CHAPTER-II

IMPORTANCE

Parliament is generally a name given to that institution of state which is primarily responsible for the task of making laws of the country. It is one of the most three important institutions of the government namely, the Executive, Judiciary and the legislature having occupying the superior position among all. To enable the Members to discharge their functions independently the Constitution provides certain powers and privileges, individually to each Member and collectively to the house. Privileges are considered to be an important part of the law and custom of Parliament. They tend to preserve the relationship between Parliament and the courts as well as the public. Except so far as it has been made statutory, a privilege is part of the common law.¹ In totalitarian regimes, Parliament either does not exist or where it exists its role is hardly significant. But in a democratic country like India it is the Parliament that carry out the affairs of the state and attend to the grievances of the people. The role of Parliament is more significant in a developing country like India, where the people look to it to meet their growing aspirations.

¹ G. Fray and Philips, Constitutional Law, Longmans green and Co., Lond, 1953, p.113.
It is a popular fallacy that the procedures and practices of the Indian Parliament are the exact replica of the West Minister model. What we have today is the result of centuries of struggle by the English from twelfth century when the Commoners were not giving the same status as that of the Lords and Abbots. They did not have a say in the affairs of the state and were considered the followers of what was conveyed to them by the King and his Council. They had the status of mere the petitioners.

No doubt the British Parliament has provided the inspiration and set a model for the legislature in India as well as in other Common Wealth countries as far as basic features and fundamental principles are concerned. But over the years, the institution itself has gone through tremendous changes to accommodate new challenges and problems posed by fluid political scenario. After independence, framing a Constitution best suited to its basic needs occupied the top priority with the Constituent Assembly in India. It heavily relied on the British Model primarily because they also used to the British Political Culture but in the process the conditions peculiar to India, its traditions were never ignored. The new Constitution tried to incorporate the best from the British and Indian traditions and conventions.
Parliament in India however, is not as sovereign as the British Parliament which enjoys unlimited law-making powers and its sovereignty is unquestionable. Parliament in India on the contrary has to function within the parameters of the Constitution and its amending power is limited by the basic structure. Its legislative authority is also constrained by the federal distribution of powers between the union and the states and Fundamental Rights which are justiciable. Judicial review has also affected its hegemony. Inspite of these limitations Parliament enjoys immense authority as a law-making body. After Independence one of the very important task that had to be undertaken was to enable Parliament to fulfil its obligations as the sovereign legislature of an independent nation. Because of its tremendous responsibility it is supposed to have an edge over other organs of the government. It enjoys the legislative, financial and administrative matters. It is precisely because of this that it enjoys certain privileges and uphold its dignity and ensuring smooth functioning.

**Why Privileges Are Needed?**

Very often a question is posed as to why the House or its Members need privileges or power above the citizens when they themselves are the representatives of the peoples and further it is
said that no Member of Parliament has higher privileges than those enjoyed by ordinary citizens as regards the application of laws. In other words, the privileges do not exalt the member above the ordinary restraints of law which apply to his fellow citizens.

This is no doubt true but the House is associated with such important functions that needs certain freedom and power to carry out the business effectively thus, it was needed to grant certain powers and immunities to the House as a whole and its Members and Committees. The tasks entrusted to Parliament assumes so much importance that without immunities and privileges it is difficult to carry out its functions and maintain the dignity of the House. Further in order to maintain the highest tradition in Parliamentary life, Members are expected to observe certain standards to enhance the dignity of Parliament as well as their own dignity. Nothing should be contrary to the usage or derogatory to the dignity of the House or in any way inconsistent with the standards which Parliament is entitled to expect.

**Functions of the House:**

It is one of the top three organs of the government occupying unique position. It enjoys the highest power in legislative, financial and executive fields. The functions it is called
upon to perform are many which can be categorised as

1. Law making
2. Financial
3. Control over Executive
4. Control over administration
5. Power to amend Constitution
6. Control over public corporations

Law making is its primary function. The power to enact laws rests with it. Laws are enacted after a thorough debate by the Members of the House and assented to by the head of the state. Article 107(2) says "a bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as agreed to by both Houses. Previously it was in the form of petition but now it is a full fledged legislative body which has developed a procedure of law making, having unwielded authority to make, confirm, enlarge, restrain, abrogate, repeal, revive and expound laws." It has the right to legislate on each and every topic and no other body may legislate except with the authority of Parliament.

3. I.D. Sharma, Modern Constitution at work, Lucknow, 1950, pp.32.
Control over finance: enactment of the budget is yet other important function of Parliament so far as the financial matters are concerned. It wields greater authority which has developed the lower House to a position of like the House of commons. It controls the purse of the nation and closely monitors the expenditure. This system of Parliamentary control over public finance had its origin in England which was gradually accepted and adopted by other countries all over the world. Article 149 empowers the Parliament to lay down the duties and powers of the Auditor General. He functions as an agent of the Parliament and keeps vigil over public finance. Besides the Standing Committees of Parliament, the public account committee and the estimate committee are also associated closely with public accounts and expenditure. Many a times these committees have brought to the notice of Parliament the financial irregularities, notable among them was the Jeep scandal. It is largely through these committees the financial accountability of the Council of Ministers to Parliament is ensured and enforced.

No less important is the control of the executive by the Parliament. The executive is responsible to the Parliament, both individually and the Council collectively. Article 75(3) says that Council of Ministers shall be collectively responsible to the House
of the people. The Council of Ministers can remain in office so long as it enjoys the confidence of the House and it must resign whenever the policy of the government proves fundamentally unacceptable to the House. Control over the executive is exercised through Parliamentary questions, debates and discussions, adjournment motions and no confidence motions. It is also empowered to impeach the President and Judges of the Supreme Court and High Courts. It is actually the Parliament that makes and unmakes the Executive and always keeps it on its toes.

Article 368 empowers Parliament to amend by way of abolition, variation or repeal any provision of the Constitution. There is no separate constituent body for the purpose of amendment of the Constitution. Parliament's power to amend the Constitution is, however, limited by the doctrine of basic structure propounded by the Supreme Court in the case of Keshvananda Bharti vs Union of India and the Minerva Mills. In the name of amendment Parliament can not amend or repeal or destroy the basic structure (which is yet to be spelled out by the Supreme Court) of the Constitution. It's amending power, is therefore, limited.

It also exercises control over public corporations mainly through the committee on public undertakings. Being the
custodian of public interest it is bound to maintain highest standards of integrity and efficiency more so in commercial and industrial enterprises, which are financed out of public funds. Parliament's control over public corporation is manifest in their creation, discussion on their Annual Reports and approval of their budgets. Parliament is not only a law making body but also a debating assembly. It criticizes the administration and policies of the government, highlights the administrative lapses and financial irregularities and keeps the administration on tender hooks. The fear of Parliamentary questions often acts as a deterrence to the administration.

It is because of these important functions and enormous responsibilities that it requires certain amount of freedom to carry out these tasks effectively and fearlessly. The law making process in itself is long and cumbersome involving prolonged debates and discussions. For the effective enforcement of this task it is essential that Members of Parliament should be given freedom to present their views without fear or favour. These freedom owe their origin to the exalted position of the House, considered indispensable for its effective functioning and hence, their importance can not be under emphasized. Pyme rightly observe that "Parliament without Parliamentary liberties are but a fair
plausible way into bandage." In the words of May "the distinctive
mark of the privileges is its ancillary character. They are enjoyed
by individual Members because the House can not perform its
functions without the unimpeded use of the service of its
Members and by each House for the protection of its Members
and the vindication of its own authority and dignity." The
principal reason of such privileges is that 'unless Parliament can
not keep its membership intact from out side interference,
whether or not the interference was the motive of embarrassing
its section it could not be confident of any accomplishment.'
Thus each House of Parliament collectively, and its members
individually, enjoy certain privileges i.e. certain rights and
immunities without which the House and its Members can not
discharge the functions entrusted to them by the Constitution.
They safeguard the authority and dignity of the House, its
Committees and Members and where there is any question of an
alleged breach of privileges the matter is examined by the House,
but generally by the committees.

The Speaker of the House nominates the committee. In
constituting the committee, the speaker takes into consideration

5. D.C. Jain, Parliament Privileges under Indian Constitution, Sterling
Publisher, New Delhi, 1975, p.2.
6. Ibid., p.7.
7. Ibid.
the claims, interests and the strength of various parties and groups in the House so that the committee is fully representative. The first committee for the purpose was appointed by the Speaker in April, 1950, consisting of ten members which has now been raised to fifteen. The most important function of this committee is to examine every question of privilege referred to it in the light of facts and circumstances leading to it, making the recommendations which deems fit.\textsuperscript{8} Some times it has also been required by the House to consider questions of procedure relating to the privileges of the House. Apart from the standing Committee of Privileges which inquires the matter of privileges of the House and its Members, adhoc committees are also appointed from time to time to consider and investigate the conduct of the Members of the House and to find out whether such conduct was derogatory to the dignity of the House and inconsistent with the standard expected of the Members. One such committee was appointed in 1951 to consider the Mudgal case and again in 1963 and 1971.

Being a sovereign body, subject to the constraints of the Constitution, the House has an inherent right to conduct its affairs without any interference whatsoever.

\textsuperscript{8} Rule 314, of the Business of the House.
It is the most important function of the Parliament to receive petitions from people since it is the Parliament to which people look to ventilate their grievances. This is not a new practice but has been in vogue since time immemorial when the petition was demanded by the kings or rulers of the state. In early Parliaments position was entirely different, the representative elements were humble and precarious. For most of the reign of Edward II they could not make constitutional claim in sharing parliamentary functions. Those functions were supposed to be exercised by the council only but even then the Commons became conscious, they made their grants of supply conditional (made supply only when provided a chance to share in legislation and counsel on policy matter). But they could not become the judges in the High court of Parliament therefore, not possessed the power to perform in the same manner as their peers did as counsellors of the King.

The relationship of the Commons with legislation was in the capacity of petitioners, at first as individuals and soon as a body. The statute of York, 1322, laid down a principle that laws of general application should be made in Parliament and secondly, the Common's assent is necessary. These principles had never been definitely laid down ever before. To so succeed in enforcing
the general observance of these principles, the Commons had a long struggle. This struggle was conducted on two main fronts. First, the King's power to make laws outside the Parliament had to be restricted. This was done by appropriating the name of 'statute to Parliamentary legislation,' and leaving the name of ordinance for conciliar legislation. Secondly, by restricting the sphere of ordinances.

At the beginning of a new Parliament in sixteenth century the speaker, when went up to the House of Lords to receive the royal approbation of this election, laid claim by humble petition to "the ancient and undoubted rights and privileges" of the commons, particularly to four; freedom from arrest, liberty of speech, access to the royal person and a favourable construction of all their proceeding.

The lord chancellor responded that "Her Majesty most readily confirm all the rights and privileges which have been granted to or conferred upon commons by her majesty or any of her royal predecessor." The matter was of such an importance that it finds its place in the Indian Constitution. In United Kingdom, this right has been regarded as a fundamental principle of the Constitution.

The right to present, and for the house to receive, petitions is clearly laid down by the House of Commons in 1669 as "that it is the inherent right of every commoner in England to prepare and present petitions to the House of Commons to revive the same". It is an undoubted right and privilege of the Commons to judge and determine, touching the nature and matter of such petitions, how they are fit and unfit to be received. In India it owes its origin to a resolution moved in the preindependence era in the then council of states by a Member (Sir Manekji Byramjee Dadabhoy) on 15th September, 1921, which sought to empower the council, if necessary, by statute interaction to receive public petition on all matters relating to public wrongs, grievances or disability to any acts of public servants or to public policy.10

Thus the process of development was slow but steady. The Parliament began acquiring more and more power and the role of the King was restricted to few areas. The Great Revolution of 1688 particularly marked this development. The closing years of the period notable since they contributed immensely to the growth of Parliamentary system of government in England. The Revolution and the Bill of Rights marked a culminating point to the development. All that exists today is nothing more than a detailed

application of principles established in the seventeenth century. None of the principles postulates like the sovereignty of the nation, supremacy of law, and omnipotence of Parliament were seriously challenged again.

Parliament in India has played a pioneer role in working towards the goals of national reconstruction and nurturing the values of freedom, secularism and democracy. Its pivotal position in India's democratic polity is not only a matter of fundamental principle in constitutional theory but it is also a well established fact in our political life. As a microcosm of the nation Parliament has consistently reflected the feelings, hopes, aspirations and even weakness and frustrations of the peoples of India. It was clearly emerged as the most crucial political institution of India the future of which depends on the working of that key institution since the success of any nation depends on how much are its policies effective and implemented in the real life of public to encourage and enhance their development. This can be resulted only if the Members devote themselves whole heartedly and also with a great degree of freedom so as to come out with their hidden ideas and express suitable proposals. This is possible only when they are given certain privileges over others. These privileges and immunities must be attached to each House...
collectively, and to the Members thereof individually, enabling the Parliament to act and discharge its functions without any interference or obstruction from any quarter. Thus, for the effective and efficient deliberation the Members have been given some what wider personal liberty and freedom over an ordinary citizen to ensure their uninterrupted services. These are necessary to vindicate its authority, prestige and power and protect its Members from any obstruction in the performance of their Parliamentary functions.

According to Article 88 and 105 (4), the privileges are not only available to the members of the House but also to those who under Constitution, entitled to speak and take part in the proceedings of the House or any of its committees e.g., Attorney General, hence, to make the Members able to express their ideas and to ensure their movements freely during the business of the House a large number of privileges are thus granted to them.

**Area Sphere of Privileges:**

The privileges constitute an important part of Parliamentary life Article 105 (1) and (2) provides for freedom of speech in Parliament which falls outside the purview of the judiciary. Jaspat Roy Kapoor suggested that a nonmember of Parliament who had
a right to speak in Parliament should also be granted immunity from any proceedings in a court of law not only in respect of what he might say on the floor of the House but also in respect of what he might say before a committee of Parliament and his suggestion was accepted. The ideas behind these immunities is not only to protect the person from any proceeding anywhere but also to enable them to speak freely and come out with their free and frank ideas. Otherwise no express ideas can be emerged and proper information can not be sought. Parliament is the Store House of information and ideas, and this is made possible only when the Members participate freely without any hesitation. To get information from the government of what is happening in various fields, Members ask for information. Even to criticize government's policy they move different motions and put the government on their toe to act according to the prescribed line. The Right to put questions for seeking further information from the government was first provided in 1892, and in 1909 and right to ask supplementary questions was also conceded. The Act of 1909 provided that any Member who had asked a question could put a supplementary question for the purpose of elucidating further information and for this nothing said in the House is

justiciable thus, Members are protected for what they observe and speak in the House.

Under section 67(7) of the Government of India Act, 1919, the Members of the legislature for the first time enjoyed, in express terms, the right to freedom of speech and vote inside the legislative chamber. They are also not liable to any proceeding in any court for their speech or vote in either House for any thing said in official reports. This also applies to the publication of any proceeding or paper under the authority of the House. In England, the House of Commons has the right to Prohibit the publication of its reports, debates or other proceedings. In search light case, the question was whether the publication, by a newspaper, of those parts of the speech of Member in the House which were ordered to be expunged by the speaker constitute breach of privilege of the House. The Supreme Court held that the publication of expunged portion of speech constituted a breach of the privilege of the House.

Generally there is a decline in the functioning of most of the institutions during the last few decades and it should surprise no one if one finds this erosion in standards affecting the performance of our Parliament. It is of main concern that the

12. Ibid.
House of the Parliament constitute the acme of our democratic polity. Their proceedings are an open book, constantly watched by the people through newspaper, reports and T.V. coverage, any such lowering in the quality of its functioning or deviation from the requisite norms become much more perceptible and pronounced. Parliament being the supreme forum for deliberating over national issues and matters of public importance is expected to set the tone and provide pattern of discussion and deliberations for other forms to follow and also set norms of behaviour for others to emulate.

Our founding fathers had chosen in the Parliamentary System over the Presidential Form of Government. This was not incidentally but was deliberately chosen as its secures greater accountability. Though the presidential form provides more stability but accountability over stability was preferred as it constitutes the essence of democracy and Rule of Law. It would not be out of contest to mentions that in 1642 Charles I enter into the Parliament with army men to arrest some Members, the king said to the speaker “Mr. Speaker, I am not able to identify the Members whom I want to arrest. You please identify them and hand them over to me”\(^\text{13}\) the speaker told him in a fearless voice.

\(^{13}\) *Journal of Constitutional & Parliamentary Studies*, Institute of Constitutional and Parliamentary Studies, New Delhi, 1993, p.41.
that he had no eyes and ear of his own but see with the eyes of the House and hear with their ears while functioning as speaker of the House. He further said that he could not oblige His Majesty. And when the King was leaving with his army men the Members of the House shouted at him* Your Majesty, Breach of Privilege, Breach of Privilege. This only establishes the supremacy and its ability to assert even against the King.

The essence of Parliament democracy lies in free, frank and fearless discussions. This enables Members to express themselves freely in the House. Freedom of speech and debate in Parliament in England dates back to 17th century in the famous case of Sir John Eliot who was convicted by the Court of King's Bench for seditious speeches made in the House of Commons. The House of Lords reversed this decision on the ground that "the words spoken in Parliament should only be judged there in." The Bill of Rights, 1688, laid down that the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out side the Parliament. A Member may thus say whatever he thinks proper within the House and no action can be brought against him in any court for this. The validity of proceedings within a House also can not

be called in question in a court even if the House does not strictly follow its own rules of procedure. It is an exclusive right of the Parliament to regulate its own internal proceedings and to adjudicate. The courts will not interfere with what takes place inside the House. As in Bradlaugh V. Gossaf case. Bradlaugh was prevented from entering the House by the order of the House of Commons. The plaintiff asked the court to declare the order of the House as invalid. But the court held that the House of Commons was not subject to the control of the court in matters relating to its own internal proceedings. The House of Commons has exclusive right of being the exclusive judge of the legality of its own proceedings, no court of law can interfere with the rights of the House to regulate its internal affairs.

In India, Article 122 categorically states that the validity of the proceeding in Parliament can not be called in question in a court of law on the ground of any alleged irregularity of procedure. In M.S.M. Sharma V. Sri Krishna Sinha, Supreme Court held that "the validity of the proceedings inside the legislature of a state cannot be called in question on the allegation that procedure laid down by the law has not been strictly followed." Each House reserves to itself the power to

suspends any rules of procedure in its application to a particular business before it. The courts do not interfere with the functioning of the speaker inside the House in the matter of regulating the conduct of business of the House by virtue of powers vested in him. The High Court would not issue prohibition to restrain the Committee on Privileges appointed by the House to consider a privilege matter.\[^{16}\] It is an exclusive right of the members to regulate the internal proceeding of the House and to adjudicate upon matters arising there in within the precinct of the House. As May apply obscenes, it is “the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by members of each House individually, without which they could not discharge their functions and which exceeds those possessed by other bodies or individual.”\[^{17}\] Redlich considers the privileges of the Commons as the sum of fundamental rights of the House and of its individual Member as against the prerogatives of the Crown, the authority of the ordinary courts of land and the special rights of the House of Lords.”


Other privileges are extended to make their movements free while the House is in session. Members can not be arrested in a civil proceeding within a period of forty days before and forty days after a session to ensure the safe arrival and attendance for their parliamentary duties which are so important that they can not be ignored or overlooked at any cost. The same privilege is extended to the state legislators. In K. Ananda Nambiar V. Chief Secretary Government of Madras case, the petitioner who was a Member of Parliament, detained under the Defense of India Rules, 1952, He challenged the order of detention on the ground that a legislator can not be detained and prevented from exercising his constitutional rights as legislator while the legislative chamber to which he belongs is in session. The privilege are extended not to endanger the security and efficiency of the nation rather to the good and prompt services of the country. The privilege is extended not only to the civil cases but in criminal cases too, the House has the right to receive immediate information about the arrest and if the House is not being informed about the detention the act amounts to breach of privilege, The detenue is authorized to correspond with the legislature and make correspondence with the speaker and the chairman of the committee of privileges, the executive authority has no right to withhold such
Rule Making power is yet another privilege. The business of the House is so technical in nature that the House is authorized by the Constitution to frame their own rules and procedures for smooth conduct of business. Whenever circumstances change and new situations arise, the rules need to be changed accordingly which is done by the House itself.

Impact of Privileges:

The word immunity is used simultaneously with privilege. It implies immunity against any action outside the House for any thing said by its Members or vote cast in the discharge of his parliamentary duties. It also implies freedom from legal process in connection with the proceedings in Parliaments freedom from arrest in civil cases, immunity from law of slander for words spoken in Parliament, exemption from obeying subpoenas and exemption from serving on juries and attendance as witness in a court during a session of Parliament. It is an essential thing for the proper exercise of their parliamentary functions. The privileges, powers and immunities of the Houses of Parliament and their members, therefore, act as a shield and, to some extent, as a

19. Ibid., p.58.
sword where by the Houses and their members are not only protected but also assert their right to "talk" with dignity and independence, without any fear or favour. Thus, the Parliament and its Members today are not guarded against the challenges to its freedom, from the executive and judicial branches of government but also in greater degree from the fourth state, namely a power full free press and from the citizens themselves, who individually and collectively are endowed by the Constitutions with several fundamental freedom of which the most important one is the freedom of speech and expression. They enjoy the complete freedom therein by virtue of power vested in them.

The Constitution does not exhaustively enumerate all the privileges of the Parliament, it simply lays down under Article 105 (3) that other powers and privileges of the House, and its Members and committees would be the same as those of the House of Commons in England on the date of commencement of the Constitution. On this basis the Houses enjoyed enormous privileges in the discharge of their work.

Apart from privileges of freedom of speech and freedom from arrest and rule making, other privileges enjoyed by the House and its Members are to elicit information and knowledge about administration and its working. The Members are free to ask
questions to keep themselves well informed. Members or committees have the right to ask for necessary information, date of events or other material from the government needed for the performance of their functions by tabling questions, moving resolutions or raising discussions on matters of public importance, Ministers too have the right to claim privilege to maintain secrecy in sensitive matters. Executive Members though, are not bound to supply information on such matters to a Member in his individual capacity but the committee or House as a whole can ask for access to records, papers and persons and the government is obliged to supply such information. The matter is so important that the very first hour of every sitting is utilised in asking questions on a wide range of subjects. Deliberately providing wrong information to the House amount breach of discipline. Privileges also exempt Members from jury services. They may decline to give evidence and appearance as a witness in a court of law when Parliament is in session. The House also has the right to exclude any stranger from the House during discussion on issues of national security to maintain secrecy. The speaker or chairman has the power to order the withdrawal of strangers from the premises of the House.
The High Court would not issue a writ under Article 226 to a House of Parliament or Speaker or any of its officer to restrain the House from enacting any legislation even if it may be ultravires. The court would not interfere with the legislative process in a House either in the formative stages of law making or with the presentation of the bill as passed by the House of Parliament to the President for his assent. A member of the House cannot be restrained from presenting any bill or moving a resolution in the House. It is only when a bill becomes a law, the courts would adjudicate upon its constitutional validity, Neither House can compel the attendance of a Member of the other House. If the attendance of a Member of one House to give evidence before the other House or a Committee thereof is desired, it is necessary not only to obtain the leave of the House to which such Member belongs but also the consent of that Member. Member of one House is not bound to attend the other House or its committees to give evidence.

A specific privilege yet undermines the dignity or authority of the House or tends to obstruct the House or an individual Member thereof in the discharge of the constitutional functions is considered breach of privilege. The very aim of the term breach of privilege.

Privileges is to enable the House to uphold its dignity, defend itself against disrespect and affronts which could not be brought, or could be brought only by implication under any accepted specific privileges.

**Power of the House To Deal with Contempt of the House/Breach of Privilege:**

According to Halsburys, any act or omission which obstructs or impedes any Member or Officer of the House in the discharge of their duties, or which has a tendency to produce such a result would constitute contempt of legislature. Viewed in this light, the House needs to safeguard its authority and its dignity. For the sake of the work of the House as a collective body, each Member has duties and privileges; the House will safeguard the later for its sake. For this it has the power to punished any Member or any one else, interfering with a Member for contempt of its rulings. The punishment can extend to imprisonment or exclusion from the House which is non-justiciable. A committal for contempt or for breach of privilege is within the exclusive jurisdiction of each house and is not subject to appeal to any outside authority or to judicial review. But in case of Thamarikani, M.L.A., Madras Legislative Assembly were the
petitioner challenged the decision of the speaker of the House following fifteen days imprisonment for him and suspension from the House for the whole budget session, the Madras High Court directed to realise him on the bail which the speaker had accepted. Though earlier he (speaker) order to 'rearrest' him in difference to the High Court order but later he had accepted in order to avoid confrontation between the Legislature and Judiciary. Otherwise if the conduct is derogatory to the dignity of the House and its Members and inconsistent with the standards which the House expects from its Members, the House is authorized to award punishment to the recalcitrant Members and outsiders ranging from imprisonment, fine, admonition, reprimand to suspension and expulsion from the House. Eriskon May said that the penal jurisdiction of the House to punish person for committing breach of privilege, within or outside the House is judicial in nature and is derived from the pristine concept that Parliament is primarily a court of justice. In India when the speaker of Lok Sabha while reprimanding the Editor in the Blitz case, (1961) described the Lok Sabha as High court of Parliament.

The scope of the phrase 'contempt of the House and breach of privilege is very broad and covers a variety of situations where the House can take action. Generally the case of contempt of the House and Breach of privilege arises if any act or omission obstructs or impedes it in the performance of its functions or which obstructs or impedes any Member or officer of the House in the discharge of his duties or which has a tendency directly or indirectly to produce such results.

The matter of breach of privilege is such an important aspect that whenever any complaint is received the matter should be raised as soon as possible just after it has occurred. If it has occurred before the sitting of the House, it is raised before the commencement of usual business and if it arises out of the proceedings then it is taken at the earliest possible time. And whenever it is raised in the House by a Member, the committee either hears the question of privilege or permit him to explain his case in a written statement or hear any other Member of the House who may desire to place his views before the committee. In the light of its reports the House takes decision and action is taken on it.

The right of the House to punish for its contempt is analogous to the right of a superior court to punish for its
contempt, and in fact was justified in early days in England by a reference to the mediaeval concept of Parliament being the highest court in England. The principal reason behind the contempt of the House or Breach of Privilege is that “unless Parliament cannot keep its membership intact from outside interference, whether or not the interference was the motive of embarrassing its section it could not be confident of any accomplishment. Thus, each House of Parliament collectively, and its Members individually, enjoy these privileges i.e. certain rights and immunities without which the House and its Members can not discharge the functions entrusted to them by the Constitution. The very basic aim of these privileges is to safeguard the freedom, the authority and the dignity of the House, its Committees and Members and where there is any question of an alleged breach of a privilege the matter is examined by the House and committee. The Member need not to go to court for any thing said or vote given in the House even he can refuse to attend as witness in any court on any important issue rather, the House is based on the principle that attendance of a Member in the House takes precedence over all other obligations and that the House has the paramount right and prior claim to the attendance and services of its Members and even the court also
sees, if it is possible, to arrange for the attendance of the Member after the session is over. But no Member is entitled to give evidence in relation to any debate or proceeding in the House except by its leave. Each House of the Parliament has the power to secure the attendance of persons of privileges and to punish for breach of privilege and commit the offender to custody or prison. This power of the House to punish for contempt or breach of privilege has been described as "Key Stone of Parliamentary privilege" and is considered necessary to enables the Members and the House to discharge their function safely. Without such power the House would sink into utter contempt and inefficiency. This power of the House to punish any person who commits a contempt of the House or a breach of any privileges is the most important right, actually it is this power that gives reality to the privileges of Parliament and emphasizes its sovereign character so far as the protection of its rights and the maintenance of its dignity is concerned.

**Its Effects:**

It is doubtless that the Parliament is engaged in most important functions chiefly statute or law making. All Members of Parliament enjoyed important personal privilege ensuring them the freedom to concentrate on their unparalleled work without any
hindrance or obstacle. They possess the power to punish all those who interfere in their deliberation or impede it. The House is thus made supreme in awarding punishment to the accused and no appeal is made in any other place or law court outside Parliament. This maintains the supremacy and dignity of the House as well as its personnel.

The sphere of the breach of privilege is very wide empowering the House and its members to take action against those which seems derogatory to its dignity. The matter is so important that whenever it is raised it gains prime importance, committee hears it without any delay and gathers the facts for preparing its report. The House relies on its report and action is taken in the light of the report. The jurisdiction of the House to punish for its contempt and breach of privilege is so exclusive that most of the time the Parliament is called the highest court as in England. This has made the Members immune from any proceeding in any court related to any matter of the House even the Members can refuse to appear witness in any court howsoever important the matter is and no action is taken against them, this has made the privilege a key stone.