

## **Constitution Act 1900.**

### **Covering Clause 9.**

# **The Constitution of the Commonwealth of Australia.**

## **SECTION 49.**

### **Section 49; Privileges etc. of Houses.**

The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

### **The Annotated Constitution makes the following comments;**

#### **Powers, Privileges, and Immunities.**

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The rights, duties, powers, privileges, and immunities of each House of the British Parliament, and of the committees and members of each House, form a part of the common law. This law of Parliament is only to be collected out of the ancient rolls of Parliament and other records, and by precedents and continual experience. The sole evidence of the ancient law of Parliament is to be found in the declarations, **customs, and usages** of Parliament. Each House may expound the law of Parliament and vindicate its own privileges, but no new privileges can be created.

**POWERS and PRIVILEGES;** The following are among the principal powers and privileges of each House, and of the members of each House, of the Imperial Parliament, as now known to the law, and there are 9 of them.

We have included power and privilege 8 (viii).

(viii.) The right of free speech in Parliament, without liability to action or impeachment for anything spoken therein; established by the 9<sup>th</sup> article of the Bill of Rights.

Article 9. That the freedom of speech, and debates or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.

#### **Some words from CLRA.**

It's absolutely amazing that the Bill of Rights is used when the Parliament is in need of it, but when we the people are in need of it, it usually cannot use it.

## **Now back to the Annotated Constitution;**

**PRIVILEGES OF COLONIAL LEGISLATURES;** The law and custom of Parliament is not a part of the common law which Englishmen are presumed to have carried with them, as their political birthright and heritage when they founded new settlements and colonies beyond the seas.

**The inherent powers and privileges of colonial legislative bodies which have no express grant of powers and privileges similar to those of the British Parliament, have been considered and expounded by the highest legal tribunals of the Empire in a number of leading cases.** The principles affirmed were

- (1) that a colonial legislative body, whether it has been established by Royal Charter, or by statute of the Imperial Parliament, is not entitled to enjoy and exercise the powers, privileges, and immunities of the Houses of the British Parliament, unless those powers, privileges, and immunities have been expressly conferred upon such a body by Imperial statute;
- (2) that such legislative assemblies can, without express grant, exercise all regulating and self-preserving powers that are necessary for their existence, and for the proper exercise of the functions they are intended to execute.