REMEMBRANCES OF Methods, Orders, AND PROCEEDINGS,

Heretofore uſed and obſerved in the

House of Lords:

Extracted out of the Journals of that Houſe. By *Henry Scobell*, Eſq; Cler. Parl.

To which is added,

The Priviledges of the Baronage of *England*, both in and out of Parliament. Collected by *John Selden*, Eſquire.

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A

TABLE

OF THE

Several Matters treated of in this BOOK.

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CHAP. I.

The first Meeting of the Parliament.

WRits being issued for summoning a Parliament to meet at a day certain, in case the Meeting were prorogued, it was done by a Commission directed to both Houses; in which case the Lords being set in their places covered, the House of Commons sent for and come to the Bar, standing there uncovered, the Lord Chancellor or Lord Keeper being likewise (in respect he spake to both the Houses) uncovered, used to declare, That for some reasons the King or Queen had thought fit to prorogue the Parliament to a further day, and accordingly had directed a Commission under the Great Seal, which was read: And thereupon the Lord Chancellor or Lord Keeper, declared the Court to be prorogued.

If the Prorogation were occasioned by some Accident, so as it were put off for a day or two (as in 2 *Eliz.* when on the day appointed the Lords being met, notice was given to the Commons, who without any appearance of their Names taken by the Lord Steward

and Lord Treasurer (so the Entry is made in the Journal of the Commons) went up to the Lords House, where the Lord Keeper declar'd the Queens present Indisposition of Health, and had therefore sent a Writ to adjourn till the next day;) the same was done without a Proclamation.

But if it were prorogued for a longer time, a Proclamation was usually issued. So 18 *Jac.* the Parliament summoned to meet the 16*th.* of *January*, was by Proclamation prorogued to the 23*d.* Nevertheless, the Lords and Commons met, and the same was prorogued by Writ, under the Great Seal, signed by the Kings Hand, and read in the Lords House; upon reading whereof the Lord Chancellor did pronounce the Prorogation. So 21 *Jacob*, 12 *Feb.* and 16 of *Feb.*

If no Prorogation were made, the Lords being met in the House, sitting in their Robes, and the King being present, the Gentleman Usher was sent to give notice to the Commons, who being come into the Room, the King sometimes himself, but commonly the Lord Chancellor or Keeper of the Great Seal, did declare the cause of calling the Parliament, and did signifie to the Commons the Kings Pleasure, that they should resort to their House and make choice of a Speaker, and present him to the King at a certain day then appointed.

CHAP.

CHAP. II.

The Sitting of the Members.

UPon the day of the meeting of the Parliament, the Lords took their places, according to the Order prescribed in the Act of Parliament of 31 *Hen.* 8. saving that the Lord Chancellor or Lord Keeper did sit on the Woolsack as Speaker of the House, and the Lord Treasurer on the Earls Bench.

The manner of bringing into the House a Member called thereto during the Parliament, or who had not sate there before, may appear by this Entry in one Case.

Novemb. 20. 1622. This day the Lord Viscount *Colchester* being in his Parliament Robes, was brought into the House by the Earl of *Rutland* and the Lord *Houghton*, being also in their Robes, *Garter* King at Arms going before, and so was presented to the Lords, he delivered his Patent for his Creation to the Lord Keeper (*Garter* going before him, but the Earl and Lord *Houghton* staid before the Clerks Table) and received it again immediately, and so he was brought and placed by the said Earl and Lord on the Viscounts Bench, next the Lord Viscount *Fielding*. Two others

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in like manner were brought in the ſame day.

In this was omitted one part of the Ceremony which was ſometimes uſed, that next after *Garter* King at Arms there came the Earl Marſhal, or ſome other Lord ſupplying his place.

In ſome Caſes the Patent was read by the Clerk, before the Member brought in was placed.

CHAP.

CHAP. III.

The Speaker of the Houſe.

THe Lord Chancellor or Lord Keeper for the time being, was by his Office Speaker of the Houſe, managing the buſineſs of the Houſe.

It was his Duty to declare (in caſe the King did not himſelf) the cauſe of calling the Parliament; and in caſe of prorogation, to declare the occaſion of ſuch Prorogation, and to cauſe the Writ to be read, and then to prorogue the Parliament.

In caſe the King were preſent, and did declare the cauſe of Calling the Parliament, yet ordinarily he did refer ſomething to be ſpoken by the Lord Chancellor or Lord Keeper, who did alſo declare the Kings Pleaſure, that the Commons ſhould reſort to their Houſe, and chuſe a Speaker, and many times appointed a time for preſenting him to the King.

In caſe of Sickneſs or other Diſability of the Lord Chancellor or Lord Keeper, during the Parliament, the King did uſually direct a Commiſſion to the Lord Chief Juſtice of the Kings Bench, during pleaſure, to ſupply the Office of the Lord Chancellor or Lord Keeper in that Houſe, and to do in

all things as the Lord Chancellor or Lord Keeper ſhould or ought to do, if he were preſent. *See* 25 *Oct.* 8. *Eliz.* upon occaſion of the Sickneſs of Sir *Nicholas Bacon* Lord Keeper, a Commiſſion was directed to Sir *R. Catlin.*

When the Speaker did ſpeak to the Houſe, he was alway uncovered; nor was he to adjourn the Houſe, or to do any thing elſe at the mouth of the Houſe, without the conſent of the Lords firſt had, except the ordinary buſineſs about Bills (as preferring one Bill before another, or the like,) wherein the Lords might alſo over-rule; and if therein, or in any thing elſe there were any difference, it was to be determined by a Queſtion.

If the Speaker would ſpeak to any thing in debate particularly, he was to go to his own place in the Houſe (as an Officer of State,) and to ſpeak there, and then to return to the place of Speaker.

CHAP.

CHAP. IV.

The firſt Days Work.

THe firſt Work either at the beginning of a Parliament or a Seſſion, was to read a Bill, and then to name perſons for receiving Petitions to the Houſe.

Some were appointed for receiving all Petitions for *England*, *Scotland* and *Ireland*, others for Petitions from *Gaſcoigne*, and other Iſlands.

To each of theſe Services, there were uſually appointed five perſons of the Judges and other Aſſiſtants of the Houſe, *viz.* to each, one of the Chief Juſtices or Chief Baron, two other of the Judges, and two Maſters of the Chancery.

There were alſo appointed ſeveral Lords for Trial of theſe Petitions.

For the Petitions for *England*, *Scotland* and *Ireland*, were uſually appointed the Lord Treaſurer, Lord Preſident of the Council, Lord Admiral, and other great Officers of State, and ſome others of the Nobility.

For the other Petitions divers Lords were appointed.

The Names of these were read by the Clerk.

On this day there used to be appointed a Committee to review the Orders of the House, and to take consideration of the Priviledges of the Lords, and to see that from time to time the same were duly observed.

Of latter times a Roll was usually read, containing the Orders of the House, and then other business done.

CHAP.

CHAP. V.

Speaker of the Commons presented.

THe Commons having chosen their Speaker he was presented to the King in full Parliament, (sometimes it hath been done at *White-hall* in the presence of the Lords and Commons, but ordinarily in the Lords House,) where he received approbation.

When a Parliament hath been prorogued, and the Speaker hath died in the interim, it may appear what the course hath been by these instances.

In the second Session of the Parliament held 2 *Eliz.* the Speaker of the Commons being dead, the House at their meeting sent a Message to the Lords, to be a means to the Queen that they might chuse another Speaker; which the Lords promised to do, desiring some of the Commons House, being of the Privy Council, might be joined, and the Lords named, the Lord Keeper, the Duke of *Norfolk*, the Lord Treasurer, and the Marquess of *Northampton*, to move the Queen therein.

The next day the Knights, Citizens and Burgesses, went up to the Lords, where was read a Commission directed to the Lord Keeper,

Keeper, to intimate the Queens License to the House of Commons to proceed to the Election of a Speaker; whereupon Mr. Comptroller, a Member of the Commons, moved their Lordships, that *Richard Onslow*, Esq; the Queens Solicitor, might be restored to join in their Election as a Burgess for *Steining* in *Norfolk*. Upon consultation had among the Lords, he was sent down with the Queens Serjeant at Law and Attorney-General, to shew reasons against it, because of his Office and Writ of Attendance in the Upper-House; but it was adjudged he was a Member of that House, and was chosen Speaker.

The like was done in the third Session of the fourth Parliament of that Queen, upon the death of Sir *Robert Bell*, Speaker, who died during the Prorogation.

C H A P.

C H A P. VI.

Speaking in the House.

WHen any Member of the House did speak, he did address his Speech to the rest of the Lords in general, and not particularly to the Speaker.

He who did speak stood up uncovered, nor was he in his Speech to name any Member of the House, but by some reference; as, the Lord that last spake, or last but one, *&c.* or by some other signification.

June 13. 1626. Ordered, *That to prevent misunderstanding, and for avoiding offensive Speeches in Debates or at Committees, all personal, sharp, or taxing Speeches shall be forborn; and whosoever answereth another Mans Speech, shall apply his Answer to the matter, without wrong to the Person.*

And as nothing offensive is to be spoken, so nothing is to be ill taken: If the Party that spake shall presently make a fair Exposition or clear Denial of the words that might bear an ill construction. And if any Offence be given in that kind, as the House it self will be very sensible thereof, so it will sharply censure the Offender, and give the Party offended a fit reparation and full satisfaction.

C H A P.

CHAP. VII.

Deportment of Members and others.

NOne but Members of the Houſe might be covered in the Room called the Lords-Houſe, before the Houſe ſate, though it were the eldeſt Son of a Peer, unleſs he were called by Writ: Nor were any other Perſons to ſtay there, nor any Attendant of any Nobleman, longer then whiles he brought in his Lord, and then retired.

The firſt or ſecond day the Houſe was uſually called, and notice taken of ſuch as were abſent, who had not either ſent their Proxies, or were not excuſed by the King for ſome time.

After the General Meeting, every Member coming after Prayers, was to pay a Mulct to the Poor, which was ſet by Order of the Houſe.

None might abſent himſelf at any time from the Houſe, without making an excuſe by ſome Member of the Houſe; which Excuſe if diſallowed, the Perſon was either ſent for, or reprehended when he came. By Order of 25 *Feb.* 1625. he was to pay Five Shillings to the Poor for every days abſence.

When the Houſe was ſet, every Member that entred was to give and receive Salutations

tations from the reſt, and not to ſit down in his place till he had made obeyſance to the Cloth of State.

The Members were to keep their Dignity and Order in ſitting as much as might be, and not to remove out of their places without juſt cauſe, to the hindrance of others that ſate near them, and diſorder of the Houſe; but when they muſt needs go croſs the Houſe from one ſide to the other, they were to make obeyſance to the Cloth of State.

By Order of 23 *May*, 1628. none but Noblemen and the neceſſary Attendants of the Houſe, were to come into the Lobby, nor the little Committee-Chamber.

If any Lord conceived himſelf to have received any Affront or Injury from any other Member of the Houſe, either in the Parliament Houſe, or at any Committee, or in any of the Rooms belonging to the Lords Houſe, he was to appeal to the Lords in Parliament for his Reparation; which if he ſhould not do, but occaſion or entertain Quarrels, declining the Juſtice of the Houſe, then he ſhould undergo the ſevere Cenſure of the Houſe; which was ordered to be a ſtanding Order of the Houſe, 9 *Auguſt* 1641.

CHAP.

CHAP. VIII.

Judges and Assistants.

THe Reverend Judges, or such of the Privy Council as were called by Writ to attend the House, did sit on Woolsacks, but were uncovered until the Lords gave them leave, which they did ordinarily signifie by the Lord Chancellor or Speaker: Nor did they speak at any time, or deliver any Opinion until the same were required, and they were admitted so to do by the major part of the House, in case of difference about it.

The Judges were often appointed to be assisting unto Committees of the House upon Bills and other Matters: In which Cases of the Committee, refer any thing to the consideration of the Judges, they were to make report thereof to the Committee, and the Committee to report it to the House. This was agreed for an antient Order of the House, *May* 4. 1624.

Sometimes the House hath referred it to the Judges, sometimes to the Kings Council Learned, to draw Bills in special Cases, sometimes to prepare Amendments to Bills, upon Debates in the House.

39 *Eliz.*

39 *Eliz.* 26 *January*, Upon reading a Bill for increase of People for Service and Defence of the Realm, the same being disliked, it was referred to the Judges, especially the Lord Chief Justice, to draw a new Bill.

27 *January*, Amendments drawn by the Lord Chief Justice to a Bill *against decaying of Timber and Houses of Husbandry*, were read and allowed, and the Bill ordered to be ingrosed.

The Kings Learned Council were ordered to prepare a Bill, *to make the Lands of the Earl of* Middlesex *subject to his Debts, to be liable to answer his Fine.* May 13. 1624.

43 *Eliz.* 12 *Dec.* Mr. Attorny-General reports a Conference with Committees of the Commons House, touching Amendments to a Bill for Patents.

CHAP.

CHAP. IX.

Clerk of the House.

THe Clerk was to enter no Order until the Lord Chancellor (or other Speaker) first demand the Assent of the House.

May 20. 1626. The Clerk is to read every Order first in the House before it be entred.

December 14. 1621. The House was moved, that no motion be entred as an Order, unless the Lord Keeper do first demand the Opinion of the Court, whether the same shall be allowed of as an Order, or no, and then the same to be set down as an Order and read, which was well approved of.

CHAP.

CHAP. X.

Bills and their Readings.

BIlls have had their rise either in the Commons House, and so after they were ingrosed in Parchment, were sent up to the Lords by some of the Members of the Commons House, or else they did originally begin in the Lords House, whereof there are Presidents of all sorts (except Bills of Subsidy, or to charge the People,) especially Bills of Grace; as for Naturalization, Restitution in Blood, *&c.* In which case they were presented in Paper.

At the first reading, it was usually let pass without being spoken unto, unless it were for the rejection of it; but upon the second reading every Member had leave to speak, and then upon motion it was committed.

In any Debate upon a Bill, no Man might speak twice at the same reading of it, nor to any Proposition, unless for explaining himself in some material part of his former Speech, and that without adding any new matter; nor was such Explanation admitted without leave of the House first obtained.

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When any queſtion was put, he who ſate loweſt began firſt to declare his mind; and ſo the reſt every one in his turn, which he did by riſing up uncovered, and ſaying, *Content*, or *Not content*: And if there were a doubt, it was determined by Poling, not by dividing the Houſe.

Two Perſons are appointed by the Lords to count the numbers.

Upon the paſſing of a Queſtion, any Member of the Houſe might enter his diſſent. The time given for doing it, appears by an Order 5 *March* 1641. That ſuch Lords as ſhall make proteſtation, or enter their Diſſents to any Votes of that Houſe, ſhould make their ſaid Proteſtation, or give direction to have their Diſſents entred into the Clerks Book the next ſitting day of the Houſe, or elſe the ſaid Proteſtation or Diſſent to be void and of none effect.

At the ſecond reading of a Bill (That the Lord *Mountjoy* might diſpoſe of his Lands whereof he is Tenant in Tayl, as other Tenants in Tayl may do, by the Laws and Statutes of the Realm, a private Statute of 27 *Hen.* 8. to the contrary notwithſtanding.) Upon motion of the Lord Marqueſs of *Winchester*, it was ordered the Cauſe ſhould be heard openly in the Houſe on *Monday* then next, by Council learned on both ſides.

CHAP.

CHAP. XI.

Concerning Committees.

COmmittees were uſually appointed for Bills, to the end there might be more freedom of Debate, as likewiſe upon other occaſions of great buſineſs, to prepare the ſame for the Houſe.

Theſe Committees are either particular Perſons named for that purpoſe, or the whole Houſe turned into a Committee. If it were deſired by any Lord that the Houſe might be put into a Committee, it ought not to be refuſed, *per* Ord. *April* 18. 1626.

When the Committee of the whole Houſe did ſit, the Lord Chancellor or Lord Keeper did not ſit upon the Woolſack as Speaker, but in his proper place. Every Lord was to ſit in his due place whiles the Houſe is put into a Committee. If the Committee were of fewer number, they met in the Painted Chamber, or the little Room adjoining.

Whiles any of the Committee did ſpeak to the reſt, he did it uncovered, but might ſit ſtill if he pleaſe.

If any of the Judges or Learned Council were appointed by the Houſe to at-

tend ſuch Committee, they were not to ſit or be covered, unleſs it were out of favour for infirmity ſake; in which caſe ſometimes ſuch Judge had a ſtool ſet behind, but uncovered.

Committees have power by the ancient Orders of the Houſe, to adjourn themſelves *de die in diem*, as often as they pleaſe. *March* 19. 1623.

CHAP.

CHAP. XII.

Proceeding on Bills.

WHen Amendments were reported to a Bill, they were twice read, and if approved, the Queſtion was put for the ingroſing the Bill ſo amended. The firſt Perſon named to be of a Committee, made Reports from that Committee. Sometimes Amendments reported, were referred back to the ſame Committees to be reviewed; as in the Amendments to the Act for erecting Houſes of Correction. *Eliz.* 39.

November 2. In the Parliament begun in 43 *Eliz.* Amendments were reported to a Bill for Aſſurances of Lands. One of the Committees affered to ſpeak to the Bill, and to the Amendments; thereupon a Doubt was raiſed, whether it might be done by the Orders of the Houſe. And upon long Debate and Queſtion, it was agreed, That any Committee might ſpeak in like caſe, either to the Body of the Bill, or to the Amendments, upon bringing them in before the Bill be ingroſed.

Novemb. 21. In the ſame Parliament, upon reading the third time an Act for Aſſurances of Lands, objections were made to ſome points of the Bill. The Houſe was

divided in opinion, whether it ſhould be recommitted, which was put to the Queſtion. The numbers being equal (being told by the Biſhop of *London* and the Lord *Gray*, appointed by the Lords for that purpoſe) it was adjudged the negative ſhould prevail, following therein the Rule of Law whereof the Lord Keeper made mention, that where the numbers of *Affirmatives* and *Negatives* are equal, *ſemper præſumitur pro negante*; and afterwards the Bill being put to the Queſtion for paſſing, was rejected.

After a Bill was ingroſed, the Clerk ought to indorſe the Title thereof upon the back of the Bill, and not within: For want whereof, divers Bills ſent to the Commons have been returned to be amended, as appears by the Journals of the Commons Houſe, 27 *Eliz. December* 19. 13 *Eliz. May* 27. 39 *Eliz. Octob.* 24. 4 Seſſ. 1 Par. *Jac. May* 5.

If the Bill paſſed were originally begun in the Commons Houſe, then ought the Clerk to write upon the ſame when it paſſed, *A ceſte Bille les Seigneurs ſont aſſentus.*

If it begun originally in the Lords Houſe, the ſame was ſigned thus, *Soit Baille aux Communs.*

If any Proviſo in Parchment were added thereunto after it were ingroſed, then the Bill was to be ſigned thus, *Soit Baille*

Baille aux Communs, avecque un Proviſion annex. And the Proviſo it ſelf was ſigned thus, *Soit Baille aux Communs.*

The like Rule was obſerved when any Addition (which containeth in it another Clauſe) or branch of the Bill was deſired to be enacted and agreed after the Bill was ingroſed, ſaving that in this caſe, inſtead of the word *Proviſion*, the word *Schedule* was inſerted.

Bills coming from the Commons have likewiſe three readings in the Lords Houſe, in ſuch ſort as Bills originally begun there.

If upon the ſecond reading the ſame were committed, the Amendments were to be ſet down in Paper by the Committee, with reference to the Line and the Words between which it is to be inſerted, and ſo to be reported to the Houſe, and if the Houſe approve them, or make any alterations in them, then the ſame Amendments as they are agreed, are to be ſent with the Bill to the Commons, to be accordingly by them amended, if they think good.

When a Bill is paſſed in either Houſe, that Houſe wherein the Bill remaineth, may deſire Conference with the Houſe that paſſed the Bill, if they think good, and not otherwiſe. So it was inſiſted on by the Commons in a Conference, 18 *Eliz.*

CHAP. XIII.

Messages and Conferences.

THe meeting of the Houses was either upon occasion of Messages, or upon Conferences.

When a Message was sent up from the Commons by some of their Members, notice thereof was given to the House by the Usher; and when the business in debate was ended, the Messengers were admitted in manner following: The Lords sitting all covered, the Messengers being entred into the Room, stood at the lower end thereof, then the Lord Chancellor, with such other Members as pleased, went down from their places to the middle of the Bar, whither the Messengers came; and after three Courtesies delivered their Message to him, who having received it, retired to his former place, and the Messengers withdrew.

The House being cleared and setled, the Lord Chancellor reported the substance of the Message to the House; any of the Members who went down with him might help his Memory, or rectifie him, if any thing were mistaken.

After the Lords had taken resolution, if the business required any Answer, the Messengers

sengers were either called for in, who approaching to the Bar with their three Courtesies, as before, (the House sitting in order and covered,) the Lord Chancellor sitting upon the Woolsack covered, gave them their Answer in the name of the House; or else if the resolution were not speedy, word was sent by the Usher, That they should not need to stay for an Answer, but the House would send it by some express Messengers of their own.

No Members of the House were at any time sent to the Commons upon message, but either some of the Learned Council, Masters of the Chancery, (who are there to attend) or, in weigty Causes, some of the Judges; but the Commons send no Message, but by some of their own Body.

In case of Conference with the Commons, such as were sent from that House at the time and place appointed by the Lords (which was usually the Painted Chamber,) being come thither, the Lords came to them all at once, and not scatteringly, which might take from their gravity, and prevent their places. The Lords did sit there covered, the Commons did stand bare during the time of the Conference.

None were to speak at such Conference, but those that were of the Committee; and whiles any thing that hath been committed

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is reported. all the Lords that were of that Committee were to stand up.

At any Committee of the Lords, any Member of that House, though not of the Committee, might be present and speak, but had no Vote: As also, he was to give place to all that were of the Committee, though of lower degree, and to sit behind them. The same Order was to be observed for sitting at Conferences with the Commons.

No Man might enter either when the House sits, or at any Committee or Conference (unless such as were commanded to attend) but Members of the House, upon pain of being punished.

Jan. 19. In the Parliament begun 39 *Eliz.* several Members of the Commons were sent with a Message to the Lords, to receive satisfaction from the Lords, touching an Innovation lately begun (as it was said) in that House, that an Answer to a Message from the Commons was given by the Lord Keeper sitting in his place, and all the Lords keeping their places, and not going down to the Bar as their Use and Form hath been. Upon long debate, it was resolved by the Lords, That it was the Order and Usage of the House, when any Bills or Messages are brought from the Commons to the Lords, the Lord Keeper and the rest of the Lords, are to arise from their places, and to go down to

to the Bar, there to meet such as came from the Commons, and to receive in that place their Message and Bills; But contrariwise, when any Answer was to be delivered in the name of the House, to such Knights, Citizens and Burgesses, as came from the Commons House, the said Knights, Citizens and Burgesses, standing at the lower end of the House without the Bar, the Lord Keeper is to deliver the same Answer sitting in his place with his head covered, and all the Lords keeping their places (the Archbishop, Lord Treasurer, Lord *North*, Lord *Buckhurst*, and especially the Lord Treasurer, who was the eldest Parliament Man, affirming this to be the ancient course.) With which Answer, after some Conferences with the Commons, they were satisfied.

CHAP.

CHAP. XIV.

Sending Amendments from one House to the other.

WHen the Lords send down Amendments to a Bill sent from the Commons, the Bill it self is not to be amended, but the Amendments are to be sent in Paper, expressing in what Line, and between what Words they desire the Amendments to be made, and the Bill with the Paper affixed thereunto, is to be sent to the Commons to be accordingly amended, if the Commons think good.

39 *Eliz. Decemb.* 19. The Amendments to the Bill for Labourers, were sent to the Commons ingrosed in Parchment; and for that Cause were returned by the Commons without Allowance. Thereupon the Lords ordered them to be written in Paper, and so sent down.

Where there is a Schedule of Additions, or a Proviso that ought to be sent in Parchment, and this subscribed, *A ceste Bille avecque les amendments les Seigneurs ont assentus.*

If the Lords, for explanation of any Sentence in Question, to add words to the addition of the Commons, without putting out of any part of that which is required to be added or altered by the Commons, the

the same is to be set down in writing by the Lords, and sent to the Commons, together with the Bill: If the Commons do allow thereof, they are to add the words required by the Lords Paper, and so return the same to the Lords, who thereupon did enter it into their Bill ingrosed.

Amendments ought always to be in that House, from which the thing to be amended originally proceedeth, though the Directions for the Amendments came from the other House.

This also is a general Rule, that neither House may put out any thing which they have before passed, otherwise than at the request of the House, who hath not passed the same.

In the Parliament, wherein Mr. Serjeant *Snagge* was Speaker, it was usual when either House desired the clear passing of any Bill, sent unto them from the other House, in which they thought fit to make Alterations, to acquaint the House from whom it came, with the Alterations which they intended to make, and to desire to know their willingness thereto, thereby to prevent the hazard of the Bill, if perhaps they should make Alterations not approved of.

In like sort they sometimes used Conferences, only to prevent the casting away of Bills, for some small difference about the Amendments.

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The Lords by a Meſſage without any Paper ſent, have been prayed by the Commons to amend the ſenſe of ſome of their Amendments, that ſo the Houſe might further proceed therewithal; which hath accordingly been performed, and then their Amendments have been conſidered, allowed and returned, 23 *Eliz.* 17 *Martii.* Bill touching Scottiſh Orders.

13 *Eliz.* in the Bill againſt Vagabonds, it was reſolved by the Commons, That certain Words required by the Lords to be put out, ſhould ſtand qualified with other Words, with condition, that if the Lords ſhould not agree to the ſaid Qualification, the Commons would not be bound by that reſolution; which was done on purpoſe to avoid the hazard of the Bill, in caſe the Lords ſhould not agree thereto.

2 & 3 *Phil. & Mar.* The Bill for Exactions of Muſters, had a Proviſo annexed by the Commons Houſe, and the Lords returned the Bill, deſiring the Proviſo annexed might be taken off, and a new deviſed by themſelves put in place thereof.

27 *Eliz.* 13 *Martii.* The Bill touching the Sabbath, which upon divers Conferences received ſeveral Additions, Alterations and Amendments of Amendments, by means whereof the ſame was much defaced, was ſent down by the Lords, and prayed by them that it might

might be new written, (the ſame coming originally from the Commons) which was done, and ſo it paſſed again in both Houſes.

25 *Eliz.* 31 *Martii.* The Bill againſt Popiſh Recuſants firſt paſſing from the Lords, was returned with Amendments, which the Lords aſſented unto, and ſent down the ſame again amended by them accordingly, and alſo a Proviſo annexed thereto to be paſſed, if the Houſe ſhould think good, which the Commons yielded to, and paſſed the ſame accordingly.

This is a remarkable Preſident, that a Proviſo ſhould be added by them who firſt paſſed the Bill, without reference to any Alteration or Amendment, inſerted by direction from the other Houſe.

March 20. 1624. An Act touching Hoſpitals being begun in the Lords Houſe, and been twice read and committed, and Amendments reported, and the Bill ingroſed, upon the third reading there appeared ſuch defects in the Bill, as the Houſe reſolved to lay it a ſleep, and ordered Mr. Attorny-General to prepare another; but ſome days after the Houſe being informed, That it was againſt the Orders of the Houſe to let a Bill ſleep; but rather it ſhould be ſent to the Commons with a Note of the Defects, and a Commendation of a Supply of them: The Judges were appointed to conſider of the

the Defects of the Bill, and the Remedies; which they having reported, the Bill was sent down with a special Message, touching the Defects, and the ways to supply them, by the Commons.

CHAP. XV.

Sending of Bills from one House to the other.

BIlls sent from the Lords to the Commons, if they were ordinary Bills, were usually sent down by the Serjeants at Law, or Masters of the Chancery, accompanied sometimes with the Clerk of the Crown.

Bills of greater moment were usually sent down by some of the Judges Assistants there, accompanied with some Masters of the Chancery, who being admitted, came up close to the Table where the Clerk sitteth, making three Congies, acquainting the Speaker, that the Lords have sent unto the House several Bills, and read the Titles, and delivered the Bills to the speaker, and so departed with like Ceremony.

Bills sent from the Commons, are sent by one Member of that to whom they were

were delivered (who was usually attended with thirty or fourty of the House,) who came in the first rank of his Company, to the Bar of the Lords House, with three Congies, and and acquainted the Lords, that the Knights, Citizens and Burgesses of the Commons House, had sent unto their Lordships certain Bills; and then reading the Title of every Bill as it lyeth in order, so delivered the same unto the Lord Chancellor or Keeper (or other who is Speaker,) who with the rest of the Lords came to the Bar to receive them.

CHAP. XVI.

Touching the Royal Assent.

WHen Bills were passed both Houses upon three several Readings in either House, all the Bills were presented to the King for his Assent; which was usually deferred till the last day of the Session, though it may be given at any time during the Parliament. And where it hath been doubted, whether such Assent given to any one Bill, doth not *ipso facto*, conclude that present Session (which if it did, then every other Bill to which the Royal Assent is not given, (though it have passed both Houses,) ought to be again read three times in either House, and to be proceeded in as if nothing had been done therein, and so all other Acts of the House) some Declarations have been made, that such Assent did not determine the Session. So in 1 and 2 *Philip* and *Mary*, *Novemb.* 21. And in the last Session of the first Parliament of King *James*; nevertheless, it is usual by some particular Bill or Provisio, to have the same enacted.

The Royal Assent was either given by Commission, according to the Statute of 33 *Hen.* 8. (which hath been frequently done,) or else in Person; in which case, the King being come to the Lords House and sitting there,

there, and the Lords being in their Robes, and the Commons came to the Bar, the Speaker of the Commons usually bringing with him the Bill of Subsidy only, (all other Bills being sent up to the Lords before) and presenting the same with a Speech: The Clerk of the Crown did read the Title of the Bills in such order as they are in consequence. After the Title of each Bill is read, the Clerk of the Parliament pronounceth the Royal Assent according to such Instructions as he had in that behalf received from the King.

If a Publick Bill were assented unto, the Answer was:

Le Roy le Veult.

If a Private Bill allowed by the King, the Answer was:

Soit fait come il est desire.

If a Bill not assented to:

Le Roy se aviserа.

To the Subsidy Bill:

Le Roy remercii ses Loaulx Subjects, accept lour benevolence, & auxy le veult.

To the General Pardon:

Les Prelates, Siegneurs & Communs en cest Parliament assembles au nome de touts vous autres Subjects remercient tres humblement vostre Majesty, & prient Dieu vous doner en sonte bone vie & longe.

CHAP. XVII.

Priviledges of the Lords, as to Suits against them and their followers.

THe Priviledges of ſpecial Rights belonging to the Baronage of *England*, (which includes all who were ſummoned to Parliament, wherein they had place and voice as incident to their Dignity) did concern them as they were one Eſtate together, or as every of them was privately a ſingle Baron.

Of the firſt kind were moſt obſervable:

1. Their Priviledges in Suits, as well for their followers as for themſelves, during the Parliament.

2. That none of them ſhould be ſubject to be queſtioned before the Houſe of Commons only.

3. Their Juriſdiction in matters of { Offences { Capital. / Not Capital. / Errors in Courts.

1. Their Priviledges in Suits appears thus: That whereas in a Bill under *Henry* the Fourth, it is ſhew'd, That the Lords, Knights, *&c.* and their Men and Servants, *&c.* by the cuſtom of the Realm, were not to be arreſted, or otherwiſe impriſoned; and it was prayed, if any be, the Parties offending

fending may make Fine and Ranſom, and give Damages, *&c.* The Anſwer thereunto is given in theſe words:

Y ad ſufficient remedy en le cas.

In the Parliament, 1 *Eliz. John Broxham* being Plaintiff in an Aſſize in the County of *Lincoln*, againſt the Lord *Willoughby*, an Injunction was ordered to go out of the Chancery, *Sub pœna* 500 *l.* that the Plaintiff ſhould not proceed to Trial, *Feb.* 21.

18 *Edw.* 1. A Citation out of the Eccleſiaſtical Court was ſerved on the Earl of *Cornwal*, as he was going to Parliament, at the Suit of *Bogo de Clare*, and the Prior of the Holy Trinity in *London*; for which, the ſaid Earl uſed the Parties, and recovered 1000 Marks Damages.

Upon a Petition to the King in the ſame Parliament by the Maſter of the Temple, praying Liberty to diſtrain for Rent due to him for a Houſe, which the Biſhops of St. *Davids* held of him, alledging, That he could not diſtrain during the Parliament. The King gave this Anſwer: *Non videtur honeſtum quod Rex concedat quod illi de Conſilio ſuo diſtringantur tempore Parliamenti, ſed alio tempore diſtringat per oſtia & feneſtras prout moris eſt.*

No Lord of Parliament, ſitting in Parliament, or within the uſual times of Priviledge of Parliaments, was to be impriſoned nor reſtrained without Sentence or Order

of the House, unless it be for Treason or Felony, or for refusing to give Security for the Peace. *April.* 18. 1626.

How far the Priviledge of the Nobility doth extend, concerning the Freedom of their Servants and Followers from Arrests, is set down in several Resolutions of the House, and a Report of a special Committee appointed for that purpose, *viz.* That it extends to all their Menial Servants, and those of their Family, as also those employed necessarily and properly about their Estates, as well as their Persons. That this Freedom is to begin from the date of the Writ of Summons in the beginning of every Parliament, and to continue twenty days after the Parliament.

Before any Person be sent for upon Breach of this Priviledge, the Lord whom the Person arrested doth serve, shall by Word, Letter or other Message, certifie the House upon his Honour, that the Person arrested is within the Limits of the Priviledge aforesaid. If upon examination it appear otherwise, the Member was to be reproved, and the party complaining to pay the Fees of the party sent for, and to have no benefit by the Priviledge. *May* 28. 1624.

The Goods of priviledged Persons taken in execution, were to be re-delivered and freed

freed as well as the Person. *May* 8. 1628.

The King having declared his Resolution to adjourn the Parliament from the 4*th.* of *June*, 1621. to the 14*th.* of *November* following, it was moved in the House, That the Lords followers might during the Session, have priviledge from Arrests; which was referred to the Judges to advise thereof, and deliver their Opinions therein.

June 4. 1621. The Lords the Judges delivered their Opinions touching the Priviledge of the House during the Session of Parliament, the Lords repair hither, and there return; but for that it hath not happened to their knowledge, that heretofore the House hath been adjourned for so long time as now it is intended, they could not satisfie their Lordships of any Presidents of the Continuance of their Priviledges, during all the time of the long Session. Whereupon the Lords delivered their Opinions, and ordered it so to be entred, That the Lords do know that the Priviledges of Themselves, their Servants and Followers, do continue, notwithstanding the Adjournment of the Parliament, and do order and adjudge the same to be observed in all points accordingly; and that a Copy of this Order be sent to both the Counters, and to be published.

Upon Complaints made against any Person for arresting any Servant of the King, or of any of the Lords contrary to the Priviledge, the Offenders were usually sent for by the Serjeant at Arms, and brought to the Bar; and if upon examination it appeared to be done knowingly, they were committed during the pleasure of the House, who upon Petition and Submission of the Party, did afterwards discharge them.

However, the Person arrested was either sent for by Warrant of the House, if it were on mean Process; or if upon Execution, then by *Habeas Corpus cum causa*, and the Priviledge appearing, were set at liberty by the House.

39 *Eliz. William Vaughan*, Servant to the Earl of *Shrewsbury*, was contrary to the Priviledge taken in Execution: The Keeper of *Newgate* was ordered to bring him before the Lords in Parliament; he refusing, Presidents were directed to be viewed, and upon consideration of them, an Order was made, That the Lord Keeper should cause a Writ of *Habeas Corpus cum causa*, to be issued for bringing him, which was done accordingly.

21 *Jacobi.* Upon Complaint that *John Philips*, Esq; one of the Kings Servants, was arrested contrary to the Priviledge, an *Habeas Corpus cum causa* was Awarded; upon which

which he was brought to the Bar, and released by the Court.

14 *March*, 21 *Jacobi. Edward Terringham*, Servant to the Lord *Cromwel*, being arrested on mean Process, a Warrant was signed by the Clerk to the Serjeant at Arms to bring him before the Lords, and being brought the 15*th.* of *May*, he was discharged.

The same day *Wellusborn Hill*, Servant to the Earl of *Holdernes*, being taken upon an Execution, was upon a Writ of *Habeas Corpus cum causa*, brought to the Bar and discharged, and the Party at whose Suit he was Arrested, was committed.

CHAP,

CHAP. XVIII.

Peers not to answer in the Commons House.

THat no Peer was to answer in the House of Commons, some instances are to be seen in a Complaint of *Thomas Philips*, against the Bishop of *London*, 25 *Hen.* 8. in the case of the Bishop of *Bristol*, who had written a Book about the Union between *England* and *Scotland*, which was conceived to intrench on the Honour of both Houses, and was complained of by the Commons in the Lords House, as they acknowledged in their Message he ought to be, 1 *Jac.* 26. and 31 *May*.

Yet in *April* 1624. the Commons being upon a Charge in their House against the Earl of *Middlesex*, Lord Treasurer, upon his desire to the Commons, That he might first be heard, the Lords gave him leave to send his Answer to that House in writing; but at the same time it was set down as an Order, That no Lord of their House might without leave of the House answer any Complaint in the House of Commons, neither in Person nor by his Council. *April* 12. 1624.

CHAP.

CHAP. XIX.

The Power of Judicature.

FOr the Jurisdiction or Power of Judicature, in cases as well Capital as not Capital, tending to the publick mischief of the State, many instances are found.

1. Of Capital Offences in the case of *John Mantravers*, accused for being guilty of the Death of *Edmund* Earl of *Kent*, uncle to *Edward* the Third, he had Judgment to be drawn and hanged as a Traytor. 4 *Edw.* 3. M. 7. N. 3.

William Weston had the like Judgment, to be drawn and hanged for delivering up a Castle. 1 Rec. 2.

And in the same Roll is a Judgment against *John Sire de Gomenys*, to be beheaded.

Of Offences not Capital.

John Atlee accused of several Offences, to the wrong of the King and his liege People, 42 *Edw.* 3. to which he could make no sufficient excuse, he was commanded to the Tower, there to remain in Prison until he should make Fine and Ransom at the Kings Pleasure.

Richard Lyons accused by the Commons of several Decits, Extortions and other Evil Deeds against the King and his People, *viz.*

Procuring

Procuring Patents for private Advantage, New Impositions to be laid without Parliament, *&c.* For which he was adjudged to Prison, to be put to Fine and Ransom at the Kings will, that he lose his Freedom in the City of *London*, that he never be more in Office, nor approach the Council, nor the Kings House; and afterwards as an addition to the said Judgment, it was awarded by the Lords, That all his Lands, Tenements, Goods and Chattels, should be seized into the Hands of the King, and his Body committed to Prison during the Kings Pleasure, 50 *Edw.* 3. M. 2. Num. 17.

William Lord *Latimer* accused by the Commons of divers Deceits and Exactions, and for procuring and counselling the King to grant Patents against the Laws, new Impositions, *&c.* he was adjudged to the Marshalsey, and to pay Fine and Ransom at the Will of the King, *ibid* N. 21.

7 *R.* 2. *Michael de la Pool*, Chancellor of *England*, being complained of by *Joan Cavendish* for Bribery, it appearing that the Accuser had calumniated the Chancellor, she was committed.

Upon a Charge against Sir *Giles Mompesson*, Knight, for the undue execution of a Grant, for the sole Manufacture of Gold and Silver Thred, and of a Grant for Concealments.

The

The Lords gave Judgment against him, *March* 26. 1621. That he should stand and be henceforth degraded of the Order of Knighthood, with reservation of the Dignity of his Wife and Children, the Ceremonies of Degradation to be executed by the direction of the Earl Marshals Court whenever he should be taken.

That he should stand perpetually in the degree of an Outlawed Person for Misdemeanor and Trespass.

That his Testimony shall be received in no Court, he should be of no Assize, Inquisition or Jury.

That he should be excepted out of all General Pardons hereafter to be granted.

That he should be imprisoned during life.

That he should not approach within twelve Miles of the Kings Court, nor of the Courts of *Westminster*.

That the King should have all the Profits of his Lands for life, that all his Goods and Chattels should be forfeited, that he should undergo Fine and Ransom, which the Lords assessed at Ten thousand pounds.

That he should be disabled to hold any Office, that he should be held an infamous Person.

The Lord Chancellor *Bacon* upon a Charge against him for Bribery and Injustice, the Lords gave Judgment against him, 3 *May* 1621.

That

That he ſhould undergo Fine and Ranſom, which was aſſeſſed at 40000 *l.*

That he ſhould be impriſoned in the Tower during the Kings pleaſure.

That he be for ever uncapable of any Office, Place or Imployment in the State or Commonwealth.

That he ſhould never ſit in Parliament, nor come within the Verge of the Court.

The Earl of *Middleſex* Lord Treaſurer, upon a Charge againſt him of Bribery, for Altering the good Laws of the Court of Wards, to the deceit of the King, Oppreſſion of the People, and enriching of his own Servants, and other Crimes.

The Lords gave Judgment againſt him, *May* 13. 1624.

1. That he ſhould loſe all his Offices.

2. That he ſhould be uncapable of holding any hereafter.

3. That he ſhould be impriſoned during the Kings Pleaſure.

4. That he ſhould be fined 50000 *l.* to the King, that he ſhould never ſit in Parliament hereafter, nor come within the Verge of the Court.

The Kings Council Learned were ordered to draw a Bill to make his Lands liable to Debts, and liable to pay the ſaid Fine. Damages were alſo given to ſeveral Perſons wronged. Of

Of this ſort are many inſtances of latter times; as in the caſe of Sir *John Bennet*, Sir *Henry Yelverton*, Doctor *Montagu*, and others.

Some Examples there are of Cenſures for corporeal Puniſhment: As,

May 26. 1621. *Edward Floud* a Lawyer, being accuſed of Scandalous Words, tending to the diſgrace of the *Palſgrave*, was after examination brought to the Bar, and charged by Mr. Attorney-General, and cenſured as followeth:

That he ſhould be uncapable to bear Arms as a Gentleman, that he ſhould be held for an infamous Perſon, his Teſtimony ſhould not be taken in any Court or Cauſe.

That he ſhould ride on Horſe-back with his face towards the Horſe Tail, holding the Tail in his hand to *Cheapſide*, and there to be ſet on the Pillory, and branded with the Letter K.

That on another day he ſhould be whipped at a Carts Tail, from the *Fleet* to *Weſtminſter-Hall*.

That he ſhould pay 500 *l.* Fine, and be impriſoned during pleaſure.

The Clerk ſigned a Warrant to the Serjeant at Arms, and Warden of the *Fleet* to ſee it executed, with a Clauſe to the Sheriffs of *London* and *Middleſex*, and all other Officers to be aiding and aſſiſting.

May

May 30. 1621. The Prince moved the House, that the punishment of Whipping, and all that belonged to it to be inflicted on *Edward Floud* on Friday then next, might be suspended and forborn, until the pleasure of the House were further known; and the rest of the Punishment to be executed according to the former Order: and thereupon an Order was made, That hereafter when any Censure beyond Imprisonment shall be agreed on, Judgment thereupon be not given on the same day, but another day be taken to consider thereof before any Judgment be given.

These Judgments have been grounded upon Charges, sometimes exhibited by the Commons House to the Lords, sometimes upon Charges directed by the Lords themselves; as in the case of the Earl of *Middlesex*.

A Committee being made by the Lords to consider of Munitions, *&c.* When the Committee was to make their Report, a Question was made, Whether by the Orders of the House, the Lord Treasurer might be present when it was read, for that it concerned his Honour. It was agreed, he might be present at the first reading; but not when the same should be debated or handled by the House, *April* 12. 1624.

A Charge

A Charge was directed to be drawn up against him by the Committee.

April 15. There was a Message from the Commons for a Conference touching divers Complaints against the Lord Treasurer, which the Lord Keeper reported to the House from that Conference.

April 24. 1624. It was resolved, That by the ancient Customs of the House, the party accused is to receive his Charge at the Bar.

April 27. 1624. The Lord Treasurer petitioned that Council might be assigned him; this being referred to a Committee of the House, they reported, That they had perused many Presidents, how Parties complained of here have answered, and that they had not seen any President, that any, though a Member of this House, did answer by his Council, and that Council was denied to *Michael de la Pool*, Lord Chancellor, 10 *Rich.* 2. when he required the same.

Thereupon Answer was given to the Lord Treasurer, That he might use what Council he pleased to advise him for his defence, but it stood not with the Orders of the House to allow Counsel at the Bar in this Case.

When the Lord Treasurer came to the Bar to hear his Charge, it was resolved he was to kneel. He came also without his Staff.

E The

The Witneſſes are ſworn at the Bar, and a Committee with ſome of the Judges, to attend them, appointed to take the Examinations, and many times Examinations are had, before the party accuſed anſwer; yet it was reſolved, *April* 28. 1621. That it is againſt the Orders of the Houſe, that a Delinquent ſhould have Copies of Examinations before an Anſwer.

May 3. 1624. It was ordered, That Publication ſhall be made in a reaſonable time before the Party accuſed make his final Anſwer; and that after Publication he may have Copies freely of all Witneſſes, as well againſt him as for him.

In all Cauſes as well Civil as Criminal and Capital, the Defendants if they ſhall demand it of the Houſe in due time, ſhall have their Learned Council to aſſiſt them in their Defence, whether they be able by reaſon of Health to anſwer in Perſon or not, ſo as they chuſe Council void of juſt Exception; and if ſuch Council ſhall refuſe them, they are to be aſſigned as the Court ſhall think fit. See the Roll of Orders.

At the final hearing of the Cauſe, the Delinquent is brought to the Bar, and there to kneel till the Lord Keeper bid him ſtand up.

If

If the Accuſation come from the Commons, ſome of their own Members manage the Evidence and Reply.

If it begin in the Lords Houſe (as that againſt the Lord Treaſurer) the Kings Council did it. So Mr. Serjeant *Crew* opened the Charge againſt Sir *John Bennet*.

When the Cauſe is fully heard, the Lords come to a Reſolution among themſelves touching the Sentence; and that being done, they ſend to the Commons to let them know they are ready to give Judgment.

In the Caſe of the Earl of *Middleſex* Lord Treaſurer, though the charge was by Order of the Lords Houſe (the Commons alſo having made ſome Complaints) yet a Meſſage was ſent to the Commons, that the Lords were ready to give Judgment againſt him.

The Lords being in their Robes, the Lord Treaſurer was brought to the Bar by the Gentleman Uſher and Serjeant at Arms, and kneeled till he was willed to ſtand up. Then came the Commons with their Speaker, the Serjeant at Arms attending the Speaker, immediately put down his Mace, and the Speaker in the name of the Commons demanded Judgment, which was accordingly pronounced by the Lord Keeper.

May 20. 1620. Ordered, That at the leaſt once before the end of every Seſſion, the Com-

 mittees

mittees for the Orders of the House, and Priviledges of the Lords in Parliament, do acquaint the Lords with all the Fines that have been laid that Session, that thereupon their Lordships may use that Power which they justly have to take off or mitigate such Fines, either wholly or in part, according to the measure of the Penitency or Ability in the Offenders, or suffer all to stand, as in equity their Lordships shall find fit. And that until every Session be ended, no Estreat be made of such Fines set or imposed by Parliament, nor any Copy thereof to be made by the Clerk without special Order upon publick motion in full House. See Order, *April* 3. 1624.

May 28 1624. Upon a Report from the said Committee, the Fine of 1000 *l.* imposed in that Session upon *John Morley*, was mitigated to 500 *l.* being imposed for a scandalous Petition.

The same time the Fine of 500 *l.* imposed on *David Waterhouse*, for penning the said Petition, was taken off.

In the Parliament 21 *Jacobi*, the Lord Treasurer moved the House, that a Writ of *Certiorari* might be awarded to the Clerk of the Parliament, to certifie the Fines imposed in that Parliament upon *Giles Mompesson*, late Knight, *Francis* Viscount St. *Albans*, late Lord Chancellor, Sir *Henry Yelverton*, Knight, *Francis Michel* late Knight, and *Edward Floud*, which was ordered accordingly.

CHAP. XX.

Writs of Error.

IF erroneous Judgment were given in the Kings Bench, or in the Exchequer Chamber, upon the Statute of 27 *Eliz. cap.* 8. the Party grieved had a Writ of Error returnable in Parliament, but not on Judgment given in the Common Place, until the same were reversed or affirmed in the Kings Bench. So it was answered in Parliament in the case of the Bishop of *Norwich*, *Rot. Parl.* 50. *Edw.* 3. *Art.* 48.

Upon the Writ of Error the Lord Chief Justice is to bring in the Record, and a Transcript of it into the Parliament, and there to leave the Transcript, but carry back the Record. And thereupon the Errors being assigned (or as some Examples are, before the assigning of Errors,) Order is to be given that a *Scire facias* be awarded against the Defendant, upon whose Appearance and Examination of the Errors, the Judgment is either affirmed or reversed.

After the Record thus brought in, *Clericus Parliamenti habebit inde Custodiam, & per Dominos tantum & non per Communitatem assignabitur Seneschallus qui cum Dominis Spiritualibus & Temporalibus per consilium Justiciariorum procedent ad errorum corrigendum*, 1 *H.* 7. *fo.* 20. in *Flowderdew's* Case.

The Manner of proceeding herein appears in the Parliament Roll of 27 *Eliz. Num.* 40.

May 24. 1621. *Nicholas Stafford* an *Irishman*, brought a Writ of Error in Parliament to reverse a Judgment in the Kings Bench, wherein *John Stafford* an *Irishman*, was Defendant, touching Lands in *Ireland*. A Question was thereupon moved, to what Sheriff the Writ of *Scire facias* should go, whether to the Sheriff of *Middlesex*, or to the Sheriff of that County in *Ireland*, where the Land doth lye. This was referred to the Judges.

Who upon the 25*th.* day made report, That a Writ ought to be directed by Warrant from the Lords House to the Chief Justice of the Kings Bench in *Ireland*, requiring him by Writ out of that Court, to command the Sheriff of the County of *Wexford* (where the Lands in question do lye,) to give notice to the party Defendant to make his Appearance here in Parliament at a certain day appointed, to hear the Errors. Which was accordingly ordered; but the Plaintiff

Plaintiff was directed to assign the Errors before the Writ should issue.

In the Parliament 21 and 22 *Jacobi*, the Lord Chief Justice brought in the Record of a Judgment given in the Kings Bench, between *William Mac Donnogh* Plaintiff, and *John Stafford* Defendant *in placito transgressionis & ejectionis firmæ*, for Lands in the County of *Wexford* in *Ireland*.

The said *William Mac Donnogh* appointed *Thomas Farrar* to be his Attorney against the said *John Stafford*.

The Lord *Noel* and the Lord *Mountague* received the Warrant of Attorny, and delivered the same to the House; and then the said *Thomas Farrar* assigned the Errors, and delivered the same. Whereupon it was ordered, That his Majesties Writ be awarded and directed to the Lord Chief Justice of the Kings Bench in *Ireland*, commanding him that he grant a Writ of *Scire facias* under his Majesties Seal of the Kings Bench in *Ireland*, unto the Sheriff of the County of *Wexford*, to warn the said *John Stafford* Gent. to appear before their Lordships at the next Session of Parliament here in *England*, to hear the said Record and Process of Error in the said Judgment, given in the Kings Bench here in *England*, between the said *William Mack Donnogh* and the said *John Stafford*, *pro eisd. transg. & ejectione firmæ, eid.*

Willielmo per præfat. Johannem illat. Which was agreeable to the former President grounded on the Opinion of the Judges.

And accordingly the Clerk signed a Warrant directed to *William Ravenscroft* Esquire, one of the Clerks of the Petti-bag to make the said Writ.

July 6. 1625. The Lord Chief Justice brought in a Writ of Error to reverse a Judgment given in the Upper-Bench on behalf of *Thomas Crowch* again *Edward Haynes*, and delivered the Record and Process to the Lord Keeper.

At the Rising of the House the Record was carried back again, and the Transcript delivered to the Clerk with the Petition signed by the Kings Hand.

C H A P.

C H A P. XXI.

Decrees in Chancery, and Relief on Petitions.

PEtitions have been presented, containing Complaints against Decrees and Proceedings in Chancery, either charging Corruption or Injustice, or both, for Delays or irregular Proceedings.

Upon Consideration of those Petitions, the Lords Referees for Petitions did usually make Orders to refer it back to the Lord Chancellor or Lord Keeper, if the Complaint were not against him; and sometimes did give Direction touching Proceedings for the Petitioners Relief in particular Courts, which Answers were reported to the House, and there approved.

The Parliament being shortly to adjourn, *June* 4. 1621. The Earl of *Bridgwater* first of the Committees for Petitions, reported to the House, That they had considered of some particulars, and answered them, but the time not permitting their Lordships to answer them all, they had agreed what Answer the Clerk should make unto them, *&c.*

1. No

1. No Suits to be ſtayed in Courts of Juſtice upon pretence of Petitions exhibited in Parliament, and unanſwered.

2. Decrees not to be reverſed upon Petitions exhibited in Parliament without the hearing of Counſel on both parts.

3. Reviews to be made where the Judges of the Courts, upon conſideration of the Petitions, ſhall find cauſe ſufficient, or otherwiſe to certifie the Houſe what further Courſe may be taken with the Petitioners.

The Petitions to be kept by the Clerk of the Parliament, and he to attend the Judges of the Courts as the Petitions were called for, and to reſume the Petition from the Judges, to be kept with the Judges Reſolution thereupon ſignified, and to preſent the Petitions again to the Houſe at the next meeting.

Which Directions being read, the Houſe ordered the ſame to be obſerved accordingly.

If the Complaints were charges of Crime againſt the Judges themſelves for Corruption or Injuſtice, the manner of Proceedings was, as is ſet down in the Lord Chancellor *Bacon*, the Lord Treaſurer Earl of *Middleſex*, againſt whom alſo Damages were awarded to be given to the particular Perſons wronged.

If

If the Complaint were againſt the Decree it ſelf, and Relief ſought againſt the Party on whoſe behalf it was made, there were uſually Bills preferred for reverſing thoſe Decrees, or other Courſe taken, as appears in the Caſes following:

Die Lunæ. 3 *Decemb.* 1621.

The Lord *Sheffeild* preſented to the Houſe a Petition from Sir *John Bourchier*, which was read *in hæc verba:*

To the Right Honourable the Lords Spiritual and Temporal in the High Court of Parliament aſſembled.

The humble Petition of Sir *John Bourchier*, Knight;

Humbly ſheweth,

THat the Petitioner bought a Leaſe of 45 *Eliz.* by which he was to have for 21 years 100 *l.* *per Annum*, and for ſecuring thereof had a Recognizance of 1400 *l.* yet by Extents, and other deceitful and indirect dealings, hath in all the times paſt received only 600 *l.* moſt of which he hath been forced to ſpend in Suits.

And

And being lately poſſeſſed of Lands by Extent under the Great Seal of *England*, lyable to the ſaid Recognizance of 1400 *l.* by occaſion whereof there were croſs Suits in Chancery between the Petitioner, one *John Mompeſſon* and others appointed to be heard the Fifth of *November* laſt, before the Kight Honorable the Lord Keeper, who haſting the Order by reaſon of the day, made the ſame very greatly to the Petitioners prejudice, who that afternoon petitioned his Lordſhip for a further hearing, that the proofs extant in the Court might be read, which then was by the ſhortneſs of time and ſuddenneſs of the Order prevented, which though his Lordſhip denyed, yet allowed your Petitioner his Appeal to your Lordſhips. Since which time the Petitioner both by himſelf, and ſome others, hath in all Humility ſought to be heard; offering to loſe what is already Decreed, if his Lordſhip take true notice of the Cauſe, found not reaſon in Juſtice and Equity to afford the Petitioner much more, yet cannot prevail in a Suit ſo reaſonable.

Two days after which Order ſo given, the Petitioner was alſo in the ſame Court ordered to pay Money to another upon a Motion, there being then no Bill in Court, which is ſince Decreed, though not to be warranted by the Ancient Juſtice or ordinary

ry Courſe of Proceedings in Chancery. Now for that it may tend to the utter undoing of any man to be ſhut by Decrees before the cauſe be fully opened or underſtood, or to be bound by ſuch as are not duly granted:

The Petitioner doth therefore in all Humility appeal unto your Lordſhips, humbly deſiring that as well for Juſtice ſake and for the future good of others, as the Petitioners relief, your Lordſhips will be pleaſed to hear and judge the ſame.

Upon reading the Petition, and ſome debate, Ordered that the Lords Committees for Priviledges, *&c.* ſhall conſider of this Petition, whether it be a formal Appeal for for matter of Juſtice or no: And all the Judges are to attend the Lords therein.

10. *Decemb.* 1621. The Lord Archbiſhop of *Canterbury* (the firſt of the Committees for Priviledges, to whom was referred the Petition of Sir *John Bourchier*, Knight; to be conſidered, whether it were a formal Appeal or no) reported that divers Lords appointed to ſearch for Preſidents, cannot find that the word *Appeal* is uſual in any Petition for any Matter to be brought in hither, but they find that all Matters complained of here, were by Petition only; the Ancient accuſtom-

accustomed Form thereof being, *To the King and His Council.* And that they cannot find but only one President of this Nature, which was a Complaint by Petition against *Michael de la Poole* Lord Chancellor, for matter of Corruption.

The House thereupon the next day examined the business, as to the hasty hearing of the Cause, but did not meddle at all with the merits of the Cause, or order any thing therein.

26 *May* 1624. A Bill exhibited into the Lords House for reversing a Decree in the Court of Requests, between *Edwards* and *Edwards*, twice read and committed.

28 *May* 1624. A Bill by the Company of *Felt-makers* exhibited into the Lords House, for reversing a Decree in Chancery; made at the Suit of *Christopher Warwick*, twice read and committed.

28 *May* 1624. The Lords Committees for Petitions, report a Petition of *William Mathew* of *Landasofe*, which was read, and the Answer thereunto conceived by the Lords Committees, was reported to the House, *viz.*

That upon Consideration of the whole Cause, they find *William Mathew*'s principal Debt to be 5260*l.* which they hold fiit to be paid at several days therein limited; and the whole Land to stand bound for it: and, That

That the execution thereof should be recommended to the Court of Chancery.

George Mathew's Petition was read, being in these words, *viz.*

To the Right Honourable the Lords, &c.

The humble Petition of *George Mathew*, Esquire;

Humbly sheweth your Lordships,

THat your Petitioners Decree now questioned, hath been several times submitted unto by *William Mathew*, never questioned during the Life of the Petitioners Father. And his Majesty upon Information by Petitions on both sides declared, That he saw no cause for questioning thereof.

And it was thereupon ordered, That to hear a Cause after a Submission (no Corruption appearing) would be a dangerous President.

In Consideration whereof, and for that the Decree stands questioned only by Petition, nor was your now Petitioner ever Party to any Suit, nor is there any Bill depending in any Court, he being informed by Council, *That it hath been the Course of this Honourable House*

House to reverse Decrees but by Bill legally exhibited, especially where no Corruption is proved.

He most humbly beseecheth that he may not be concluded, and a Decree submitted unto overthrown, and the small remainder of his Ancient Inheritance taken from him by Order of this Honourable House, only upon a Petition.

He most humbly submitteth himself herein to your Lordships, &c.

The Petition being read and considered of, some Lords were appointed by the House to set down an Order in this Cause.

May 29. 1624.

The Lords Committees reported the same to the House, *in hæc verba.*

The Lords of Parliament do order, That the Cause depending between *William Mathew* and *George Mathew*, shall be reviewed in Chancery by the Lord Keeper, assisted by such of the Lords of Parliament as shall be named by the House, and by any two of the Judges whom the Lord Keeper shall name. For which end, the Lord Keeper is to be an humble Suitor unto his Majesty, for a Commission unto himself and the Lords that shall be named by the House, for the

the said review and final determination of the Cause as to them shall appear just and equal.

Which Order being read, the House approved thereof, named several Lords to be joined in the Commission, and ordered the same to be heard and determined accordingly, the beginning of *Michaelmas* Term then next.

CHAP. XXII.

Other Priviledges of the Lords, as a House, and as single Barons.

BEsides these Priviledges before mentioned, there were divers others concerning them as a Body; as, their making Proxies, passing of Bills and Judgments without assent of the Lords Spiritual, their appointing Judges out of themselves, for Examination of Delays of Judgments in other Courts, and their Tenants of Ancient Tenancies being discharged of paying their Charges of Knights of the Shire.

As also, such as respected them as single Barons (which were also communicated to Baronnesses;) As, concerning

1. Their

1. Their Oaths and Proteſtations to be taken upon Honour.
2. Their Trial by Peers.
3. *Scandala Magnatum.*
4. Proceſs againſt them in Engliſh Courts.
5. Their Number of Chaplains.
6. Their retaining of Strangers.
7. Clergy without reading.
8. Liberty of Hunting in the Kings Foreſts.
9. Amerciaments.
10. No Proceſs in a Civil Action to be awarded againſt their Perſons.
11. A Knight to be returned in every Pannel where a Baron is party.
12. No day of Grace againſt a Baron.
13. Power to make Deputies in places of Truſt committed to them, without ſpecial Power.

Of which more may be ſaid hereafter, it being not the preſent purpoſe to treat of them more largely.

There are likewiſe divers other matters concerning the Practice and Method of Proceedings in the ſaid Houſe, worthy of obſervation.

CHAP.

CHAP. XXIII.

Of Adjourning, Proroguing and Diſſolving Parliaments.

ADjournments and Prorogations have been, either by the Kings Command being perſonally preſent, or by Commiſſion under the great Seal (beſides the ordinary Adjourning by the Houſe it ſelf, or by mutual conſent of both Houſes for ſome few days.

4 and 5 *Philip & Mary*, on the twentieth of *January*, it is entred, That after the Royal Aſſent to the Bills by the Queen being preſent, the Lord Chancellor prorogued the Parliament until the fifth of *November* next.

18 *Eliz.* The ſecond Seſſion, *March* 14. 1575. The Queen being preſent, commanded the Parliament to be prorogued until the fifth of *November* following.

The Entries in the Books are very numerous of this nature: *Dominus Cuſtos ex Mandato Dominæ Reginæ*: Or, *Ex juſſu Domini Regis, prorogavit præſens Parliamentum uſque*, &c.

The difference between Adjournments by the Houſe and Adjournments by Commiſſion, appears in a Report made to the

House by Mr. Attorny-General, *June* 1. 1621. upon a Reference from the House for that purpose, who read divers Presidents out of several Journal-Books of the Form of Adjournment of Parliaments, and shewed the difference between the Adjournment and Prorogation; and how that the word *Prorogare* was often used for *Adjournare*, but the word *Adjournare* was never used for *Prorogation* of a Parliament: He shewed also that a Parliament being adjourned by the House, all Committees were of force, and the Bills remained *in statu quo prius*; but an Adjournment by Commission from the King, did determin all Committees, and they did cease till the next sitting of the Court, nevertheless the Bills were preserved *in statu quo prius*.

Prorogation, in the proper and strict sense, is, when after a Session ended by the Royal Assent unto Bills, the Parliament is continued over for another Session, as in the first Parliament of King *James*, there were five Sessions; the Parliament lasted about seven years, which as often as the King was present, was done by Command, as before, else by Commission.

December 6. 1620. The Lords being Assembled in their Robes, sent the Gentleman Usher to signifie to the Commons, That the Lords expected their coming up, to whom the

the Kings Pleasure was to be further signified. The Speaker and Commons being come into the House, and at the Bar the Lord Chancellor declared the King had granted a Commission to divers Lords to prorogue that Parliament for some time, and then delivered the Commission to the Clerk of the Parliament to be read publickly, (every one of the Lords Commissioners standing up in their places as their Names were read,) and thereupon the said Commissioners did prorogue the said Parliament until the 9*th*. of *February* following.

When there was only an Adjournment by Commission, the Commons were not sent for, but the Writ being first read in the House of Lords, was afterward sent down to the Commons. So *Decemb*. 19. 1621. the Commission for the Adjournment being read, the Lords adjourned their House.

After which Adjournment, the Commission was delivered to Mr. Justice *Winch* and Mr. Justice *Jones*, who were sent therewith to the Commons, and commanded to signifie unto them, that the Parliament is adjourned by virtue thereof, by the Commissioners therein named, who returned answer by the said Messengers, that they would adjourn their House also.

 The

The manner of diſſolving a Parliament hath been either when the King was preſent in full Parliament with the Lords and Commons, by whoſe Command the Lord Chancellor, or Lord Keeper, did pronounce it in theſe words: *My Lords and Gentlemen, His Majeſty doth diſſolve this preſent Parliament.*

Or elſe it was done by Writ directed to certain Lords; which Writ being made known to the Houſe, the Procceding is ſet down in theſe words, in the Journal of the Parliament of 12 *Jacobi.*

June 7. 1614. The Lords being aſſembled in their Robes, after Prayers ended, the Commiſſioners taking notice of his Majeſties Commiſſion for diſſolving the Parliament, left their proper Seats, went up and ſate on a Bench or Form prepared for them, and placed overthwart the Houſe, between the Chair of Eſtate and the Wool-ſack, whereon the Lord Chancellor ſitteth; and the Gentleman Uſher being ſent for, the Commons who being come with their Speaker, the Lord Chancellor declared, That his Majeſty having ordained his Parliament to be holden, and begun the 5*th.* of *April* laſt, had now thought fit to diſſolve the ſame, and for that purpoſe had granted a Commiſſion to certain Lords: Which

Which Commiſſion the Lord Chancellor delivered to the Clerk of the Parliament, who returning to his accuſtomed place, read it publickly, and thereupon the Commiſſioners did diſſolve the Parliament.

F I N I S.
