

It is true that the judge is critical of the conduct of the honourable Member for Peel for influencing the appraiser, Mr. Clare, but his criticism falls more on Mr. Clare, whose professional duty it was to make a fair appraisal, for allowing himself to be influenced. He makes observations, too, about the honourable Member's negotiations with the Minister of Transport. If these observations or "affirmations" as they are styled in the Notice of Motion are taken as fact and the worst construction is put on them, it would appear that the honourable Member for Peel on behalf of his constituents unsuccessfully attempted to get more generous compensation for them from public funds for the lands which the Crown had expropriated than they were warranted in receiving. This summary may not do justice either way but the judge's observations are more fully set out in the motion for all to read.

If the learned judge, who, as I have said had experience of Parliament, felt that the conduct of the honourable Member for Peel was contrary to the usages and dignity of Parliament, would he not have said so?

Two important facts which appear from the judgment are, first, that the honourable Member did not stand to gain or profit for himself by anything which he did. On the contrary, the learned judge observed that his interest was only political; secondly, that no public funds were improperly paid out. The amount to be paid was determined by due process of law, in fact by the judge himself, and that is what the judgment was about.

However, the absence of formulation of a charge by the judge or by any Member of the House does not absolve me from the responsibility of considering whether the reasons for judgment on their face imply conduct on the part of the honourable Member which was contrary to the independence and dignity of the House of Commons of which he is a Member, conduct, in other words, which was a breach of its privileges.

No close precedent was cited and I have been unable to find any.

The privileges of the House are stated in general terms in May, 16th edition, pages 42 and 43, as follows:

"Parliamentary privilege 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 exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the ordinary law.

"The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are 'absolutely necessary for the due execution of its powers'. They are enjoyed by individual Members, because the House cannot perform its functions without unimpeded use of the services of its Members; and by each House for the protection of its Members and the vindication of its own authority and dignity.

"When any of these rights and immunities, both of the Members, individually, and of the assembly in its collective capacity, which are known by the general name of privileges, are disregarded or attacked by any individual or authority, the offence is called a breach of privilege, and is punishable under the law of Parliament. Each House also claims the right to punish—"

And so on. I think I need not read more because the nature of privilege is generally understood.