Chapter V

Need for Codification of the Parliamentary Privileges in India: Some Perspectives

Second part of Articles 105 (3) and 194 (3) of the Constitution require the Parliament and State Legislatures to codify the other privileges (other than those provided under clause 1 and 2 of Articles 105 and 194) by law. First part of Articles 105 (3) and 194 (3) is a transitory mechanism by which the privileges enjoyed by the British House of Commons at the commencement of the Indian Constitution are applied to the legislative bodies in India. No law has been made to codify the privileges either by the Parliament or any of the Legislatures of State. As a result of this, the law relating to Parliamentary privileges is frozen to 26th January 1950. The non-codification of the privileges has led to obscurity as to a) whether all the privileges enjoyed by the British House of Commons can be validly claimed by the Indian legislative bodies which are subordinated to and controlled by the Supreme and Written Constitution; b) whether there is any judicial review available against these bodies in the privilege matters; and c) whether the fundamental rights, including the freedom of press, control the privilege powers of the legislatures. In this context, it would be necessary to examine whether there is a pressing need to codify the Parliamentary privileges in India.

I. Transitory Nature of Articles 105 (3) and 194 (3): Constituent Assembly Background

The framers of the Constitution intended Articles 105 (3) and 194 (3), which deal with the ‘Other Privileges’ of the Parliament and Legislatures of the States, to be transitional and expected that the privileges would soon be codified. Until they were so codified, the privileges enjoyed by the British House of Commons would have to be applied in India. In the Constituent Assembly, many members objected to the reference made to the ‘House of Commons’, which according to them was derogatory to the sovereignty of India and suggested that the privileges of members should be explicitly codified and enumerated in the form of an appendix to the Constitution.
itself. Shri H.V. Kamat, Member of the Constituent Assembly, while responding to the draft article 85 (now Article 105), said:

…… I venture to state that this is the first instance of its kind where a reference is made in the Constitution of a free country to certain provisions obtaining in the Constitution of another State. I see no valid reason why this should be done …… Will it not be far better, far happier for us to rely upon own precedents or our own traditions here in India than to import something from elsewhere and incorporate it by reference in the Constitution?228

The other members such as Prof. Shibban Lal Saksena, Mr. Naziruddin Ahamad and P. S. Deshmukh also showed solidarity with the views held by Shri Kamath and they demanded that the privileges should be laid down explicitly in a Schedule to be added at the end of the Constitution until the Parliament and State Legislatures codify their own privileges.

Prof. Shibban Lal Saksena recommended that Parliament should be authorized to codify its own privileges and as a temporary measure the privileges should be defined in the appendix to be attached to the Constitution instead of making reference to the House of Commons. He said:

……I do feel that reference to the privileges enjoyed by the members of the House of Commons in our Constitution would not be desirable. Many members do not know what those privileges are. I therefore suggest that the learned Doctor who is in charge of the Draft Constitution should append some appendix containing the privileges of members of the House of Commons and those should be our privileges too. It may be a long appendix no doubt, but many members are not aware of these privileges. Also it will not be proper for us to refer in our Constitution to privileges of the members of House of Commons which are liable to change. We can give ourselves these privileges as they exist at a particular point of time. The Parliament will of course have the power to frame its privileges but until it frames these privileges, members should enjoy the privileges enumerated in the proposed appendix.229 (emphasis added).

228 Constituent Assembly Debates (Vol. 8, 4th Reprint, Lok Sabha Secretariat, New Delhi, 2003) 144
229 Ibid, 145
Mr. Naziruddin Ahmad opined that the reference made to the House of Commons made the provision vague and the privileges should be well defined in a Schedule to be appended to the Constitution. He observed:

……I submit that, after independence, we cannot relate our rights to those available to the Members of the House of Commons. We should have our rights clearly and specially defined. In fact, the privileges of the Members of the House of Commons are not statutory. They are embedded in the Common Law to be found in the textbooks which are many and also in case law which are scattered in many places. No one can tell us what the privileges are. ……I suggest that at the end there should be added a Schedule defining the rights pending the House of Parliament making adequate laws in this respect.\(^{230}\) (emphasis added)

Dr. P. S. Deshmukh observed that if the privileges enjoyed by the House of Commons were clearly defined, then there should be no difficulty to enumerate them but if they were vague, then the reference made to the House of Commons would not serve any purpose. He said:

The privileges of the Members of Commons are well understood and well defined and so there should be no difficulty in enumerating them in a Schedule. I think it is not satisfactory to say that the privileges shall be that of such and such a person in such and such place either the privileges are definite or they are vague. If they are well-defined and definite there should be no difficulty in stating them in extenso. If they are vague and indefinite it is wrong to console ourselves with a mere reference to such a thing. To say that the privileges shall be those of the members of the House of Commons in England is certainly vague.\(^{231}\)

Shri Alladi Krishnaswamy Ayyar, however, felt that the draft provision did not fetter the discretion of the Parliament to either enlarge or curtail the privileges by making a law and only as a temporary measure the privileges of the Commons were made applicable to the Indian Parliament. He also pointed out that the practice had also been followed in Australia and Canada. According to him, Article 85 of the draft Constitution was not drafted in a spirit of servility or slavery or subjection to Britain but it was framed in a spirit of self-assertion that our country and our Parliament were as great as the Parliament of Great Britain. He observed:

\(^{230}\) Ibid, 147
\(^{231}\) Ibid, 147
...[T]here is nothing to prevent the Parliament from setting up the proper machinery for formulating privileges. The article leaves wide scope for it. ...It does not in any way fetter your discretion. You may enlarge the privileges, you may curtail the privileges, and you may have a different kind of privileges. You may start on your own journey without reference to the Parliament of Great Britain. There is nothing to fetter the discretion of the future Parliament of India. *Only as a temporary measure, the privileges of the House of Commons are made applicable to this House.* (Emphasis supplied) ... This practice has been followed in Australia, Canada and in other Dominions with advantage and it has secured complete freedom of speech and also the omnipotence of the House in every respect.232

The Chairman of the Drafting Committee, Dr. Ambedkar was not in favor of enacting a complete code of the privileges extending over twenty to twenty five pages and said that the objection, to the reference made to the House of Commons, was merely sentimental. While responding to a debate on the draft Article 169 dealing with the privileges of the State Legislatures (Now Article 194), Dr. Ambedkar said:

It seems to me, if the proposition was accepted that the Act itself should enumerate the privileges of Parliament, we would have to follow three courses. One is to adopt them in the Constitution, namely to set out in detail the privileges and immunities of Parliament and its members. I have carefully gone over May’s Parliamentary Practice which is a source book of knowledge with regard to the immunities and privileges of Parliament. I have gone over the index to May’s Parliamentary Practice and I have noticed that practically 8 or 9 columns of the index are devoted to the privileges and immunities of Parliament. So that if you were to enact a complete code of the privileges and immunities of Parliament based on what May has to say on this subject, I have not the least doubt in my mind that we will have to add not less than twenty or twenty-five pages relating to immunities and privileges of Parliament I do not know whether the Members of this House would like to have such a large categorical statement of privileges and immunities of parliament extending over twenty or twenty-five pages. That I think is one reason why we did not adopt that course.233

Later in 1978, Articles 105(3) and 194(3) were amended by 44th Constitutional Amendment and the reference to the ‘House of Commons’ was deleted but it was

232 *Ibid*, 148

233 *Ibid*, 582
merely a cosmetic change as even today the privileges of the Legislatures in India cannot be determined without making a reference to House of Commons. Commenting upon the futility of the said amendment and application of the colonial (British) law relating to the Parliamentary Privileges in India, Justice Krishna Iyer has observed:

The truth is that even as we celebrate the glory of nearly half a century of Independence, the Indian Parliament suffers from a colonial malady and unblushingly copies the *lex parliamenti* of Imperial Britain. Many of its alien and incongruous elements breed bewildering bugaboos, anomalous antics and obstinate illiteracies. As realists, we have to proceed on the footing that the representatives of the people of India claim privileges whose origin, extent and exclusive authority are wrapped in obscurity, obfuscation and exoticism, sometimes subversive of the common people’s freedoms. Should the Indians be governed from British graves in the matter of parliamentary privileges, is an interrogation of history to the elite of India.234

II. The Codification Debate

Contrary to the wishes of the founding fathers, no law has so far been made under Articles 105 (3) and 194 (3) by the Parliament or any of the State Legislatures to codify the ‘other’ privileges. The powers, privileges and immunities of the legislatures and their members are still governed by precedents of the British House of Commons, as they existed on the commencement of the Indian Constitution. The law relating to the parliamentary Privileges in United Kingdom itself has undergone a tremendous change since 1950 but the Indian Legislatures have not moved in the direction of improving and evolving the law that prevailed in the House of Commons on 26 January 1950. They apprehend that the codified law made in this regard will be subjected to the Fundamental Rights under Article 13 and hence amenable to the jurisdiction of the Courts. The Legislators feel that the codification is likely to harm the prestige and sovereignty of Parliament and State Legislatures without any benefit being conferred on the public at large. They also fear the judicial interference in the proceedings of the Parliament and State Legislatures.235 The following views

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235 See, Dr. K. Madhusudhana Rao, ‘Codification of Parliamentary Privileges in India—Some Suggestions’, (2001) 7 SCC (Jour) 21

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expressed by Mr. Justice M. Hidayatullah, Former Vice President and Chairman, Rajya Sabha, are pertinent to note in this regard-

If there is mutual trust and respect between Parliament and Courts, there is hardly any need to codify the law on the subject of privilege. With a codified law more advantage will flow to persons bent on vilifying Parliament, its members, committees, and courts will be called upon more and more to intervene…. [A] written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament and which the courts will always uphold as zealously as they uphold their own.²³⁶

The non-codification of the privileges has led to the general feeling among the public that legislatures have deliberately been shying away from making a law in this regard. The Courts have attempted to subject, the privileges and the power of the Legislatures to punish for their contempt, to the Fundamental Rights of the citizens and the freedom of the Press. The Legislatures have consistently claimed that the courts have no jurisdiction over them concerning their privileges. Many conflicting situations between Legislatures and the Judiciary had arisen in the past over the jurisdictional issues pertaining to the un-codified Legislative Privileges.

Responding to the repeated demands for the codification of the privileges by the media, Former Speaker of Lok Sabha, Shri Shivaraj Patil has observed:

It is provided that the privileges of the parliamentarians may be codified. However, on one hand there is a pressing demand made by the media persons to make a law, providing for the privileges, on the other hand, Members of Parliament and most of the Presiding Officers have opposed the move to codify them on the ground that as the judicial interpretation of the law is the responsibility of none else but the judiciary If privileges are codified, the matters would be taken to the courts and the Members of Parliament and the Presiding Officers would be asked to subject themselves to the jurisdiction of the judiciary and that would affect the equality between three wings of the

Government and untimely affect the privileges of the parliamentarians to express their views without fear or favour. It is beyond any doubt that the Parliament and the State Legislatures need certain powers, privileges and immunities without which they cannot function in an independent manner or protect their dignity and prestige. But the powers have to be used in a responsible manner and in compliance with the basic principles of natural justice and other safeguards enshrined under Chapter III of the Constitution. For these reasons, Constitutional mandate in the first part of Articles 105 (3) and 194 (3) should be implemented and the privileges should be codified for greater clarity and certainty. Commenting upon the apprehension of the Parliament that codification of the privileges would make the Parliament subordinate to the judiciary, Shanti Swaroop Singh in his book entitled ‘The Press and the Indian Parliament’, observes:

It is baseless to assume that codification will detract from the prestige of Parliament. In fact, the prestige and reputation of Parliament will be enhanced in the public mind if its acts can stand the test of fundamental rights in the objective appraisal of an independent judiciary. In the United States, the House of Representatives is not the final judge of its own powers and privileges and the Supreme Court examines the actions of the House. Still the Supreme Court has preserved the dignity of the House of Representatives to the utmost.

The Press and the Civil Society including lawyers, academicians have long been demanding the codification of ‘the other privileges’ i.e. other than those expressly guaranteed under Article 105 (1) & (2), in case of the Parliament and Article 194 (1) & (2), in case of the State Legislatures. According to the Press Commission of India Report (1954), the application of privileges enjoyed by the House of Commons to the Indian Legislatures is not appropriate because it would be inconsistent with the Indian conditions and the written Constitution which provides for the enforceable Fundamental Rights. It recommends that:

It would, therefore, be desirable that both the Parliament and the State Legislatures should define by legislation the precise powers, privileges and immunities which they possess in regard to contempt and the

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procedure for enforcing them. Such a law would have to be in consonance with our Constitution could presumably be challenged, if it appears to be in conflict with any fundamental right. In that event the position would be clarified by the highest tribunal of the land. Articles 105 and 194 contemplate enactment of such legislation and it is only during the intervening period that the Parliament and State Legislatures have been endowed with the powers, privileges and immunities of the House of Commons.

Justice A. N. Grover, Chairman of the Press Council of India, has also advocated for the codification of the privileges and observed that Members of Parliament should have full confidence in the Courts as the Courts were the part of constitutional machinery and they were not going to strike down as unconstitutional all their actions. One of the great legal luminaries in India, Justice V. R. Krishna Iyer, has expressed the need for the codification of the privileges in the following words:

Indeed our Constitution provides, as a lasting solution, that privileges and immunities of the House and its members be codified. The reference to the law in England is only a transitory provision. If Parliament makes law regarding privileges the court gains the jurisdiction to interpret it. We have a written Constitution and a Sovereign Republic with its own national ethos and it is time to jettison a borrowed, time barred transitory provision and enact a great code promulgating the law fine-tuned to the liberties and parliamentary privileges of a free people. The rule of law commands that the privilege jurisprudence be crystallized and codified.

Many eminent writers, lawyers, academicians and judges have expressed the opinion that there is an urgent need to codify the privileges of the Parliament and the Legislatures of States. According to D. C. Jain, “In the absence of codification, the position on many matters is still confusing and this is likely to lead to more breaches of privilege than would have taken under a codified law.” Former Solicitor General of India and Senior Advocate Shri T. R. Andhyarujina has also observed that the Legislature “…by not defining the extent of its privileges, which it is obliged to do, is

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240 Dr. Ranjana Arora, Parliamentary Privileges in India: Jawaharlal Nehru to Indira Gandhi, (N. M. Tripathi Private Ltd. Bombay 1984) 101
facilitating its unbridled power of punishing for contempt.”243 Justice P. K. Balsubramanyan, Former Judge, Supreme Court of India has remarked that exercise of privileges by the Houses in the absence of a codified law, “puts the fundamental rights of the citizen under peril and leads to disputes and judicial adjudication. The courts are forced to enter the arena that they would normally avoid”244 According to Dr. K. Madhusudhana Rao, “the argument that the codification leads to curtailment of privileges is wholly misconceived as the privileges of the British House of Commons up to 1950 are clearly laid down and the same can be codified within the framework of the Indian Constitution.”245

Shanti Swaroop Singh argues that the codification of the privileges would be in the best interest of Parliament and as he observes that:

…… Codification will be the best guarantee against arbitrary exercise of parliamentary privileges. Codification of the relevant privileges would serve a double purpose: It would enable the members to know their privileges and regulate the conduct and attitude of the public towards them; therefore, it would prevent unjustifiable privilege motions and uninformed public attacks on the House or its members. Consequently, it would reduce the work load of Parliament. Only those cases of breach of privilege or contempt of the House would be brought before the House in which members are sure of a serious breach of privilege and the presiding officer is convinced that they fall within the sphere of the code. Thus, wastage of the precious time of Parliament would be avoided.246

The Courts cannot obviously issue a writ of mandamus to compel the Parliament or the State Legislatures to make a law for the codification of the Parliamentary/Legislative Privileges because the framers have left this matter to the legislative wisdom and discretion of the legislative bodies in India. The Courts,


245 Dr. K. Madhusudhana Rao, ‘Codification of Parliamentary Privileges in India-Some Suggestions’, (2001) 7 SCC (Jour) 21

however, may emphasize upon the need for the codification while dealing with the disputes arising out of the vagueness of the law relating to the privileges. Unfortunately, the Courts have by and large failed to attract the attention of the legislative bodies towards an urgent need to codify the privileges as mandated by the framers. Mr. A. G. Noorani has criticized the Supreme Court for missing such an opportunity recently when the Court decided *Raja Ram Pal v. The Hon’ble Speaker, Lok Sabha and Others* in the following words:-

The Supreme Court has no power to *order* the government to legislate; none whatever. ……..But it is not only a right, but a duty on the part of the courts to point to anomalies and *recommend* legislation…..One can view the judgment in the expulsion case as a sound one, however verbose and long-winded. One cannot but regret that the court missed an opportunity of drawing attention to an anomaly- the fence eating the grass- and *suggesting codification*.  

(emphasis added)

However, Justice Subba Rao in his dissenting judgment in *M. S. M. Sharma v. Shri Krishna Sinha*\(^{249}\), had emphasized the need for the codification of the privileges by the Legislatures in India the following words:-

It may not be out of place to suggest to the appropriate authority to make a law regulating the powers, privileges and immunities of the Legislature instead of keeping this branch of law in a nebulous state, with the result that citizens will Commons at the risk of being called before the Bar of the Legislature.\(^{250}\)

A Public Interest Litigation filed in the Bombay High Court by one Mr. B. Krishna Bhat, seeking for a direction from the court restraining the legislative bodies in India from prosecuting any citizen for alleged breach of privilege in the absence of a comprehensive codified law, has been rejected by the court.\(^{251}\) The petitioner had also sought the mandamus to be issued to the competent legislature to codify the privileges.

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\(^{247}\) *Raja Ram Pal v. The Hon’ble Speaker, Lok Sabha and Others* (2007) 3 SCC 184


\(^{249}\) AIR 1959 SC 395

\(^{250}\) *Ibid*, Para 54

\(^{251}\) *The Tribune*, (Chandigarh February 20, 2004)
Recently, a Lok Sabha privileges Committee has decided against the codification of the Parliamentary Privileges on the ground that it would lead to judicial interference.\(^{252}\) With due respect to the Indian Parliament, it is submitted that the said recommendation is retrogressive step and the non-codification of the privileges would lead to more judicial controversies and conflicts between the Parliament and Courts.

In United Kingdom itself, some constitutional writers suggest that the privileges of the British Parliament should be codified in the best interests of the institution of Parliament. The following comments made by Patricia M. Leopold are worthwhile to quote in this regard:

\[\ldots\ldots\text{It would be to Parliament’s advantage to legislate on these matters. Not to do so keeps open the possibility that a court could come to a conclusion with which Parliament disagreed, leaving it with the choice of pursuing the matter to the highest court, the House of Lords, with the complications to which this could give rise, or introducing legislation after the event to change the court’s decision. The Parliamentary Privileges Act in Australia was passed in just such circumstances. It is surely time that the British Parliament legislated on this subject. (emphasis added)…}^{253}\]

III. Codification of the Privileges in India: Learning From the Australian Example

The Constituent Assembly of India modeled the transitory provisions of the Constitution, i.e. Articles 105 (3) and 194 (3), on Sec. of 49 of the Australian Constitution. It says that the powers, privileges and immunities of the Senate and of the House of Representatives, and of the members and the Committees of each House, shall be such as are declared by Parliament and until declared shall be those of the House of Commons of the U. K. Parliament and of its members and Committees, at the establishment of the Commonwealth.\(^{254}\) Articles 105 (3) and 194 (3) of the Indian Constitution and Sec. 49 of the Constitution of Australia, both, were intended to be


\(^{254}\) Commonwealth of Australia Constitution Act, 1900 s. 49
transitory provisions and the privileges of the House of Commons were to be applied in India and Australia until the legislatures of the respective countries enacted laws codifying their own privileges. The Parliament of Commonwealth of Australia codified its own privileges in 1987 in the form of the Parliamentary Privileges Act, 1987\textsuperscript{255}. However, the Parliament and State Legislatures in India have refrained from doing so apparently because of the apprehension that the privileges would be subject to the fundamental rights leading to the interference of the judiciary in the internal affairs of the legislative bodies.

If at any point of time in future the legislative bodies in India decide to follow the Constitutional mandate in the transitory provisions of Articles 105 (3) and 194 (3), the Australian legislation may act as a skeleton. The Parliamentary Privileges Act, 1987 (Australia) can be adopted by making such necessary changes as suitable to the peculiar Indian circumstances and requirements. An in-depth analysis of the said is required to be made for said purpose.

Section 5 of the Act says that “Except to the extent that this Act expressly provides otherwise, the powers, privileges and immunities of each House, and of the members and the committees of each House, as in force under section 49 of the Constitution immediately before the commencement of this Act, continue in force.”\textsuperscript{256} This is a saving clause which ensures that subject to the provisions of the Act, all the privileges etc. provided under Sec. 49 of the Australian Constitution would continue to apply. This indicates that in other respects the privileges of the House of Commons would be applicable to the Parliament of Australia and its members.

It is submitted that the Act should have itself clearly defined the powers, privileges and immunities instead of leaving the matter to determined by the textbooks of English law. The Australian Parliament has lost an opportunity to make a complete and comprehensive code dealing with the privileges of the Parliament. It is worthwhile to note that Sec. 49 of the Australian Constitution required the application

\textsuperscript{255} Australia- Parliamentary Privileges Act 1987, Act No. 21 of 1987 as amended by Act No. 24 of 2001 See Annexure III for the Full Text of the Act

\textsuperscript{256} Ibid, s. 5
of the privileges of the House of Commons in Australia only for an interim period i.e. until the privileges were codified by the Parliament.

Sec. 6 (1) of the Act abolishes the contempts by defamation and provides that “Words or acts shall not be taken to be an offence against a House by reason only that those words or acts are defamatory or critical of the Parliament, a House, a committee or a member”\(^{257}\). This signifies that the matter relating to the defamation of the Houses of Parliament and its Members would now be dealt in accordance the ordinary law relating to defamation and to that extent there would be no distinction between the members of Parliament and ordinary citizens. Sec. 6 (2), however, excludes “words spoken or acts done in the presence of a House or a committee”\(^{258}\) from the application of Sec. 6 (1). This means that if the defamatory words are spoken in the House, the same can be regarded as the contempt of the House and dealt with the privilege power of the House.

Sec. 7 of the Act\(^{259}\) has rationalized the penalties to be imposed by the Houses for a breach of privilege or contempt of the House. The maximum period for which a person can be imprisoned is 6 months. It also provides for the imposition of the fine not exceeding 5000$, in the case of a natural person or not exceeding 25,000$, in case of a corporation. A person cannot be put into a double jeopardy as it is not permissible to impose on a person both, imprisonment and fine. Sec. 7 is intended to prevent the arbitrary use of power of the Houses to punish for contempt. However, the Houses still continue to exercise the penal power themselves. It would have been more appropriate to transfer the penal powers of the Houses to the Courts so as to prevent the Houses from being judge in their own cause. Sec. 4, however, clearly defines the expression ‘contempt’ and takes away the discretion earlier vested in the Houses. It provides that: “Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or Committee of its authority or functions, or with the free performance by a member of the member’s duties as a

\(^{257}\) Ibid, s. 6 (1)

\(^{258}\) Ibid, s. 6 (2)

\(^{259}\) Ibid, s. 7
The judicial review of the power to punish for contempt is now possible as the court can determine whether a particular act of a person amounts to contempt or not within the meaning of Sec.4. Under Section 9 of the Act, it is now mandatory for the each House of Parliament to set out the particulars of the matters determined by the House to constitute the offence in the resolution of the House imposing the penalty and the warrant committing the person to custody, if a House imposes a punishment of imprisonment for that offence.

The power of expulsion of the House has now been abolished by virtue of Sec. 8 apparently it is considered as an attribute of the power to regulate its own constitution and not power to punish for the contempt. This is in accordance with the recommendation of the Report of Joint Committee on Parliamentary Privileges, 1984 saying that the disqualification of members is determined by the Constitution and the electoral law and if the member is qualified but otherwise unfit, the matter should be left to the electorate.

Sec. 10 of the Act, entitles any person to claim a defence to an action for defamation if the defamatory matter was contained in a fair and accurate report of proceedings at a meeting of a House or a Committee. This provision is similar to Article 361A of the Indian Constitution which confers a qualified privilege on the Press to publish the substantially true reports of any proceedings of either House of Parliament or State Legislatures if such publication advances the public good and is not actuated by malice except the reports of the proceedings of a secret sitting. Sec. 14 of the Act, confers an immunity from arrest in civil cases and attendance before courts, on any member of Parliament, on any day on the concerned House or Committee meets and 5 days before and after such a day. This a modification over the existing immunity enjoyed by the members according to which a member cannot be

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260 Ibid., s. 4
261 Ibid, s. 9
263 Parliamentary Privileges Act (n 255), s. 10
264 Ibid, s. 14
arrested in civil cases during a period from 40 days before and 40 days after the session of the House.

The foregoing discussion would, certainly, be useful to determine what should be included or excluded from the scope of any proposed legislation to be enacted by the legislative bodies in India. Unlike the Australian Law codifying the privileges, the Indian version of the law is required to be more comprehensive in nature and it should clearly define-a) the definitions, nature and scope of the privileges; b) procedure to be followed by the Houses in exercising the privileges; c) curtailment of certain privileges in the interest of freedom of media and d) the extent of the judicial review available against the actions of the Houses. In the absence of any such comprehensive legislation, the ambiguities in the law would continue to generate controversies and frequent conflicts between the legislatures on the one hand and the courts and the civil society on the other.