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*Parliament—House of Commons—Internal Regulation of its own Procedure—Parliamentary Oaths Act*, 1866 (29 *Vict. c.* 19).

The House of Commons is not subject to the control of Her Majesty's Courts in its administration of that part of the statute-law which has relation to its internal procedure only. What is said or done within its walls cannot be inquired into in a court of law.

A resolution of the House of Commons cannot change the law of the land. But a Court of law has no right to inquire into the propriety of a resolution of the House restraining a member from doing within the walls of the House itself something which by the general law of the land he had a right to do, viz., take the oath prescribed by the Parliamentary Oaths Act, 1866 (29 Vict. c. 19).

An action will not lie against the Serjeant-at-Arms of the House of Commons for excluding a member from the House in obedience to a resolution of the House directing him to do so; nor will the Court grant an injunction to restrain that officer from using necessary force to carry out the order of the House.

The plaintiff, having been returned as member for the borough of N., required the Speaker of the House of Commons to call him to the table for the purpose of taking the oath required by 29 Vict. c. 19. In consequence of something which had transpired on a former occasion the Speaker declined to do so: and the House, upon motion, resolved "that the Serjeant-at-Arms do exclude Mr. B. (the plaintiff) from the House until he shall engage not further to disturb the proceedings of the House."

In an action against the Serjeant-at-Arms praying for an injunction to restrain him from carrying out this resolution:—

*Held*, that, this being a matter relating to the internal management of the procedure of the House of Commons, the Court of Queen's Bench had no power to interfere.

*Burdett* v. *Abbott* (14 East, 148), and *Stockdale* v. *Hansard* (9 Ad. & E. 1) commented upon and approved.

THE material parts of the statement of claim were as follows:—

The plaintiff, Charles Bradlaugh, was duly elected a burgess to serve in the House of Commons for Northampton, and was entitled to take the oath by law prescribed to be taken by members of the House of Commons, and to sit and vote in the House as one of the representatives of Northampton. In May, 1883, Mr. Bradlaugh required the Speaker to call him to the table for the purpose of taking the oath. The Speaker did not do so. On the 9th of July, the House of Commons resolved, "that the Serjeant-at-Arms do exclude Mr. Bradlaugh from the

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House until he shall engage not further to disturb the proceedings of the House." Mr. Bradlaugh thereupon wrote a letter to the Serjeant-at-Arms asking him whether he understood the order of the House to mean that he was to prevent Mr. Bradlaugh by actual force from entering the House for the purpose of taking his seat. The Serjeant-at-Arms replied that it would be his duty to exclude Mr. Bradlaugh from the House till otherwise instructed by the House or the Speaker.

Some correspondence (set out in an amendment made by consent in the statement of claim) also passed between Mr. Bradlaugh and the Speaker, the effect of which was that the Speaker informed Mr. Bradlaugh that his exclusion from the House would continue "until he should engage not to attempt to take the oath in disregard of the resolution of the House now in force."

The statement of claim claimed,—first, a declaration that the order of the House of July 9th be declared to be beyond the power and jurisdiction of the House to make, and to be void,—secondly, an order restraining the Serjeant-at-Arms from preventing Mr. Bradlaugh by force from entering the House and taking the oath as a member,—thirdly, such further or other relief as he might be deemed entitled to.

To this there was a demurrer, on the ground that the statement of claim did not state any matter for which an action could be maintained, and did not ask any relief which could be by law given in the action.

The case was argued on the 7th of December last before Lord Coleridge, C.J., Mathew, J., and Stephen, J., by the *Attorney-General* (with whom were *R. S. Wright*, and *Danckwerts*), in support of the demurrer, and by the plaintiff in person.

The arguments and the very numerous authorities cited are fully stated and commented upon in the judgments of the Court.

*Cur. adv. vult.*

Feb. 9, 1884. The following judgments were delivered:—

LORD COLERIDGE, C.J. It was the importance of this case as to the issues which it raised, and the great dignity of the House

of Commons, whose action is in fact questioned in the person of the Serjeant-at-Arms, rather than any difficulty in the legal questions involved, which led me to desire that the judgments pronounced on it should be deliberate. The same reasons lead me to think it fit to express my own judgment separately, though, after reading the judgment of my learned Brother, I feel that the subject is exhausted.

The facts and the pleadings which state them have been so fully detailed by my Brother Stephen that I content myself with referring to and adopting as my own that portion of his judgment which details them. These statements raise the question whether, on the assumption that the resolution of the House of Commons forbade a member of the House within the walls of the House itself to do something which by the law of the land he had a right to do, such a resolution is one which the House of Commons has a right to pass; and whether, if it has not, this Court can inquire into the right, and allow an action to be maintained by a member of the House against the officer of the House charged by resolution of the House itself with the execution of its order.

The plaintiff argued his own case, and argued it with abundant learning and ability; but he admitted that, with all his research, he had not found a single precedent for his action, and that he had found many distinct and weighty dicta of great judges in former days to the effect that no such action could be maintained. Nor, wide as is the range of topics more or less connected with the point at issue, and numerous as are the authorities collected and commented on in the leading cases on the subject, does it seem to me that the questions really to be decided are more than elementary, and such as must be decided mainly on principle.

In this as in so many matters of practical concern difficulties are created by the laying down of principles in terms so wide and general, that, although logic may justify them, the sense and feeling of men imposes upon them in fact limitations which are said not altogether untruly to be sometimes inconsistent with the principle they are supposed to admit. For example, it seems to be conceded that a resolution of the House of Commons only

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(and what is true of one House of Parliament is true of the other) cannot change the law of the land. Sir John Patteson and Sir John Coleridge,—the former especially,—put this point with great force in their judgments in *Stockdale* v. *Hansard* (1): and yet, if the House of Commons is,—as for certain purposes and in relation to certain persons it certainly is, and is on all hands admitted to be,—the absolute judge of its own privileges, it is obvious that it can, at least for those purposes and in relation to those persons, practically change or practically supersede the law.

Again, there can be no doubt, that, in an action between party and party brought in a court of law, if the legality of a resolution of the House of Commons arises incidentally, and it becomes necessary to determine whether it be legal or no for the purpose of doing justice between the parties to the action; in such a case the Courts must entertain and must determine that question. Lord Ellenborough expressly says so in *Burdett* v. *Abbott* (2); and Bayley, J., seems to assume it at p. 161. All the four judges who gave judgment in *Stockdale* v. *Hansard* (3) assert this in the strongest terms. That case, indeed, was an illustration of this necessity. The Attorney General, Sir John Campbell, could undoubtedly have succeeded at nisi prius upon the facts of the case, without raising the question of privilege upon which the arguments and judgments were delivered. But, for reasons perfectly well understood at the time, he forced Lord Denman (who tried the cause) to give the ruling which he was determined to question. It is perhaps not to be regretted that he did so, when the arguments and the judgments which were the result are remembered: but I see no answer to the statements of the judges, at pp. 193 and 243, that, when a question is raised before the Court, the Court must give judgment on it according to its notions of the law, and not according to a resolution of either House of Parliament. Cases may be put, cases have been put, in which, did they ever arise, it would be the plain duty of the Court at all hazards to declare a resolution illegal and no protection to those who acted under it. Such

(1) 9 Ad. & E. at pp. 192, 220. (2) 14 East, 148.
(3) 9 Ad. & E. 1.

cases might by possibility occasion unseemly conflicts between the Courts and the Houses. But, while I do not deny that as matter of reasoning such things might happen, it is consoling to reflect that they have scarce ever happened in the long centuries of our history, and that in the present state of things it is but barely possible that they should ever happen again.

Alongside, however, of these propositions, for the soundness of which I should be prepared most earnestly to contend, there is another proposition equally true, equally well established, which seems to me decisive of the case before us. What is said or done within the walls of Parliament cannot be inquired into in a court of law. On this point all the judges in the two great cases which exhaust the learning on the subject,—*Burdett* v. *Abbott* (1) and *Stockdale* v. *Hansard* (2);—are agreed, and are emphatic. The jurisdiction of the Houses over their own members, their right to impose discipline within their walls, is absolute and exclusive. To use the words of Lord Ellenborough, "They would sink into utter contempt and inefficiency without it." (3)

Whether in all cases and under all circumstances the Houses are the sole judges of their own privileges, in the sense that a resolution of either House on the subject has the same effect for a court of law as an Act of Parliament, is a question which it is not now necessary to determine. No doubt, to allow any review of parliamentary privilege by a court of law may lead, has led, to very grave complications, and might in many supposable cases end in the privileges of the Commons being determined by the Lords. But, to hold the resolutions of either House absolutely beyond inquiry in a court of law may land us in conclusions not free from grave complications too. It is enough for me to say that it seems to me that in theory the question is extremely hard to solve; in practice it is not very important, and at any rate does not now arise.

On the question that does arise, if cases are required there is a remarkable one to be quoted regarding each House,—the case of the *Earl of Shaftesbury* (4), in which the Court of King's Bench

(1) 14 East, 1, 148.
(2) 9 Ad. & E. 1.
(3) 14 East, at p. 152.
(4) 1 Mod. 144.

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altogether declined jurisdiction to inquire as to what had passed in the House of Lords; and the case of *Sir John Eliot* and his fellows, reported fully at the end of Cro. Car. (1) That was a very remarkable case; for, no doubt Sir John Eliot, Mr. Valentine, and Mr. Hollis had held the Speaker in the chair by main force, to prevent his adjourning the House before a motion had been made. They were sued in the King's Bench: they pleaded by demurrer to the jurisdiction that the offences (if any) had been committed in Parliament, and ought to be there examined and punished, and not elsewhere. The demurrer was overruled, and they were heavily fined and imprisoned. Sir John Eliot was killed by the rigours of his imprisonment: Mr. Valentine died; but Mr. Hollis survived: and in 1668 the judgment of the King's Bench was reversed by the House of Lords, on the ground that it was an illegal judgment and against the freedom and privilege of Parliament. These cases seem direct in point; and we could not give judgment for the plaintiff in this action without overruling them.

I need not discuss at any length the fact that the defendant in this case is the Serjeant-at-arms. The Houses of Parliament cannot act by themselves in a body: they must act by officers; and the Serjeant-at-arms is the legal and recognised officer of the House of Commons to execute its orders. I entertain no doubt that the House had a right to decide on the subject-matter, have decided it, and have ordered their officer to give effect to their decision. He is protected by their decision. They have ordered him to do what they have a right to order, and he has obeyed them.

It is said that in this case the House of Commons has exceeded its legal powers, because it has resolved that the plaintiff shall not take an oath which he has a right to take, and the threatened force is force to be used in compelling obedience to a resolution in itself illegal. But there is nothing before me upon which I should be justified in arriving at such a conclusion in point of fact. Consistently with all the statements in the claim, it may be that the plaintiff insisted on taking the oath in a manner and under circumstances which the House had a clear right to object

(1) Cro. Car. 605.

to or prevent. Sitting in this seat I cannot know one way or the other. But, even if the fact be as the plaintiff contends, it is not a matter into which this Court can examine. If injustice has been done, it is injustice for which the Courts of law afford no remedy. On this point I agree with and desire to adopt the language of my Brother Stephen. The history of England, and the resolutions of the House of Commons itself, shew that now and then injustice has been done by the House to individual members of it. But the remedy, if remedy it be, lies, not in actions in the courts of law (see on this subject the observations of Lord Ellenborough and Bayley, J., in *Burdett* v. *Abbott*, 14 East, 150, 151, and 160, 161), but by an appeal to the constituencies whom the House of Commons represents.

It follows that this action is against principle and is unsupported by authority, and that therefore the demurrer must be allowed, and that there must be judgment for the defendant.

MATHEW, J., concurred in this judgment.

STEPHEN, J. The demurrer admits for the purposes of our decision the truth of the matters stated in the statement of claim. In a few words they are as follows: The resolution of the House of Commons of the 9th of July, 1883, read with the correspondence between the Speaker and Mr. Bradlaugh shews that for reasons which are not before us the House of Commons resolved that Mr. Bradlaugh, who had been duly elected member for Northampton, should not be permitted to take the oath prescribed by law for members duly elected, and that he should be excluded, if necessary, by actual force from the House, unless he would engage not to do so. We are asked to declare this order void, and to restrain the Serjeant-at-arms from enforcing it.

I may observe, before considering this question, that but for the amendment made at the hearing I at least should have felt bound to decide the case on a much narrower ground than that on which I think we ought to deal with it. Taken by itself, the order of the 9th of July states nothing except that the House had by resolution excluded a member, who in the judgment of the House had disturbed its proceedings, till he undertook not

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further to disturb it. It is obvious that we could not interfere with what might be a mere measure of internal discipline. The order as it stands is consistent with the supposition that Mr. Bradlaugh, on presenting himself to take the oath, had in some way misconducted himself, and that the House had ordered him to be excluded till he promised not to repeat his misconduct. With such a measure of internal discipline we obviously could not interfere. The correspondence with the Speaker certainly sets the matter in a different light. I cannot read the statement of claim as asserting less or interpret the demurrer as admitting less than what I have already stated; and this raises the question which the parties probably wished to have decided in a very broad way.

The legal question which this statement of the case appears to me to raise for our decision is this:—Suppose that the House of Commons forbids one of its members to do that which an Act of Parliament requires him to do, and, in order to enforce its prohibition, directs its executive officer to exclude him from the House by force if necessary, is such an order one which we can declare to be void and restrain the executive officer of the House from carrying out? In my opinion, we have no such power. I think that the House of Commons is not subject to the control of Her Majesty's Courts in its administration of that part of the statute-law which has relation to its own internal proceedings, and that the use of such actual force as may be necessary to carry into effect such a resolution as the one before us is justifiable.

Many authorities might be cited for this principle; but I will quote two only. The number might be enlarged with ease by reference to several well-known cases. Blackstone says (1): "The whole of the law and custom of Parliament has its original from this one maxim, 'that whatever matter arises concerning either House of Parliament ought to be examined, discussed, and adjudged in that House to which it relates, and not elsewhere.'" This principle is re-stated nearly in Blackstone's words by each of the judges in the case of *Stockdale* v. *Hansard*. (2) As the principal result of that case is to assert in the strongest way

(1) 1 Com. 163. (2) 9 Ad. & E. 1.

the right of the Court of Queen's Bench to ascertain in case of need the extent of the privileges of the House, and to deny emphatically that the Court is bound by a resolution of the House declaring any particular matter to fall within their privilege, these declarations are of the highest authority. Lord Denman says (1): "Whatever is done within the walls of either assembly must pass without question in any other place." Littledale, J., says (2): "It is said the House of Commons is the sole judge of its own privileges; and so I admit as far as the proceedings in the House and some other things are concerned." Patteson, J., said (3): "Beyond all dispute, it is necessary that the proceedings of each House of Parliament should be entirely free and unshackled, that whatever is said or done in either House should not be liable to examination elsewhere." And Coleridge, J., said (4): "That the House should have exclusive jurisdiction to regulate the course of its own proceedings, and animadvert upon any conduct there in violation of its rules or derogation from its dignity, stands upon the clearest grounds of necessity."

Apply the principle thus stated to the present case. We are asked to declare an order of the House of Commons to be void, and to prevent its execution in the only way in which it can be executed, on the ground that it constitutes an infringement of the Parliamentary Oaths Act. (5) This Act requires the plaintiff to take a certain oath. The House of Commons have resolved that he shall not be permitted to take it. Grant, for the purposes of argument, that the resolution of the House and the Parliamentary Oaths Act contradict each other; how can we interfere without violating the principle just referred to? Surely the right of the plaintiff to take the oath in question is "a matter arising concerning the House of Commons," to use the words of Blackstone. The resolution to exclude him from the House is a thing "done within the walls of the House," to use Lord Denman's words. It is one of those "proceedings in the House of which the House of Commons is the sole judge," to

(1) 9 Ad. & E. at p. 114.
(2) At p. 162.
(3) At p. 209.
(4) At p. 233.
(5) 29 Vict. c. 19.

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use the words of Littledale, J. It is a "proceeding of the House of Commons in the House," and must therefore, in the words of Patteson, J., "be entirely free and unshackled." It is "part of the course of its own proceedings," to use the words of Coleridge, J., and is therefore "subject to its exclusive jurisdiction." These authorities are so strong and simple that there may be some risk of weakening them in adding to them. Nevertheless, the importance of the case may excuse some further exposition of the principle on which it seems to me to depend.

The Parliamentary Oaths Act prescribes the course of proceeding to be followed on the occasion of the election of a member of Parliament. In order to raise the question now before us, it is necessary to assume that the House of Commons has come to a resolution inconsistent with the Act; for, if the resolution and the Act are not inconsistent the plaintiff has obviously no grievance. We must of course face this supposition, and give our decision upon the hypothesis of its truth. But it would be indecent and improper to make the further supposition that the House of Commons deliberately and intentionally defies and breaks the statute-law. The more decent and I may add the more natural and probable supposition is, that, for reasons which are not before us, and of which we are therefore unable to judge, the House of Commons considers that there is no inconsistency between the Act and the resolution. They may think there is some implied exception to the Act. They may think that what the plaintiff proposes to do is not in compliance with its directions. With this we have nothing to do. Whatever may be the reasons of the House of Commons for their conduct, it would be impossible for us to do justice without hearing and considering those reasons; but it would be equally impossible for the House, with any regard for its own dignity and independence, to suffer its reasons to be laid before us for that purpose, or to accept our interpretation of the law in preference to its own. It seems to follow that the House of Commons has the exclusive power of interpreting the statute, so far as the regulation of its own proceedings within its own walls is concerned; and that, even if that interpretation should be erroneous, this Court has no

power to interfere with it directly or indirectly. This view of the matter is well illustrated by another part of the Act.

By s. 4 certain persons are permitted to make a declaration or affirmation instead of taking an oath. The question whether this applied to persons permitted by 32 & 33 Vict. c. 68, s. 4, to make a promise instead of taking an oath, arose in the case of the plaintiff himself. It was considered by the House of Commons, and the House took a course which left the interpretation of the enactment to the Courts. It permitted the plaintiff to make the declaration, but declared that it did not intend to interfere with his liability to the statutory penalty if he did so. He made the declaration, took his seat accordingly, and was sued for the penalty. Though the proceedings in that action finally terminated in his favour, they established the proposition that s. 4 of the Parliamentary Oaths Act did not authorize him in making a statutory declaration in lieu of taking an oath. (1) This case appears to me to illustrate exactly the true relation between the House of Commons and this Court as regards the interpretation of statutes affecting them, and the effect of their resolutions on our proceedings.

A resolution of the House permitting Mr. Bradlaugh to take his seat on making a statutory declaration would certainly never have been interfered with by this Court. If we had been moved to declare it void and to restrain Mr. Bradlaugh from taking his seat until he had taken the oath, we should undoubtedly have refused to do so. On the other hand, if the House had resolved ever so decidedly that Mr. Bradlaugh was entitled to make the statutory declaration instead of taking the oath, and had attempted by resolution or otherwise to protect him against an action for penalties, it would have been our duty to disregard such resolutions, and, if an action for penalties were brought, to hear and determine it according to our own interpretation of the statute. Suppose, again, that the House had taken the view of the statute ultimately arrived at by this Court, that it did not enable Mr. Bradlaugh to make the statutory promise, we should certainly

(1) See *Clarke* v. *Bradlaugh*, 7 Q. B. D. 38, 61; *Bradlaugh* v. *Clarke*, 8 App. Cas. 354.

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not have entertained an application to declare their resolution to be void. We should have said that, for the purpose of determining on a right to be exercised within the House itself, and in particular the right of sitting and voting, the House and the House only could interpret the statute; but that, as regarded rights to be exercised out of and independently of the House, such as the right of suing for a penalty for having sat and voted, the statute must be interpreted by this Court independently of the House.

This view of the subject is perhaps most simply and completely illustrated by the 4th section; but it seems to me to apply equally well to the 3rd, and I therefore think that we ought not to make the declaration asked for. I may observe, in conclusion, that, apart from these considerations, I should in any case whatever feel a reluctance almost invincible to declaring a resolution of the House of Commons to be beyond the powers of the House, and to be void. Such a declaration would in almost every imaginable case be unnecessary and disrespectful. I will not say that extraordinary circumstances might not require it, because it is impossible to foresee every event which may happen. It is enough to say that the circumstances which would justify such a declaration must be extraordinary indeed, and that, even if relief had to be given in this case, I should think it sufficient to restrain the Serjeant-at-Arms from acting on the order of the House. I do not dwell upon this, however, as I wish to put my judgment on the plain and broad ground already stated.

That part of the prayer of the statement of claim which asks us to restrain the Serjeant-at-Arms from using force to prevent the plaintiff from entering the House, may be disposed of in a few words. The order is, to exclude the plaintiff from the House; and we cannot suppose that this means more than that the plaintiff is to be prevented by the use of such force as may be absolutely necessary for the purpose from entering such parts of the Houses of Parliament as the order applies to. We should not be warranted either in law or by the use of common experience in supposing that anything else was intended. If, however, this only is intended, I am of opinion that the use of such force is

strictly justifiable. Every private man has the right of preventing a stranger from entering his house by such force, and of authorizing others to act for him if he is unable or unwilling to act for himself; and to say that the House has by law power to exclude one of its members from the House, but has not the power to direct the use of such force for that purpose would be contradictory.

Before leaving this part of the subject, I may observe that in my judgment the case before us differs widely from a possible case suggested in argument in *Burdett* v. *Abbott* (1), as to the effect of an order by the House of Commons to put a member to death or to inflict upon him bodily harm. Of such a case it is enough to say, as Lord Ellenborough said, that it will be time to decide it when it arises. The only force which comes in question in this case is, such force as any private man might employ to prevent a trespass on his own land. I know of no authority for the proposition that an ordinary crime committed in the House of Commons would be withdrawn from the ordinary course of criminal justice. One of the leading authorities on the privilege of parliament contains matter on the point which shews how careful parliament has been to avoid even the appearance of countenancing such a doctrine. This is the case of *Sir John Eliot, Denzil Hollis, and Others,* of which a complete history is given in 3 Howell's State Trials, pp. 294–336. In this case the defendants were convicted in 1629 on an information before the Court of King's Bench for seditious speeches in parliament and also for an assault on the Speaker in the chair. They pleaded to the jurisdiction that these matters should be inquired into in Parliament and not elsewhere; and their plea was overruled. In 1666 this judgment was reversed upon writ of error; one error assigned being that the speaking of the seditious words and the assault on the Speaker were made the subject of one judgment; whereas the seditious speech, if made in parliament, could not be inquired into out of parliament, even if the assault upon the Speaker could be tried in the Court of King's Bench: hence there should have been two separate judgments. This case

(1) 14 East, at p. 128.

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is the great leading authority, memorable on many grounds, for the proposition that nothing said in parliament by a member as such, can be treated as an offence by the ordinary Courts. But the House of Lords carefully avoided deciding the question whether the Court of King's Bench could try a member for an assault on the Speaker in the House.

The plaintiff argued his own case before us at length. It is due to him to state the reasons why his arguments do not convince me. He referred to a great number of authorities; but his argument was in substance short and simple. He said that the resolution of the House of Commons was illegal, as the House had no power to alter the law of the land by resolution; and, admitting that the House has power to regulate its own procedure, he contended that in preventing him from taking his seat, the House went beyond matter of internal regulation and procedure, as they deprived both him and the electors of Northampton of a right recognised by law, which ought to be protected by the law; and so inflicted upon him and them wrongs which would be without a remedy if we failed to apply one. I think that each part of this argument requires a plain, direct answer.

It is certainly true that a resolution of the House of Commons cannot alter the law. If it were ever necessary to do so, this Court would assert this doctrine to the full extent to which it was asserted in *Stockdale* v. *Hansard.* (1) The statement that the resolution of the House of Commons was illegal, must I think, be assumed to be true, for the purposes of the present case. The demurrer for those purposes admits it. We decide nothing unless we decide that, even if it is illegal in the sense of being opposed to the Parliamentary Oaths Act, it does not entitle the plaintiff to the relief sought. This admission, however, must be regarded as being made for the purposes of argument only. It would, as I have already said, be wrong for us to suggest or assume that the House acted otherwise than in accordance with its own view of the law; and, as we know not what that view is, nor by what arguments it is supported, we can give no opinion

(1) 9 Ad. & E. 1.

upon it. I do not say that the resolution of the House is the judgment of a Court not subject to our revision; but it has much in common with such a judgment. The House of Commons is not a Court of Justice; but the effect of its privilege to regulate its own internal concerns practically invests it with a judicial character when it has to apply to particular cases the provisions of Acts of Parliament. We must presume that it discharges this function properly and with due regard to the laws, in the making of which it has so great a share. If its determination is not in accordance with law, this resembles the case of an error by a judge whose decision is not subject to appeal. There is nothing startling in the recognition of the fact that such an error is possible. If, for instance, a jury in a criminal case give a perverse verdict, the law has provided no remedy. The maxim that there is no wrong without a remedy does not mean, as it is sometimes supposed, that there is a legal remedy for every moral or political wrong. If this were its meaning, it would be manifestly untrue. There is no legal remedy for the breach of a solemn promise not under seal and made without consideration; nor for many kinds of verbal slander, though each may involve utter ruin: nor for oppressive legislation, though it may reduce men practically to slavery; nor for the worst damage to person and property inflicted by the most unjust and cruel war. The maxim means only that legal wrong and legal remedy are correlative terms; and it would be more intelligibly and correctly stated, if it were reversed, so as to stand, "Where there is no legal remedy, there is no legal wrong."

The assertion that the resolution of the House goes beyond matter of procedure, and that it does in effect deprive both Mr. Bradlaugh himself and his constituents of legal rights of great value, is undoubtedly true if the word "procedure" is construed in the sense in which we speak of civil procedure and criminal procedure, by way of opposition to the substantive law which systems of procedure apply to particular cases. No doubt, the right of the burgesses of Northampton to be represented in parliament, and the right of their duly-elected representative to sit and vote in parliament and to enjoy the other rights incidental to his position upon the terms provided by law are

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in the most emphatic sense legal rights, legal rights of the highest importance, and in the strictest sense of the words. Some of these rights are to be exercised out of parliament, others within the walls of the House of Commons. Those which are to be exercised out of Parliament are under the protection of this Court, which, as has been shewn in many cases, will apply proper remedies if they are in any way invaded, and will in so doing be bound, not by resolutions of either House of Parliament, but by its own judgment as to the law of the land, of which the privileges of Parliament form a part. Others must be exercised, if at all, within the walls of the House of Commons; and it seems to me that, from the nature of the case, such rights must be dependent upon the resolutions of the House. In my opinion the House stands with relation to such rights and to the resolutions which affect their exercise, in precisely the same relation as we the judges of this Court stand in to the laws which regulate the rights of which we are the guardians, and to the judgments which apply them to particular cases; that is to say, they are bound by the most solemn obligations which can bind men to any course of conduct whatever, to guide their conduct by the law as they understand it. If they misunderstand it, or (I apologize for the supposition) wilfully disregard it, they resemble mistaken or unjust judges; but in either case, there is in my judgment no appeal from their decision. The law of the land gives no such appeal; no precedent has been or can be produced in which any Court has ever interfered with the internal affairs of either House of Parliament, though the cases are no doubt numerous in which the Courts have declared the limits of their powers outside of their respective Houses. This is enough to justify the conclusion at which I arrive.

We ought not to try to make new laws, under the pretence of declaring the existing law. But I must add that this is not a case in which I at least feel tempted to do so. It seems to me that, if we were to attempt to erect ourselves into a Court of Appeal from the House of Commons, we should consult neither the public interest, nor the interests of parliament and the constitution, nor our own dignity. We should provoke a conflict between the House of Commons and this Court, which in itself

would be a great evil; and, even upon the most improbable supposition of their acquiescence in our adverse decision, an appeal would lie from that decision to the Court of Appeal, and thence to the House of Lords, which would thus become the judge in the last resort of the powers and privileges of the House of Commons.

For these reasons I am of opinion that there must be judgment for the defendant.

*Judgment for the defendant.*

*The plaintiff in person.*

Solicitor for defendant: *Solicitor to the Treasury.*

J. S.

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## LEGGOTT *v.* WESTERN.

*March* 5.

*Practice—Charging Orders—Judicature Act,* 1873 (36 & 37 *Vict. c.* 66), *s.* 24—*Order XLVI., r.* 1—*Jurisdiction—Debtor and Creditor—Company—Shares—Order for Sale of Shares subject to Charging Order.*

The plaintiff, having recovered judgment in an action, obtained an order absolute under Order XLVI., charging shares of the defendant in a company with the payment of the judgment debt and interest, and then applied to the Court for an order for sale of the shares:—

*Held*, that s. 24 of the Judicature Act, 1873, did not give the Court jurisdiction to order the sale.

MOTION on behalf of the plaintiff calling on the defendant in the action, and on the Æolus Waterspray and General Ventilating Company, Limited, to shew cause why certain shares in the company belonging to the defendant, and subject to a charging order obtained in the action, should not be sold.

On the 1st of May, 1883, the plaintiff recovered judgment against the defendant for 188*l.* On the 9th of May the plaintiff obtained an order nisi under Order XLVI. and 1 & 2 Vict. c. 110, ss. 14, 15, charging 1975 shares belonging to the defendant in the Æolus Waterspray and General Ventilating Company, with the payment of the judgment debt and interest. On the 11th of June the order was made absolute. On the 15th of February, 1884, the plaintiff gave notice of motion calling on the defendant and