

in the right: There may be indeed a Difference of Opinions in the House of Commons, what is the legal Construction according to the Rules in *Westminster-Hall*; but if that is once settled, they are bound by it as well as other People, since that Statute was made as well to ascertain the Liberties of the People, as the Privileges of their Representatives: And were it in the Power of any one Branch of a Legislature, by a peculiar or arbitrary Construction of their own, to give the Words of an Act a different Sense than what every Judge, Lawyer, or other intelligent Man, would understand them in, it would be entrapping the Subject instead of securing his Liberty, and would be a setting up an Authority independent of the other two Estates, in a Point which had all their joint Concurrence, and therefore could not be interpreted by any Rules peculiar to one Branch alone of the Legislature. But what has (I really believe) led you into this great Mistake, is, that you have found in Books the Expression of a *Law of Parliament*, and therefore you have concluded, that this Law of Parliament must mean a Power to overturn a Law of the Land. I hope you will excuse me in remarking, that Law Books may be said to be like Edged Tools, which often hurt the Person who handles them without understanding their Use; from hence it is that you ask me, Is there not a Law of Parliament as well as a Law of ordinary Justice, distinct from each other? I agree there is, but not in any Sense proper for your Purpose: I think the Law of Parliament, in the proper Sense, is confined to the Usage and Customs of Parliament; but in no Sense, and in no Case that I ever heard, has the Words *Law of Parliament* been applied to any Matter provided for by an Act of Parliament; and it would be the greatest Absurdity to suppose it, since an Act of Parliament binds each House and the whole Nation; and therefore whatever it was before, yet it becomes, by making the Act, the Law of the Kingdom, which binds every Individual; and not the Law of Parliament (which is only Part of the Kingdom), and peculiar only to the Parliament. Besides you have not shewed one Instance, where even the Law of Parliament, in your Sense of the Words, have construed the Words in the Manner you insist upon.

In the next Place you admit, that a "legal Construction may be proper in such Matters, as come under the Determination of a Court of Law;" yet you say the present is not such, and the Reason you seem to give (for really I cannot comprehend the Meaning of applying the Words Prohibition to act and Power to act) is, "That the Courts of Law have no Right to construe what they have no Right to determine." I suppose your Meaning is, that the Courts of Law have no Right to construe this Act of Parliament, because it relates to a Matter of Privilege, of which the House of Commons are the sole Judges: If this be your Meaning (and I cannot find out any other), I must say you are not less mistaken in this, than your other Positions; For Lord *Clarendon* lays it down, "That there can be no Privilege of which the Law doth not take Notice, and which is not pleadable by and at Law;" and he puts these Instances, as "Upon an Arrest of a Member of Parliament, he may plead, that he was a Member of Parliament, and that his Person ought to be free from Arrests;" also "on an Information or Action on the Case, for Words spoken by a Member, he may plead, that it was for Words spoken by him in Parliament, and that he ought not to be impeached in any other Place for Words spoke there:" And in consequence of such Pleas, if the Judges are satisfied what is insisted on are Privileges, the Court allows the Plea and dismisses the Defendants. Agreeable to these Rules, several Proceedings have been in *Westminster-Hall*; and that the Courts of Law have a Right to take Notice and adjudge in Matters, which the House of Commons have claimed the peculiar Jurisdiction of to themselves in point of Privilege, even where there was no Statute Provision, the brave Resolution of Lord Chief Justice *Holt*, and the noble Stand of the House of Lords, in the great Case of the *Ailsbury Men*, against the attempted Inroad of the then House of Commons on the Rights and Liberties of the Subject, have hitherto been, and always will remain, a lasting Monument of Glory to their Memories, and an incontestible Proof of your Misapprehension of this Point. As the rest of your Paragraph runs on a Reasoning entirely built on your mistaken Notions of the Words *Legal and Law of Parliament*, that must fall with the Foundation, which I hope you now see is not capable of supporting it.

The next material Thing I meet with in your Paper, is an Attempt to give some Account why you added particular Words to those in the Statute; and here I may retort, that a Confession and Excuse are often better made than a Justification, especially when that Justification tends, as yours does, in my View of your Paper, towards hurting the Liberty of your Constituents in a very essential Manner. After some turning and twisting the Words of the Act of Parliament, and your elaborate Reasoning to prove a Place out of Parliament to be not in Parliament, and that Questioning must be by some Body and cannot be by no Body, in order to make the Words *Questioning and Place* have the most extensive, but not legal Signification; then you tell me, that I may see those Words convey no other Meaning than what is contained in the former Proceedings of Parliament, I must own I have never as yet, and I believe no Man alive besides yourselves, ever understood the Word *Questioned* in an Act of Parliament to mean the making an Enquiry, or asking a Question about any Matter, or reasoning or disputing on the same with any Person whatsoever, or in any Manner: but you contend that those Words in the Statute can convey no other Meaning but what you have put on them, and that they ought not to be restrained to a legal Sense, but extended to every Sense; if so, why did you add the other Words? You answer, That "you added them, to explain particularly what was only contained in the general Words of that Act." What Occasion was there for that Addition, since you say they can carry no other Meaning? Have you ever found that the House of Commons (to whom you liken yourselves) ever added or explained the Words of this Statute, since the making thereof, in that Manner? Do you really think it supportable, either by Reason, Justice, Decency, or your own Power, that when you insist upon a Right secured to you by an Act of Parliament, you should venture to add other Words to that Act, and make the Bulk of the People believe they are the very Words of the Act? Would it not have been more proper and prudent, to make your Declaration of your Privileges upon the very Words of the Act only? Perhaps you might by Mistake think yourselves more at Liberty to make thus free with an Act of Assembly; but why you ventur'd to make your Experiment on this Act of Parliament I could not at first conjecture, unless it was for the Reason assigned in my Answer, "To preclude, or rather intimidate your Constituents, from ever presuming to question any Behaviour of yours in a legislative Way, not even by the most humble Enquiries:" And this Guess is now verify'd by your own Expression, which is, "That your Constituents know their Rights with Regard to you, as well as you do yours with Regard to me, and they have too much *Good Sense and Good Manners* to drive any of

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