

In my Answer, I contented myself with making some Observations on the Statute of 1st of *William and Mary*, declaring the Rights and Liberties of the Subject, and this you mention under the Title of the *Bill of Rights*; which Mistake of Appellation is very excusable, since I am satisfied by the Reasoning of the Law Part of your Paper, no Lawyer was consulted with: I did not go any further back than that Statute, not doubting but the Force of the very Words, with my Remarks and your own Knowledge in that Point, would have satisfied you how ill-founded your pretended Privilege is; but as I now find, that by any Helps you can get, you appear to have had very little Insight into this Point, I must give as good an Account as I can at present of this Privilege of Freedom of Speech in general, after which I shall enter into a Discussion of so much as (I can understand) of what you have advanced on that Head, and also show the Consequences of your extraordinary Doctrine to the Liberty and Freedom of your Electors.

By the Noble Historian of the Civil Wars (whose Authority and Reasoning on this Point stand unquestionable at this Day), "Freedom of Speech, and Freedom from Arrests, are the chief Privileges: Access to the King; and Correspondence by Conference with the Lords, are rather of the Essence of their Councils than Privileges." But as the Freedom of Speech is the only Point before us, I shall confine myself to the Consideration how that has been from Time to Time:

I am not acquainted with any Statute before the 4th *Henry VIII*, Cap. 6, on this Point, "That all Suits, Accusations, Condemnations; Executions, Amerciaments, Punishments, Corrections, Charges, and Impositions, that had been then put upon *Richard Strode*, and every of his Complices that were of that Parliament, or should be of any other Parliament, for any Bill speaking, reasoning, or declaring, of any Matter or Matters concerning the Parliament to be communed or treated of, should be utterly void and of no Effect."

*Mr. Petit* remarks on this Statute, "That it was not introductive of any new Law, nor did it give any new Privilege to the Members of either House of Parliament; but was only declarative of the ancient Customs and Usage of Parliament."

If this is the Privilege with Regard to the Freedom of Speech, how can my Behaviour in Conversation with *Mr. Smith* be accounted a Breach of it? Was he sued, accused, condemned, executed, amerced, punished, or corrected? Was he obliged to pay any Charges or Impositions? And you will find that *Mr. Petit*, who was Compiler of every Instance in Support of Parliament, and its Privileges, does not pretend to prove, That what passes in Conversation, even in an angry Manner, is a Breach of Privilege; so far from that, the Instances he produces in the Reigns of *Elizabeth* and *James I.* on this Subject, are only where the Members were actually restrained by an Order from the King, the Privy Council, or a Court of Law, and were not permitted to attend the Parliament.

It is very true, that when *James* the First endeavoured to stretch Prerogative, the Commons, to be even with him, made one or two extraordinary Declarations in Point of their Privileges of Speech, and of their Members: But I do not know, or ever heard of one single Instance, where the House of Commons, either in the Reign of *James I.* or at any other Time before 1641, or since 1666, took Notice of any Person for reproving a Member in Conversation, on any Point debated in the House: For indeed to suppose the contrary, would be to suppose the Electors gave up their Liberty, instead of preserving it by their Election of a Representative.

It is well known, that in the Reign of *Charles I.* there were many Encroachments by the King on the Privileges of Parliament, and afterwards more by the House in 1641 on the Liberties of the Subject, under Pretence of Privileges: In that Period I do agree you may find some Votes and Resolutions agreeable to your present Claim, but which can never take Effect in this or any other Country of Liberty. I pass by the Uurpation of *Oliver Cromwell* with only this Remark, That both it; and the Blood and Confusion which preceded, were in a great Measure the Consequences of the House of Commons intimidating the Nation, by extending their Privileges and Votes and Resolutions concerning them.

In the Reigns of *Charles II.* and *James II.* there is not one Instance that I know, of any Person being censured by the House of Commons, for what passed either in a Dispute or Quarrel, where Words were only used towards a Member concerning any Matter debated in the House; and surely if the Words Questioning or Place bore the Signification you contend for, many Instances must have happened, where the Member might think himself so ill treated, as to be ready and willing to revenge himself by the Authority of the House of Commons.

We may now come to the happy Æra of our Constitution; when the Statute for preserving the Rights and Liberties of the Subject was made: Hitherto, sometimes the King encroached on the Privileges of the Commons; and at other Times the House of Commons, by their Votes usurped, under Pretence of their Privileges, upon the Liberties of the People: Therefore it was necessary, to prevent further Doubt or Cavil, to ascertain and declare what Privilege was in that Point of Freedom of Speech; and accordingly the Legislators made use of these Words, "That the Freedom and Debates of Proceedings in Parliament ought not to be impeached or questioned in any Court or Place out of Parliament." One would think the Plainness of these Words would of themselves obviate your Claim; and much more so, when you have not been able to produce one Instance, where those Words, upon any Complaint and solemn Determination of the House of Commons, were ever construed agreeable to your Exposition; on the contrary, I have shew'd out of *Petit*, what Instances he imagined to be within this Privilege of Speech before that Statute: And I dare say, no one can suppose but that he, who professedly wrote in Vindication of the Commons and their Privileges, would have mentioned Instances agreeable to your Reasoning, if there had been any such of good Authority: But notwithstanding all this, and my clear Exposition of that Statute in my former Answer, you endeavour to distinguish upon the Words of that Statute, and the Arguments in my Answer relating to it; you do not convert my Exposition of that Statute according to a legal Construction, but you say, that the Term *legal*; as applied by me, is equivocal: This I deny, for the Construction in our Dispute is to be made upon the Words of an Act of Parliament; this Act binds the House of Commons, as well as the rest of the Nation; and I presume that House, or the House of Lords, or both together, can no more put any Construction on the Words of that Act, that is not strictly legal in *Westminster Hall*, than they can of themselves repeal that Act, and make a new one; and which would be the Case, if you were