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THE PARLIAMENTARY PRIVILEGES  
AND CONVENTIONS  
IN  
MALAYSIA

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## CHAPTER 1

### INTRODUCTION

#### 1) The Nature of the Parliamentary Privilege

The nature of our Parliamentary privilege in Malaysia is derived from the provision of Clause (1) Article 63 of the Federal Constitution;

'The validity of any proceedings in either House of Parliament or any Committee thereof shall not be questioned in any Court'.

The position as regard to the nature of this privilege in Malaysia is mutatis-mutandis the position in England, Parliamentary privilege has been defined as;

'the sum of peculiar right 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 exceed those possessed by other bodies or individuals'(1).

As the chief legislative organ in the country Parliament should exercise certain powers and privilege which are regarded as essential to the dignity and proper functioning of it. Every member of the Houses of Parliament, therefore, must be free to carry out his responsibilities without inhibition.

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(1)

ErsKine May: Parliamentary Practice; 19th. Edn. Pg. 67.

In England, Parliamentary privilege is regarded as part of the Common Law and therefore the Courts may claim the right to decide if a claimed privilege exists. However, they will interfere no further. But then, somehow, they will refuse to allow either House to claim privilege beyond those recognised by law. In the case where the privilege is infringed, the Courts will neither review, nor hear an appeal against Parliament's decision.

Littledale J, in the case of STOCKDALE v HANSARD (2) expressed his view on this, saying that;

'..... each House is the sole judge of its own privileges..... as for as the proceeding in the House..... are concerned'.

This means, as it has been claimed that each House of Parliament is at their own liberty and freedom to conduct its own proceedings without improper interference by the sovereign, the Courts, bodies outside Parliament or the Public.

'The privilege of each House have both external and internal aspects: they restraint interference with the House from outside..... they also protect the House from internal attack...'(3)

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(2) (1839) 9 Ad. & El at page 162.

(3) Wade and Phillips: Constitutional and Administrative Law, 9th. Edn. Pg. 198.