

# PARLIAMENTARY PRIVILEGES

B. A. II Sem. II  
Lesson - 2

Article 105 of the Indian Constitution provides for the powers, privileges of the Houses of Parliament and of the members and committees also.

Definition of Privilege - Privilege means a special right or an exceptional right or freedom / immunity enjoyed by a particular class or group of persons or some individuals.

• In its legal sense it means an exemption from some duty, burden, attendance or liability to which others are subject.

Privilege can also be defined as a right which is denied to others.

• Parliamentary privileges are those special rights belonging to each house of Parliament, its members and committees, without which they cannot perform their functions in the manner they are expected to. The privileges are granted with a view to maintain the independence of action and the dignity of the members of the Houses of Parliament and to enable them to function without any hinderance. ①

These privileges in practice gives rise to certain powers, immunities and exemption.

It doesnot, however, imply that the privileges belonging to members place them on a footing different from that of an ordinary citizen i.e its case doesnot go against the principle of 'equality before law' which is the foundation of our constitutional setup.

The basic law is that all citizens including members of Parliament should be treated equally before the law. They have the same rights and duties as a citizen of the country, except when they perform their duties in the Parliament.

The privileges are available to the members only when they are functioning as representatives of the people in Parliament and discharging their parliamentary responsibilities. The privileges, donot, in any way, exempt the members from their normal obligations to the society which apply to them as much and, <sup>more</sup> as closely in that capacity, as they apply to others.

The 2 most important  
privileges i.e - (a) freedom of speech in Parliament  
(b) immunity of members from  
any proceedings in courts  
in respect of anything said or  
any vote given by them in  
the Parliament.

has been specified in Article 105 of the  
Constitution in the following manner -

- 1) There shall be freedom of speech in  
Parliament but subject to the provisions  
of the Constitution and to the rules and  
standings that regulates the proceedings  
of the Parliament.
- (2) Clause (2) and (3) of the article provides  
that no member of Parliament shall be  
liable to any proceedings in any court  
in respect to anything said or any vote  
given by him in the Parliament or any  
committee and no person shall be so  
liable to respect of the publication by or  
under the authority of either House of  
Parliament of any report, paper notes or  
proceedings. (3)

(3) In other respects the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as maybe defined by Parliament by law, and control them

(4) The provisions of Clause (1), (2) and (3) shall apply in relations to persons who by virtue of this constitution have the right to speak in, and otherwise to take part in the proceedings of a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

Freedom of Speech - The most important parliamentary privilege is that of freedom of speech given to the members while performing parliamentary duties. Under Article 19, Constitution gives right to freedom of speech and expression to its citizens but it is subject to innumerable reasonable restrictions in the name of morality, national interest, national security, etc. An ordinary citizen who speaks something that is considered

to be inappropriate or against the restrictions which are imposed upon the freedom, is liable to be proceeded against but, a MP speaking in the House or in one of its committees is immune from any attack on the ground that his speech was libellous or defamatory.

Members of Parliament have to give expression to the public grievances and raise various matters of public importance and in doing this, members should not suffer any inhibition and they should be able to speak out their minds and express their views freely. No outside authority has been given the right to interfere in this privilege. Freedom of speech is absolutely necessary for a member to function freely without any fear or favor in the committees and in the House of Parliament. The constitution, therefore, provides that no action be taken against a MP in any court or before any authority other than the Parliament in

respect of anything said or a note given by him in the House of Parliament or in any of its Committees. Article 122 specifically forbids any inquiry by courts into proceedings of Parliament.

The immunity from external influence or interference, however, does not mean an unrestricted license of speech within the walls of the Parliament. It should be noted that privileges of the Houses and Committees are subject to other provisions of the constitution. For example :- Article 118 and 121 forbids discussion in Parliament on the matter of conduct of Judges except on a motion for their removal.