretary, Ministry of Home Affairs.*

Shri Mangli Prasad, *Deputy Secretary, Ministry of Home  
Affairs.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee took up clause-by-clause consideration of the Bill.

3. *Clause 2.*—The following amendment was accepted:

*For sub-clause (a), sub-clause (b) and sub-clause (c), substitute—*

“(a) ‘Chairman’ means the Chairman of the Council of States;

(b) ‘Judge’ means a Judge of the Supreme Court or of a High Court and includes the Chief Justice of India and the Chief Justice of a High Court;

- (c) 'prescribed' means prescribed by rules made under this Act;
- (d) 'Speaker' means the Speaker of the House of the People;
- (e) 'Special Tribunal' means a Special Tribunal constituted under section 3."

The clause as amended was adopted.

4. *Clause 3.*—The following amendments were accepted:

(i) *For* sub-clauses (1) and (2), *substitute*—

"(1) If a notice of a motion for presenting an address to the President praying for the removal of a Judge signed,—

(a) in the case of a notice to be given in the House of the People, by not less than one hundred members of that House;

(b) in the case of a notice to be given in the Council of States, by not less than fifty members of that Council; is given, then, the Speaker or, as the case may be, the Chairman may, after consulting such persons, if any, as he thinks fit and after considering such materials, if any, as may be available to him, either admit the motion or refuse to admit the same.

(2) If the motion referred to in sub-section (1) is admitted the Speaker or, as the case may be, the Chairman shall keep the motion pending and constitute, as soon as may be, for the purpose of making an inquiry into the ground on which the removal of the Judge is prayed for, a Special Tribunal consisting of three members of whom—

(a) one shall be chosen from among the Chief Justice and other Judges of the Supreme Court;

(b) one shall be chosen from among the Chief Justices of the High Courts; and

(c) one shall be chosen from among persons who are, in the opinion of the Speaker or, as the case may be, the Chairman, distinguished jurists:

Provided that where notices of a motion referred to in sub-section (1) are given on the same day in both



Houses of Parliament, no Special Tribunal shall be constituted unless the motion has been admitted in both Houses and where such motion has been admitted in both Houses, the Special Tribunal shall be constituted jointly by the Speaker and the Chairman:

Provided further that where notices of a motion as aforesaid are given in the Houses on different dates, the notice which is given later shall stand rejected.

(ii) In sub-clause (5), for "by the President" substitute—

"by the Speaker or, as the case may be, the Chairman or where the Special Tribunal is constituted jointly by the Speaker and the Chairman, by both of them,"

(iii) For sub-clause (8), substitute—

"(8) The Central Government may, if required by the Speaker or the Chairman or by both, as the case may be, appoint an advocate to conduct the case against the Judge."

The clause as amended was adopted.

5. Clause 4.—The following amendment was accepted:

For sub-clauses (2) and (3), substitute—

"(2) At the conclusion of the investigation the Special Tribunal shall submit its report to the Speaker or, as the case may be, to the Chairman or where the Special Tribunal has been constituted jointly by the Speaker and the Chairman, to both of them, stating therein its findings on each of the charges separately with such observations on the whole case as it thinks fit.

(3) The Speaker or the Chairman or both of them shall cause the report submitted under sub-section (2) to be laid, as soon as may be, respectively before the House of the People and the Council of States."

The clause as amended was adopted.

6. Clause 5.—The clause was adopted without amendment.

7. *Clause 6.*—The following amendment was accepted:

*For clause 6, substitute—*

Consideration of report and procedure for presentation of an address for removal of Judge. 6(1). If the report of the Special Tribunal contains a finding that the Judge is not guilty of any misbehaviour or does not suffer from any incapacity, then, no further steps shall be taken in either House of Parliament in relation to the report and the motion pending in the House or the Houses shall stand rejected.

(2) If the report of the Special Tribunal contains a finding that the Judge is guilty of any misbehaviour or suffers from any incapacity, then, the motion referred to in subsection (1) of section 3 shall, together with the report of the Special Tribunal, be taken up for consideration by the House or Houses in which it is pending.

(3) If the motion is adopted by each House of Parliament in accordance with the provisions of clause (4) of article 124 or, as the case may be, in accordance with that clause read with article 218, of the Constitution, then, the misbehaviour or the incapacity of the Judge shall be deemed to have been proved and an address praying for the removal of the Judge shall be presented in the manner prescribed to the President by each House of Parliament in the same session in which the motion has been adopted.

The clause as substituted was adopted.

8. *Clause 7.*—The following amendment was accepted:

*For clause 7, substitute—*

Power to make rules. 7(1) There shall be constituted a Joint Committee of both Houses of Parliament in accordance with the provisions hereinafter contained for the purpose of making rules to carry out the purposes of this Act.

(2) The Joint Committee shall consist of fifteen members of whom five shall be nominated by the Chairman and ten shall be nominated by the Speaker.

(3) The Joint Committee shall elect its own Chairman and shall have power to regulate its own procedure.

- (4) Without prejudice to the generality or the provisions of sub-section (1), the Joint Committee may make rules to provide for the following among other matters, namely:—
- (a) the manner of transmission of a motion adopted in one House to the other House;
  - (b) the manner of presentation of an address to the President for the removal of a Judge;
  - (c) the travelling and other allowances payable to the members of the Special Tribunal and the witnesses who may be required to attend such Tribunal;
  - (d) the facilities which may be accorded to the Judge for defending himself;
  - (e) any other matter which has to be or which may be provided for by rules or in respect of which provision is, in the opinion of the Joint Committee, necessary.
- (5) Any rules made under this section shall not take effect until they are approved and confirmed both by the Chairman and the Speaker and are published in the Official Gazette, and such publication of the rules shall be conclusive proof that they have been duly made.”.

The clause as substituted was adopted.

9. *Clause 1.*—The following amendment was accepted:

In sub-clause (1), for “1964” substitute “1966”.

The clause as amended was adopted.

10. *Enacting Formula.*

For “Fifteenth” substitute “Seventeenth”.

The Enacting Formula as amended was adopted.

11. *Title.*—The Title was adopted without amendment.

12. The Draftsman was directed to correct patent errors and to carry out amendments of consequential nature in the Bill.

13. The Committee decided to meet on the 13th May, 1966 to consider their draft report.

14. The Chairman informed the members of the provisions of Direction 87 of the Directions by the Speaker.

15. The Committee then adjourned to meet again at 14.00 hours on Friday, the 13th May, 1966.

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IX

Ninth Sitting

The Committee met on Friday, the 13th May, 1966, from 14.00 to 14.55 hours.

PRESENT

Shri S. V. Krishnamoorthy Rao—*Chairman.*

MEMBERS

*Lok Sabha*

2. Shri Ghanshyamlal Oza
3. Shri Raghunath Singh
4. Shri Shivram Rango Rane
5. Shri N. G. Ranga
6. Shri Sham Lal Saraf
7. Dr. L. M. Singhvi

*Rajya Sabha*

8. Shri Jaisukhlal Hathi
9. Shri R. S. Khandekar
10. Shri Debabrata Mookerjee
11. Shri G. S. Pathak
12. Shri M. Ruthnaswamy
13. Shri P. N. Saprú
14. Shri K. K. Shah

## DRAFTSMEN

Shri S. P. Sen Varma, *Secretary, Legislative Department,  
Ministry of Law.*

Shri S. K. Maitra, *Additional Draftsman, Ministry of Law.*

## REPRESENTATIVE OF THE MINISTRY

Shri Mangli Prasad, *Deputy Secretary, Ministry of Home  
Affairs.*

## SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee took up consideration of the Bill as amended and adopted the same with the following amendments:

(i) In clause 2, and wherever it occurs in the Bill, for "Special Tribunal" substitute "Committee".

(ii) In sub-clause (1) of clause 4, for "on behalf of the defence and of being heard" substitute "and of being heard in his defence".

3. The Committee then considered the draft Report and adopted the same with consequential changes.

4. The Chairman announced that the minutes of dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by 16.00 hours on Monday, the 16th May, 1966.

5. The Committee authorised the Chairman and, in his absence, Shri Shivram Rango Rane to present the Report on their behalf and to lay the evidence on the Table of the House after the presentation of the Report.

6. The Committee also authorised Shri P. N. Saprú and in his absence, Shri K. K. Shah to lay the Report and the Evidence on the Table of Rajya Sabha.

7. The Chairman announced that the Report would be presented to Lok Sabha on the 17th May, 1966 and laid on the Table of Rajya Sabha on the same day simultaneously.

The Committee then adjourned.

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