

[PREFACE_001A]
PREFACE TO THE FIRST EDITION.

The following Cases are part of a larger Collection, extracted from the Journals of the House of Commons, and other Parliamentary Records.

The Compiler of these has always been of opinion, that the easiest method of conveying to the Public the very useful information contained in those voluminous Collections, is, to select particular Heads or Titles; and, having brought together every thing that has any reference to any of these heads, to digest the whole in a chronological order, and to publish it in a separate volume. He has, upon this principle, ventured to send forth this Work, relating to the Privilege of Members of the House of Commons, only by way of specimen, and as an example for those who may adopt this idea, and who may have more leisure to pursue so laborious an undertaking. {vi}

The Reader will not suppose, that the Observations upon the several Cases are made with a view of declaring what the Law of Privilege is, in the instances to which those Observations refer: they are designed merely to draw the attention of the Reader to particular points, and, in some degree, to assist him in forming his own opinion upon that question.

This Work ought therefore to be considered only in the light of an Index, or a Chronological Abridgment of the Cases to be found upon this subject. The Publisher cannot but suppose, that, notwithstanding his most accurate search, many instances must have escaped his observation; he has however endeavoured, with great diligence, to examine every Work, which he thought might contain any thing relating to this matter; and pretends to no other merit, than the having faithfully extracted, and published, what appeared to him essential for the information of the Reader.

Perhaps some apology is necessary, for having presumed, without leave or any previous notice, to inscribe this Collection to a Person, whose universal knowledge upon all subjects, which relate to the History of Parliament, will render this, and every work of this {vii} sort, to him unnecessary: But he Publisher could not prevail upon himself to omit such an opportunity of expressing to that Gentleman, and to the World, the very grateful sense he entertains of that kindness and generosity, which first placed him, even without any application on his part, in a situation, that has made it his duty

to apply himself more particularly to the examination of the Journals of the House of Commons, and to studies of a similar nature.

The public character of that Gentleman, his comprehensive knowledge, his acuteness of understanding, and inflexible integrity, are sufficiently known and acknowledged by all the world: but it is only within the circle of a small acquaintance, that he is admired as a Man of polite learning and erudition, a most excellent Father, and a most valuable Friend; they only, who have the pleasure and advantage to know him intimately, know, that the warmth and benevolence of his heart, are equal to the clearness and sagacity of his head.

A very ill state of health has, at present, unfortunately withdrawn this Gentleman from the service of the Public; but all who remember his abilities in {viii} Parliament, will lament the loss of that information, which his knowledge of the History, and of the Laws and Constitution of this Country, enabled him to give, and which he was at all times so ready, in private as well as public, to communicate.

Cotton-Garden,
April 5, 1776.

[PREFACE_001B]
PREFACE TO THE FIRST EDITION.

The following Collection of Precedents is formed upon the same plan with a work printed in the Year 1776, intituled “Cases of Privilege of Parliament, &c. &c.”—In the Preface to that Book, the Compiler explained his reasons for adopting that plan; and expressed a wish, that some person, who had more leisure than himself, would select certain titles relating to Parliamentary Proceedings, and, pursuing the idea which he there suggested, would collect from the Journals, and from other Records, such matter as was referable to any of those titles, and would, from time to time, communicate those observations to the Public.

Nothing of this kind having appeared from any other quarter, the following Collection of Cases is submitted to the public inspection. The titles which compose it, happened to stand first in a Collection of {viii}Precedents, which the Compiler made several years ago for his own use; and, from that accidental circumstance, are now those which he has first completed, with the addition of Notes and Observations, in the form in which they now appear. There are several other Heads, which are certainly of greater importance than those which form the following Collection, viz. Lords, Impeachment, Conference, Supply, Proceedings on passing Bills, and some others. These, if he has health and leisure to proceed upon, and to complete, will be the subjects of another volume.

It is unnecessary again to put the Reader in mind, that this Work, as well as the former of “Cases of Privilege of Parliament,” are to be considered in no other light than as Indexes to refer him to the Journals at large, and to other Historical records; from whence alone can be derived a perfect knowledge of the Law and Proceedings of Parliament: It is also needless to repeat, that it never was the intention of the Editor, to insert every precedent that is to be found in the Journals under these titles; a repetition of similar cases would only swell the volume, without affording information, or suggesting any matter, from which useful observations might be drawn. Besides, since the publication of the former volume, General {ix}Indexes of the Journals, from the Restoration to the present time, have been printed, under the authority of the House of Commons; which, to those who are desirous of studying the Journals with accuracy, will prove of great use and assistance.

It will be impossible to peruse a page of the following Work, without observing the great advantage that it derives from the notes and observations of Mr. Onslow, the late Speaker of the House of Commons, which have been very obligingly communicated upon this occasion by his Son, the present Lord Onslow.

It would be impertinent in the Editor of this Collection to suppose, that any thing, which he can say, will add to the reputation of a character so truly eminent as that of Mr. Onslow; but, as it was under the patronage, and from the instructions of that excellent man, that he learnt the first rudiments of his Parliamentary knowledge; and, when Mr. Onslow retired from a public station, as it was permitted to the Compiler of this work, to visit him in that retirement, and to hear those observations on the law and constitution of this Government, which, particularly in the company of young persons, Mr. Onslow was fond of communicating, he may perhaps be allowed to indulge himself {x} for a moment, in recollecting those virtues which distinguished that respectable character, and in endeavouring to point them out as patterns of imitation to all who may wish to tread in his steps. Superadded to his great and accurate knowledge of the history of this country, and of the minuter forms and proceedings of Parliament, the distinguishing feature of Mr. Onslow's public character was, a regard and veneration for the British constitution, as it was declared and established at the Revolution. This was the favourite topic of his discourse; and it appeared, from the uniform tenor of his conduct through life, that to maintain this pure and inviolate, was the object at which he always aimed.—In private life, though he held the office of Speaker of the House of Commons for above three and thirty years, and during part of that time enjoyed the lucrative employment of Treasurer of the Navy, it is an anecdote perfectly well-known, that, on his quitting the Chair in 1761, his income from his private fortune, which had always been inconsiderable, was rather less than it had been in 1727, when he was first elected into it.

These two circumstances in Mr. Onslow's character, are of themselves sufficient to render the memory of that character revered and respected by all the world; {xi} but the recollection of them is peculiarly pleasant to the Editor of this work; who, amongst the many fortunate events that have attended him through life, thinks this one of the most considerable, that, in a very early period of it, he was introduced and placed under the immediate patronage of so respectable a man; from whose instructions, and by whose example, he was confirmed in a sincere love and reverence for those

principles of the constitution, which form the basis of this Free Government; the strict observance of, and adherence to which principles, as well on the part of the Crown as of the People, can alone maintain this country in the enjoyment of those invaluable blessings, which have deservedly drawn the eulogium from the best-informed writers of every nation in Europe, “That as this is the only Constitution which, from the earliest history of mankind, has had for its direct object “Political Freedom;” so there is none other in which the laws are so well calculated to secure and defend the life, the property, and the personal liberty of every individual.”

Cotton-Garden
Sept. 22, 1781

[PREFACE_002]

PREFACE

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Cotton-Garden,
Sept. 22, 1781.

[PREFACE_003]

PREFACE.

The variety of materials, which have occurred, beyond what were expected under the two titles, Lords and Supply, has prevented the inserting, in this Volume, the Cases and Observations upon the Heads of Impeachment, Conferences, and Bills, with which it was hoped that this Work might have been concluded.

However, as the being engaged in studies of this nature is, to the Editor of these Volumes, an object of amusement, as well as, in some respect, an official duty, he trusts that it may still be in his power to communicate to the Public such information as he shall meet with upon those subjects.— And if it shall be thought, that these publications have in any degree contributed to the better observance of the Rules and Orders of the House of Commons; or, that this Work throws any new light upon the History and true Principles of the Constitution of this Government, it will have answered every purpose for which it was intended.

In the course of these Observations, as well as in those of the former Volumes, care has been taken to avoid entering at large into the discussion of several topics, that have engaged great part of the public attention within these last twenty years.

The shortening the duration of Parliaments—the proper limitation upon the influence of the Crown—the right of the House of Commons to declare the law with respect to the eligibility of its Members—with several other matters, all offered themselves, in the progress of this Work, as subjects, upon which the Editor might have taken an opportunity to enlarge, and to explain the grounds of the opinions, that he had formed, upon these and other great political questions. But in a work of this sort, intended principally as an Index for those persons, who wish to obtain a knowledge of the forms and proceedings of Parliament, it did not appear precisely to be the place, where discussions of that kind ought to be introduced.—It has therefore been thought sufficient to point out only such facts as appear to elucidate the general history of this Constitution: and, as some {ix} late writers, particularly the Compilers of the Parliamentary History, have taken no little pains to mistake and misapply those facts, the attention of the Reader is here more particularly directed to such instances, as shew, from the Records of either House of Parliament, or from the more ancient

repositories of the History of this Kingdom, that the Government, even in the earliest periods, was founded in principles of freedom, and has always had for its immediate object the interests of the Community at large.

From these Records, and from the accounts that are transmitted to us of those Governments, from whence the present Constitution of this country is derived, it will appear, that the security and happiness of the People, as distinguished from the Crown and the Nobles, had at all times a considerable weight and influence in the administration of public affairs.— The protection given, by the laws of our Saxon ancestors, to the persons and property of every individual—the establishment of the trial by Jury—the rights of the Freeholders, in their County Courts, to elect Sheriffs and Coroners—the privilege of chusing Members of the House of Commons—the want of authority in the Crown to impose taxes but with the consent of those Members—the {x} firm and successful opposition that has been made, at different periods, by the People of this Island, against attempts of the Crown derogatory from their rights and privileges—all evince the truth of these Observations, and are historical proofs, that the claims, which were made and asserted at the Revolution, were, as they were then declared to be, “the ancient and undoubted rights and liberties of the People of this kingdom.”

These are the principles, and this the information, which are to be acquired from an accurate investigation of the “Journals and other Parliamentary Records. It is sufficient for the Editor of this Work, to have acted in the humble station of pointing out the sources of this knowledge—It remains for those persons, whose abilities, and rank, and situation in life, enable them to carry these principles into effect, to attend, upon every occasion, to the preservation of the outlines of the Constitution; and, by a steady adherence to that happy form of government which they have inherited from their ancestors, to endeavour to transmit it sacred and inviolate to their posterity.

Cotton-Garden,
Aug. 20, 1784.

[PREFACE_004]
PREFACE TO THE FOURTH VOLUME.

The Only parts of this Work, which remain to be offered to the Public, are included under the following Titles, Conference, and Impeachment.

The Editor is aware, that, on the latter of those heads, he has, in some instances, been induced to deliver his opinion on questions of Parliamentary Law, more decidedly, than perhaps it was prudent for him to have done. He has however always endeavored to express that opinion with diffidence; and, whenever he has presumed to form any conclusions, of what appeared to him to be the Law of Parliament, he has, at the same time, stated at length the particular Cases and Precedents, from whence those conclusions have been drawn.

It has sometimes been advanced, that this expression of “Parliamentary Laws,” or “The Law of Parliament,” is inaccurate; for that there is no such particular Law, distinct from the Common Law of the Land. No such distinction has ever {vi} been attempted to be made, but, from the earliest ages of our history to the present moment, it has been uniformly affected, by those best acquainted with these subjects, “That the judicial proceedings in Parliament are to be regulated, not by what are commonly and technically called, the Rules of the Common Law, but by their own customs, and the ancient practice of the two Houses of Parliament,” and therefore, “That the Law of Parliament forms part of the Common Law of the Land.”

Above four hundred years ago, the Lords claimed it to be their acknowledged franchise, “That matters moved in Parliament shall be managed, adjudged, and discussed, by the course of Parliament; and in no sort by the Law Civil, or by the Common Law of the Land, used in other lower courts of this kingdom.” Sir Edward Coke says, “As every court of justice hath laws and customs for its direction, some by the Common Law, some by the Civil and Canon Law, so the High Court of Parliament suis propriis legibus et consuetudinibus consistit. It is by the Lex of consuetude Parliamenti, that all weighty matters concerning the Peers of the Realm, or Commons in Parliament assembled, ought to be discussed, adjudged, and determined.” Indeed all the wisest statesmen and greatest lawyers, through a long succession, from Sir Edward Coke and Mr. Selden, to the Earl of Hardwicke, have, whenever an opportunity has been offered to them, constantly repeated this doctrine. Nor is the authority of the Judges in

Westminster Hall wanting in its support: it will be found, in the Records of Parliament, that these venerable Magistrates, when application has been made to them for their opinion on questions, relating to judicial proceedings in Parliament, have {vii} modestly “desired to be excused from delivering any such opinion; for that of those subjects the Lords only are the judges.” And if, at any time, some of them have presumed to disregard these rules, and to declare the Law of Parliament, they have been told, “That such judgment belongeth only to the Lords; and that it is the franchise and liberty of the Lords, by the antient custom of the Parliament, to be the sole Judges in such cases.”

The great variety of subjects, which come before Parliament for their consideration, has, since the publication of the former Volumes, suggested the insertion of some Titles, and made it necessary to refer to several Precedents, which had not before been the objects of particular attention—it has therefore been thought proper, together with this Volume, to re-print the three former with those additions. It has been already observed, that, in forming an opinion of this Work, it ought to be considered as a sort of Index to the Journals at large; intended to assist those Members of Parliament or other persons, who may be desirous of consulting the original Records on these subjects. Whether it will be found to answer a still more important purpose, must be left to the judgment of the Reader; perhaps it may not be too presumptuous to hope, that these researches, and the precedents here brought forward, may, in some degree, tend to give additional strength and support to those maxims and principles, which are the foundation of the British Government—and which have hitherto maintained the balance of this justly admired Constitution, as well against the weight of an undue exercise of the Prerogative, or of the influence of the Crown, as against the no less dangerous, though {viii} more plausible, attempts to extend the powers of the People, beyond what were claimed, at the memorable Æra of the Revolution, to be, “The true, antient, and indubitable rights and liberties of the subjects of this kingdom,” and which, by the Bill of Rights, were declared, enacted, and established, to stand, remain, and be, the law of the realm for ever.”

Cotton-Garden,
October 20th, 1796.

[PREFACE_005/1818]
PREFACE TO NEW EDITION OF
PRECEDENTS OF PARLIAMENTARY PROCEEDINGS

It is now above Forty Years since the publication of the First Volume of this Work; and more than Twenty Years have elapsed, since the whole, in Four Volumes, has been submitted to the Public.—Within that time, many Cases have occurred, and several Acts of Parliament have been passed, which, in some instances have explained and illustrated, in others have made an alteration in the Law of Parliament, as it was then to be collected from the Precedents referred to under the several Titles. This consideration alone would be a sufficient reason for publishing a New Edition of this Work; but whoever has leisure to compare these Volumes with the former, will immediately perceive the advantages, which they derive from {vi} the Notes and Observations, that have been communicated to the Editor by the Right Honourable Charles Abbot, late Speaker of The House of Commons, now Lord Colchester, who presided in that Assembly for more than Fifteen Years, with so much honour to himself, and with such satisfaction to the Public.

Mr. Abbot's constant and uniform attention to the Rules and Orders of the House, and to the Public and Private Business, His intimate knowledge of the Antient Records and Journals of Parliament, His acute and accurate investigation of all the circumstances which have any reference to the History and Constitution of this Country, cannot fail to stamp the highest value on these communications.

In contemplating the merits and services of Mr. Abbot, in the eminent situation in which he was placed, the Editor of this Work cannot refrain from adverting particularly to the dignified and impressive manner in which he delivered the Thanks of The House of Commons, to the {vii} distinguished Officers to whom they were voted in the late War ! The Speeches of Mr. Abbot, on those occasions, may justly be considered as perfect models in that species of eloquence.

It is a source of great comfort to the Editor of these Volumes, to think that, though at a very advanced age, he has been blessed with health and spirits sufficient to permit him to attend to this Republication. And he has the satisfaction to reflect, and to express his hopes, that, when he shall be removed from this World, he shall be thought not to have lived in vain; but

to have employed his studies and leisure hours, in putting together a Work, which he trusts may be of public utility; and which may, in however inferior a degree, contribute to the support and preservation of our justly admired, and most excellent Constitution.

Cotton Garden,
January 1818.

J. H.