Re Keshav Singh (Art.143) AIR 1965, SC 745 case summery

(1.) THIS is a petition under Article 226 of the Constitution praying for the issue of a Writ in the nature of Habeas Corpus setting the petitioner at liberty.
(2.) THE petitioner had been detained in the District Jail, Lucknow, under a warrant issued over the signature of the Speaker of the Legislative Assembly, Uttar Pradesh, showing that the petitioner had been convicted for contempt of the Legislative Assembly and sentenced to seven days' imprisonment. This petition was filed on March 19, 1364, before the Lucknow Bench of this Court. The petition was admitted on the same day and an interim order was made directing the petitioner to be released on ball on furnishing two sureties in the sum of Rs. 1,000/- each and a personal bond in the like amount to the satisfaction of the District Magistrate, Lucknow. It may be mentioned that on March 19, 1864, the petitioner had served six days out of the sentence of seven days and only one day's imprisonment remained to be suffered by him.

(3.) THERE is no real controversy as to the facts of the case. The petitioner has filed a supplementary affidavit which gives the facts in detail. A pamphlet had been published and circulated to Gorakhpur as well as in the precincts of the Legislative Assembly, making allegations of corruption etc. against one Narsingh Narain Pandey (a member of the Legislative Assembly). A complaint was made by Narsingh Narain Pandey and others in the Legislative Assembly that this amounted to a breach) of the privilege of Narsingh Narain Pandey and amounted to contempt of the Legislative Assembly. The question was referred to the Privileges Committee and the Privileges committee issued notices to four persons, namely, the petitioner (Keshav Singh), Shyam Narain Stngh, Hub Lal Duhey and Mahatam Singh. Out of these four persons, it was alleged that the petitioner, Shyam Narain Singh and Hub Lal Dubey had printed and distributed the said pamphlet and Mahatam Singh had distributed the pamphlet at the gate leading to the lobby of the House. The Privileges Committee found the petitioner. Shyam Narain Singh and Hub Lal Dubey guilty of the contempt of the House and recommened that they be reprimanded. Thereafter the Assembly passed a resolution that a reprimand be administered to the petitioner, Shyam Narain Singh and Hub Lal Duhey for having committed contempt of the Assembly by printing and publishing the pamphlet. Notices were issued to these three persons to

appear before the Assembly to receive the reprimand. Shyam Narain Singh, and Hub Lal Dubey appeared before the Assembly on February 19, 1964, and received the reprimand but the petitioner failed to appear before the Assembly, in spite of being repeatedly required to do so, alleging inability to procure money to pay the fare for the necessary railway journey. Thereupon, respondent No. 1 (the Speaker of the Legislative Assembly) Issued a warrant for the arrest of the petitioner and on March 13, 1364, the Marshal of the Assembly arrested the petitioner at Gorakhpur and on March 14, 1964, produced him at the Bar of the Legislative Assembly. The petitioner was asked his name by the Speaker repeatedly but he would not answer any question at all. He further refused to face the Speaker. After the reprimands had been administered, the Speaker brought to the notice of the Assembly a letter dated March 11, 1964, written by the petitioner to the Speaker in which he stated that he protested against the sentence of reprimand and further stated that the contents of the pamphlet were correct and that a brutal attack had been made on democracy by issuing "nadirshahi Farman" (warrant) upon him. The petitioner admitted having written this letter. Respondent No. 3 (Shrimati Sucheta Kripalani) moved a motion that the petitioner be awarded seven days imprisonment for having committed another contempt of the House. The Assembly thereupon passed a resolution that

"keshav Singh be sentenced to imprisonment for seven days for having written a letter worded in language which constitutes contempt of the House and for his misbehaviour towards the House. "

A warrant was issued to the Marshal of the House and the Superintendent, District Jail, Lucknow, stating that the Legislative Assembly had sentenced the petitioner to simple imprisonment for seven days for committing the offence of contempt of the Legislative Assembly and ordering that the petitioner be detained in the District Jail at Lucknow for a period of seven days. The petitioner was taken to the Jail on the same day and imprisoned there. As already mentioned above, this petition was moved on March 19, 1964, before the Lucknow Bench of this Court and, on the same day, the petitioner was released on ball.

(4.) SERIOUS questions arise for consideration in this case. Learned counsel for the petitioner has challenged the legality of the detention of the petitioner on the following grounds:

(i) That the Legislative Assembly does not possess any penal jurisdiction and has no power to punish any person for its contempt; (ii) that even if the Legislative Assembly has such power, the detention of the petitioner is in violation of Article 22 (2) of the Constitution and is illegal; (iii) that the conviction of the petitioner by the Legislative Assembly was in violation of the provisions of Articles 21 and 22 (1) and of the principles of natural Justice; (iv) that the Superintendent, District Jail, Lucknow, had no power to receive and detain the petitioner on the basis of the warrant issued by the Speaker of the Legislative Assembly; and (v) that the action of the Legislative Assembly in punishing the petitioner was mala fide.

(5.) IN this writ petition, the Speaker Legislative Assembly, the Legislative Assembly U. P. , Srimati Sucheta Kriplani Chief Minister of U. P. and the Superintendent District Jail have been impleaded as respondents Nos. 1 to 4. The first three respondents have not appeared before us and only the fourth respondent has appeared. Learned counsel for the petitioner raised an objection that since respondents Nos. 1 to 3 had not appeared to support their actions, respondent No. 4 should not be permitted to do so. For this objection he places reliance on the following observations of Lord Atkin in Liversidge v. Anderson, 1942 AC 206 at p. 243:

". . . . . In English Law every imprisonment is prima facie unlawful and that it is for the person directing Imprisonment to justify the act. "

We think that the objection is misconceived. The petitioner can only succeed if he establishes his case. Since it is alleged in the petition itself that the petitioner was detained in pursuance of a commitment by the Legislative Assembly, the detention cannot be treated as prima facie unlawful and it is for the petitioner to show that the commitment was illegal. Even if no one had appeared to oppose the petition, we would still have to decide whether the commitment was legal or illegal. We see no good reason why respondent No. 4 should not be allowed to urge that the commitment and the warrant, on the basis of which he was detaining the petitioner, were valid. In any case, in deciding the questions which have arisen in this case, we are entitled to the assistance that counsel for respondent No. 4 has given us. (5a) Before we start consideration of the contentions of the petitioner, it is necessary to set out Article 194 of the Constitution from

which the Legislative Assembly seeks to derive the powers to punish for contempt. This Article reads as follows:

"194 (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State. (2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings. (3) In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall he such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees, at the commencement of this Constitution. (4) The provisions of Clauses (1), (2) and (3) shall apply in relation 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 the Legislature of a State or any Committee thereof as they apply in relation to members of that Legislature. "

No law has yet been made by the Legislature with respect to the powers, privileges and immunities of the House of the Legislature though power to make such a law has been conferred by Entry 39 of List II of the Seventh Schedule to the Constitution. The powers and privileges of the Legislative Assembly have, therefore, to be determined in accordance with the latter part of Clause (3) of Article 194.

(6.) THE first contention of learned counsel for the petitioner is that the Legislative Assembly does not possess any privilege of committing any person for its contempt. According to learned counsel, such a power is a judicial power and, since there is separation of powers under the constitution, the Legislature cannot have any such judicial power. He contends that, in England, the House of Commons possesses this power of commitment for its contempt on account of the fact that it is a court of record and that this privilege cannot be imported into India by way of Article 194 (3) since the Legislature in India are not courts of record. Learned counsel for the

petitioner has not disputed that the House of Commons possesses this privilege. His contention is that every privilege enjoyed by the House of Commons cannot be claimed by the Legislative Assembly by virtue of Article 194 (3) and, in support of his contention, he relied upon the following observations contained in the majority opinion of the Supreme Court in In the matter of, Reference under Article 143 of the Constitution of India, Special Ref. No. 1 of 1964 D/- 30-9-1964: (reported in AIR 1965 SC 745):

"take the privilege of freedom of access which is exercised by the House of Commons as a body and through its Speaker 'to have at all times the right to petition, counsel, or remonstrate with their Sovereign through their chosen representative and have a favourable construction placed on his words was Justly regarded by the Commons as fundamental privilege'. It is hardly necessary to point out that the House cannot claim this privilege. Similarly, the privilege to pass acts of attainder and impeachments cannot be claimed by the House. The House of Commons also claims the privilege in regard to its own Constitution. The privilege is expressed in three ways, first by the order of new writs to fill vacancies that arise in the Commons in the course of a parliament; secondly, by the trial of controverted elections; and, thirdly, by determining the qualifications of its members in cases of doubt. This privilege again, admittedly, cannot be claimed by the House. Therefore, it would not be correct to say that all powers and privileges which were possessed by the House of Commons at the relevant time can be claimed by the House. "

In M. S. M. Sharma v. Sri Krishna Sinha, AIR 1939 SC 395, it was observed in the majority judgment:

"therefore, under the latter part of Clause (3) of Article 194, the Legislative Assembly of Bihar has all the powers, privileges and immunities enjoyed by the House of Commons at the commencement of our Constitution. What, then were the powers, privileges and immunities of the House of Commons which are relevant for the purposes of the present petition?"

"the latter part of Article 194 (3) confers all these powers, privileges and immunities on the House of the Legislature of the States, as Article 105 (3) does on the House of Parliament. It is

said that the conditions that prevailed in the dark days of British history, which led to the Houses of Parliament to claim their powers, privileges and immunities, do not now prevail either in the United Kingdom or in our country and that there is, therefore, no reason why we should adopt them in these democratic days. Our Constitution clearly provides that until Parliament or the State Legislature, as the case may be, makes a law defining the powers, privileges, and immunities of the House, its members and committees, they shall have all the powers, privileges and immunities of the House of Commons as at the date of the commencement of our Constitution and yet to deny them those powers, privileges and immunities, after finding that the House of Commons had them at the relevant time, will be Dot to Interpret the Constitution but to re-make it. "

It is accordingly our duty to find whether the privilege claimed was a privilege enjoyed by the House of Commons at the date of the commencement of our Constitution, whatever be its origin. And, If we find that the House of Commons did enjoy such a privilege, then it is our duty to hold that the Legislative Assembly also possesses the privilege unless, for some compelling reason, we find that such a privilege cannot possibly be enjoyed by the Assembly. Such a compelling reason may be a direct or implied prohibition contained in some provision of the Constitution. The privilege of freedom of access to the Sovereign which is exercised by the House of Commons is impossible of enjoyment by the Legislative Assembly, as, under our Constitution, we have no Sovereign. The privilege of the House of Commons in regard to its own Constitution by ordering new writs to fill vacancies and by trial of controverted elections cannot be exercised by the Indian Legislatures as specific provision in this regard has been made in Part XV of the Constitution, thus excluding the exercise of these powers by the Legislatures under Article 194 (3). There is no provision in the Constitution which contains any express or implied prohibition against the exercise by the Legislative Assembly of the privilege enjoyed by the House of Commons to commit for its contempt. The fact that the power or privilege to commit for contempt is in the nature of a judicial power is, in our opinion, not a compelling reason for denying the power to the Legislative Assembly as there is no rigid separation of powers under our Constitution. Since, even according to the learned counsel for the petitioner. Artiticle 193 confers a power upon the legislative Assembly to punish a person who sits or votes as a member of the Assembly in certain circumstances which is also in the nature of a judicial power, it cannot

be said that the idea of the exercise of judicial power by the Assembly was abhorrent to the Constitution-makers. Nor does the majority opinion of the Supreme Court in Special Reference No. 1 of 1964 : (AIR 1965 SC 745) support the contention of the petitioner. The opinion that the Legislative Assembly does not possess the power which the House of Commons enjoys of issuing a general warrant and of insisting that the Courts treat it as conclusive is based on two grounds, viz. , first that the power is enjoyed by the House of Commons by virtue of agreement with the Courts and not by virtue of its being a privilege of the House of Commons and, secondly, that, even if it is considered to be a privilege of the House of Commons, it cannot be imported into India as it would be Inconsistent with the exercise of the power under Article 32 by the supreme Court and of the power under Article 226 by the High Courts. The basis of the opinion is not that this is a privilege possessed by the House of Commons by virtue of its being a superior court of record and that it cannot be enjoyed by the Legislative Assembly as it is not a court of record.

(7.) IT is then contended by learned counsel for the petitioner that the only penal power, which the Constitution intended to confer upon the State Legislatures, is mentioned in Article 193. Article 103 runs as follows:

"193. If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a state before he has complied with the requirements of Article 188, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State. "

The contention is that the House of Commons also possessed a similar penal power and the making of a separate provision in Article 193 regarding the penal power indicates that the Constitution-makers did not intend to include any penal power under Article 194 (3). In other words, the contention is that Article 193 is exhaustive of all penal powers which have been conferred upon the Legislative Assembly and that no penal power can be assumed by virtue of the provisions of Article 194 (3). We are unable to agree with this contention. Article 193, in our

opinion, merely places a restriction upon the power and privilege of the State Legislatures to punish persons sitting or voting in the Legislature unauthorisedly. This Article cannot be read as exhaustive of all the penal powers of the State Legislatures.

(8.) ANOTHER ground urged by learned counsel for the petitioner in support of his contention that the Legislative Assembly should not be held to possess the power to punish for its contempt is based upon Clause (2) of Article 194. According to him, this clause, though it confers immunity upon the members of the Legislature for anything said or vote given inside the House, gives no such protection outside the House. According to him, since there is no protection outside, anything done by the House outside the House can be challenged before a Court of law and, therefore, If a person is convicted of contempt and brought out of the House, he can immediately be released by the courts. According to him, in this situation the possession of the power to commit for contempt would be meaningless as it can be set at paught outside the House by the courts. It is difficult to apprefacte this contention. The mere fact that the action of the House is justiciable before a Court of law can be no ground for holding that the Legislature has no power to take such action. There is no warrant for the proposition that, unless the House has complete immunity inside and outside, it cannot be held to possess the power to commit for contempt.

(9.) LEARNED counsel for respondent No. 1 has contended that the question, whether the Legislative Assembly has the power to commit for its contempt is concluded by the decision of the Supreme Court in Sharma's case, AIR 1959 SC 395. He relies upon the two following passages occurring in the majority judgment:

"the Legislative Assembly claims that under Article 194 (3) it has all the powers, privileges and immunities enjoyed by the British House of Commons at the commencement of our Constitution. If it has those powers, privileges and immunities, then it can certainly enforce the same, as the House of Commons can do. "

"if the Legislative Assembly of Bihar has the powers and privileges it claims and is entitled to take proceedings for breach thereof, 'as we hold it is,' then it must be left to the House itself to determine whether there has, in fact, been any breach of its privilege."

Again, in Special Ref. No. 1 of 1964: (AIR 1965 SC 740), there is the following observation in the opinion of the majority:

"there is no doubt that the House has the power to punish for contempt committed outside its chamber, and from that point of view it may claim one of the rights possessed by a Court of Record. "

The word "house" in this passage refers to the Legislative Assembly. These passages certainly show that the Supreme Court was of the view that the legislative Assembly has the power to enforce its privileges and to commit for its contempt.

(10.) IT is not denied by learned counsel for the petitioner that the House of Commons has the power to commit for its contempt. This power of commitment has been described in England as the "keystone of parliamentary privilege". In our opinion, both upon authority and upon a consideration of the relevant provisions of the Constitution, it must be held that the Legislative Assembly has, by virtue of Article 194 (3), the same power to commit for its contempt as the House of Commons has.

(11.) THE second contention of learned counsel for the petitioner is that, even if the Legislative Assembly has the power to commit the petitioner for contempt and has so committed him, his detention is in violation of Article 22 (2) of the constitution. Article 22 (2) is as follows:

"22 (2) Every person who is arrested and detained in custody shall be produced before the nearest Magistrate within a period of twenty four hours of such arrear excluding the time necessary for the Journey from the place of arrest to the Court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate. "

According to learned counsel for the petitioner, even after the commitment the petitioner should have been produced before a magistrate before he could be detained in Jail.

(12.) LEARNED counsel for respondent No. 4 contended that the decision of tne Supreme Court in Sharma's case, (Spl. Ref. No. 1 of 1964): (AIR 1965 SC 745) has conclusively decided that the provisions of Part III of the Constitution including Article 22 are not applicable to a case falling under Article 194 (3) of the constitution, in our opinion, Sharma's case does not lay down any such broad proposition. All it decides is that Article 19 (1) (a) is not applicable to a case under the latter part of Article 194 (3) and, further, that Article 21 is applicable to such a case. It did not decide generally about the applicability of Part III or specifically of Article 22. In the opinion of the majority in Special Ref. No. 1 of 1964: (AIR 1965 SC 745), it is observed regarding the majority judgment in Sharma's case, Spl. Ref. No. 1 of 1964: (AIR 1965 SC 745) as follows:

"therefore, we do not think it would be right to read the majority decision as laying down a general proposition that whenever there is a conflict between the provisions of the latter part of Article 194 (3) and any of the provisions of the fundamental rights guaranteed by Part III, the latter must always yield to the former. The majority decision, therefore, must be taken to have settled, that Article 19 (1) (a) would not apply, and Article 21 would. "

(13.) AS already stated, the petitioner was arrested on March 13, 1964, after he had been commuted for the first contempt, for being produced before the Legislative Assembly to receive the reprimand. His initial arrest and detention till he received the reprimand have not been challenged in this petition. After he was reprimanded, he was committed, for a second contempt, sentenced to seven days. ' simple imprisonment and, ordered to be detained in the District Jan, Lucknow. The detention of the petitioner, which is challenged in this petition, is detention in jail pursuant to his committal for contempt and sentence of seven days' imprisonment in our opinion, the provisions of Article 22 (2) of the Constitution cannot apply to a detention in pursuance of a conviction and imposition of a sentence of imprisonment by a contempt authority. In the State of Punjab v. Ajaib Singh, AIR 1953 SC 10 it is observed as follows:

"the language of Article 22 (1) and (2) indicates that the fundamental right conferred by it gives protection against such arrests as are effected otherwise than under a warrant issued by a Court on the allegation or accusation that the arrested person has, or is suspected to have, committed, or is about or likely to commit an act of a criminal or quasi-criminal nature or some activity prejudicial to the public or the state interest. "

It is, therefore, clear that Article 22 (2) is appllcable only at a stage when a person has been arrestee and is accused of some offence or other act and it can have no application after such person has been adjudged guilty of the offence and is detained in pursuance of such adjudication. Again, in State of Uttar Pradesh v. Abdul Samad, AIR 1962 SC 1506, it is observed:

"when the Constitution makes a provision for production before a magistrate, the requirement is not to he treated as any formality but as purposeful and designed to enable the person arrested and detained to be released on bail or other provision made for his proper custody pending the investigation Into the offence with which he is charged or pending an inquiry or trial. "

Where a person has been convicted and sentenced for contempt by the Legislative Assembly, his production before a magistrate would be absolutely futile. The magistrate would have no power either to release such a person on bail or to make any other order or provision regarding his custody. The Constitution-makers could never have intended that an empty formality should be gone through which would serve no useful purpose. Article 22 (2) was not intended to apply to a case of detention following conviction and sentence by the Legislative Assembly. We accordingly hold that the detention or the petitioner is not violative of the provisions of Article 22 (2) of the Constitution.

(14.) THE third contention of learned counsel for the petitioner is that the conviction of the petitioner was in violation of the provisions of Articles 21 and 22 (1) and of the principles of natural justice. in this connection, he further contended that the facts round by the Legislative Assembly against the petitioner did not amount to contempt of the Legislative Assembly.

(15.) HO far as the question of violation of Article 21 is concerned, the matter is concluded by the decision of the Supreme Court in Sharma's case, Spl. Ref. No. 1 of 1964 : (AIR 1963 SC 745). It was observed in the majority decision in Sharma's case:

"the Legislative Assembly claims that under Article 194 (3) it has all the powers, privileges and immunities enjoyed by the British House of commons at the commencement of our Constitution. If it has those powers, privileges and immunities, then it can certainly enforce the same, as the House of commons can do. Article 194 (3) confers on the Legislative Assembly those powers, privileges and immunities and Article 308 confers power on it to frame rules. The Bihar Legislative Assembly has framed rules in exercise of its powers under that Article, it follows, therefore, that Article 194 (3) read with the rules so framed has laid down the procedure for enforcing its powers, privileges and immunities. If, therefore, the Legislative Assembly has the powers, privileges and immunities of the House of Commons and if the petitioner is eventually deprived of his personal liberty as a result of the proceedings before the Committee of Privileges, such deprivation will be in accordance with procedure established by law and the petitioner cannot complain of the breach, actual or threatened, of his Fundamental Right under Article 21. "

(16.) SINCE we have already held that the Legislative assembly has the power to commit the petitioner for its contempt and since the Legislative Assembly has framed rules for the procedure and conduct of its business under Article 208 (1), the commitment and deprivation of the personal. liberty of the petitioner cannot but be held to be according to the procedure laid down by law within the meaning of Article 21 of the Constitution.

(17.) THE petitioner is not entitled to challenge the commitment either on the ground of violation or the principles of natural justice or on the ground. that the facts found by the Legislative Assembly do not amount to its contempt. Once we come to the conclusion that the Legislative Assembly has the power and Jurisdiction to commit for its contempt and to impose the sentence passed on the petitioner, we cannot go into the question of the correctness, propriety or legality of the commitment. This Court cannot, in a petition under Article 226 of the Constitution, sit in appeal over the decision of the Legislative Assembly committing the petitioner for its contempt. The legislative Assembly is the master of its own procedure and is the sole judge of the question

whether its contempt has been committed or not. In this connection, we may mention that learned counsel for the petitioner also contended that Rules 74 and 76 of the Rules of Procedure and Conduct of Business of the U. P. Legislative Assembly are ultra vires, Rule 74 reads as follows:

(17.) THE petitioner is not entitled to challenge the commitment either on the ground of violation or the principles of natural justice or on the ground. that the facts found by the Legislative Assembly do not amount to its contempt. Once we come to the conclusion that the Legislative Assembly has the power and Jurisdiction to commit for its contempt and to impose the sentence passed on the petitioner, we cannot go into the question of the correctness, propriety or legality of the commitment. This Court cannot, in a petition under Article 226 of the Constitution, sit in appeal over the decision of the Legislative Assembly committing the petitioner for its contempt. The legislative Assembly is the master of its own procedure and is the sole judge of the question whether its contempt has been committed or not. In this connection, we may mention that learned counsel for the petitioner also contended that Rules 74 and 76 of the Rules of Procedure and Conduct of Business of the U. P. Legislative Assembly are ultra vires, Rule 74 reads as follows:

"74. Opportunity to person charged--Except where the breach of privilege is committed in the actual view of the House, the House shall give an opportunity to the person charged to be heard in explanation or exculpation of the offence against mm, before the sentence is passed: Provided that if tne matter has been referred to the Committee on privileges and the person, charged has been heard before the Committee. It will not be necessary fur the House to give him that opportunity unless the House directs other wise. "

The validity of this rule was challenged on two grounds namely, (1) that It violated the principles of natural Justice; and (2) that it violated the provisions of Article 22 (1) of the Constitution. With respect to the first ground, it is sufficient to say that rules of natural justice only apply when the statute or statutory rules are silent as to the procedure but no statutory provision or statutory rule can be struck down where it makes a provision excluding the application of rules of natural Justice. Rule 74 has been framed in pursuance of the power conferred by Article 208 (1). It

cannot be challenged on the ground of violation of the principles of natural justice. With regard to the second ground, it is unnecessary in the present case either to consider whether Article 22 (1) applies to proceedings before the Legislative Assembly or to consider whether Rule 74 violates Article 22 (1) for the reason that no complaint has been made in the writ petition that the petitioner desired to consult and to be defended by any legal practitioner. Indeed, from his attitude before the Legislative Assembly it is clear that be had no desire to participate at all in the proceedings. Rule 76 lays down the punishments that may be inflicted upon a person found to nave committed a breach of privilage of the Legislative Assembly. we cannot appreciate how the striking down of Rule 7b can help the petitioner. Under Article 194 (3) the Legislative Assembly has the power to inflict the same punishments which the House of Commons can inflict for breach of its privilege and Rule 76 does not provide for any punishment which may be said to be severer than that which the House of Commons con inflict. Even if Rule 7c had not been there, the Legislative Assembly could very well have inflicted the punish-meat upon the petitioner which it has Imposed on aim in the present case. It is, therefore, unnecessary to consider the question of the validity of this Rule.

(18.) THE fourth contention of learned counsel for the petitioner is that the Superintendent, District Jail, Lucknow, respondent No. 4, had no power to receive and detain the petitioner in the District Jail on the basis of the warrant issued by the Speaker of the Legislative Assembly. In support of this contention, he relies upon Section 3 of the Prisoners Act, 1900 (Act No. 3 of 1900) which runs as follows:

"3. The officer in charge of a prison shall receive and detain all persons duly committed to his custody under this Act or otherwise by any court according to the exigency of any writ, warrant or order by which, such person has been commited, or until such person is discharged or removed in due course of law. "

HE relies upon the words "by any Court" and contends that the Superintendent could receive and detain only those persons who were committed to his custody by any Court and could not receive persons sent by any other authority. We cannot agree with his contention. Section 3 is not exhaustive. It contains no prohibition against the Superintendent of a Jail receiving persons sent

by a competent authority other than a Court of law. Since the House of Commons has the power to commit any one for its contempt and to confine him in one of Her Majesty's prisons, the Legislative Assembly also has a similar power to confine any person