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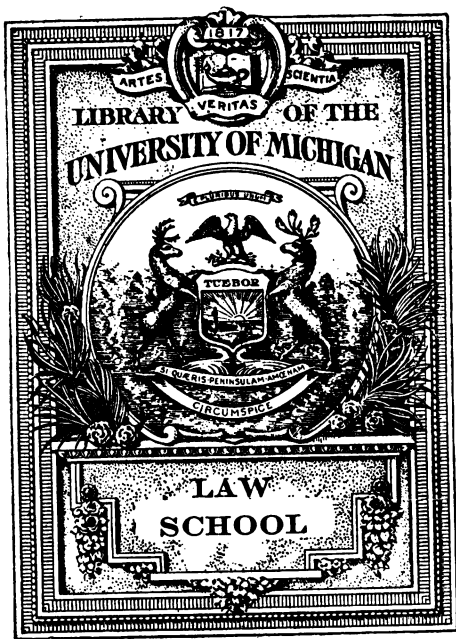
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MEMORIALS

OF THE

Method and Manner

OF

Proceedings in Parliament

In Passing

BILLS.

Together with several Rules &
Customs, which by long and con-
stant practice have obtained
the Name of:

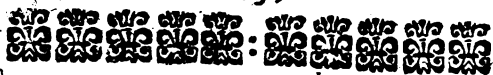
Orders of the House.

GATHERED

By Observation, and out of the
Journal Books from the
time of *Edward 6.*

By H. S. E. C. P.

London, Printed in the year 1670.



CHAP. I.

The manner of choosing a Speaker in Parliament.

THe day the Speaker is chosen, the Proceeding hath been in this manner : Some person (when the generality of Members are come and sit) doth put the House in mind, That for their better proceedings in the weighty Affairs they are come about, their first work is to appoint a Speaker ; and recommends to the House some Person of fitness and ability for that Service and Dignity ; which usually hath been one of the long Robe. If the House generally give a testimonie of their approbation, two of the Members (which for the most part were of the Council or chief Officers of the Court) going to the Gentleman named, and agreed to be Speaker, take him from his Place and lead him unto the Chair, where being set, they return to their places.

If more then one person be named for Speaker, and it be doubtful who is more generally

generally chosen ; sometimes one of the Members standing in his place, doth by direction or leave of the House, put Question for determining the same.

In the first Session of the Parliament 1^o Jacobi, Sir Edward Phelips, the King Serjeant at Law was first named by Mr Secretary Herbert, as fit for that place in regard of his Knowledge of the Law the gift of Utterance, his long experience and Practice in Parliament ; after some silence, the names of others were mentioned, but the more general Voice ran up on Sir Edward Phelips, who thereupon stood up, and made a Speech to excuse and disable himself ; but the House, notwithstanding his excuse, was willing to proceed to a Question, and directed the Clerk, sitting at the Board, (as the Order is before the Speaker be chosen, so it is entered in the Journal of that Session) to make the Question upon his name, *viz.* *All that will have Sir Edward Phelips Speaker, say, Yea, &c.* Which done, at he being by general Acclamation chosen Speaker, he was by Sir John Herbert and Sir Edward Stafford (leading him as the form is) placed in the Chair, the ancient Seat of Speakers : where being set, after some

some silence he stood up and made a gratulatory Speech of Form and Thanks.

The first Business in the House is ordinarily to read a Bill that was not passed in the last Parliament preceding, or some new Bill; as in that of 10 *Jacobi*, a new Bill, Entituled, *Touching Common Recoveries against Infants*, was read.

But on that day before that was done, there was a Motion made for Priviledge of Sir *Thomas Shirley*, who was chosen a Member to serve in that Parliament, but detained by an Arrest; upon which a *Habeas corpus* was awarded, and the Serjeant that arrested him and his Yeoman sent for, and a Committee for Elections and Priviledges chosen.

CHAP. II.

Decorum to be observed in the House.

WHEN the Speaker is set in his Chair, every Member is to sit in his place with his Head covered.

No Member in coming into the House, or in removing from his place, is to pass between the Speaker and any Member then speaking; nor may cross or go overthwart the House; or pass from one side to the other while the House is sitting.

No Member is to come into the House with his Head covered, nor to remove from one place to another with his Hat on, nor is to put on his Hat in coming in or removing, until he be set down in his place.

While the House is sitting, no man ought to speak or whisper to another, to the end the House may not be interrupted when any are speaking; but every one is to attend unto what is spoken. In which Case, Penalties have been imposed; as 4. *Decem.* 1640 and at other times.

When any Member intends to speak, he is to stand up in his place uncovered,
and

and address himself to the Speaker, who usually calls such person by his name, that the House may take notice who it is that speaks.

If more then one stand up at once, the Speaker is to determine who was first up, and he is to speak, and the other sit down, unless he who was first up sit down again, and give way to the other, or that some other Member stand up and acquaint the House, that another was up before him, whom the Speaker calls, and the House adjudge it so.

While one is speaking none else is to stand up or interrupt him until he have done speaking and be sate down, and then any other may rise up and speak, observing the Rules.

21. *Junii, 1604.* It was agreed for an Order, *That when Mr. Speaker desires to speak, he ought to be heard without Interruption, if the House be silent and not in dispute.*

12 *Jacobi,* It was vouched by Sir Dudley Diggs, (a person of much experience in Parliaments) *That when the Speaker stands up, the Member standing up ought to sit down.*

27. *April, 1604.* Agreed for a Rule;

That if any Question be upon a Bill, the Speaker is to explain, but not to sway the House with Argument or Dispute.

June 4. 1604. Agreed for an Order; That whosoever hisseth or disturbeth any man in his Speech, shall answer it at the Bar.

7. Maii, 1607. Ordered upon the Question, That in going forth, no Man should stir until Mr. Speaker do arise and go before, and then all the rest to follow after him.

CHAP.

CHAP. III.

Standing Committees.

IN Parliament there have usually been Five standing Committees appointed in the beginning of the Parliament, and remaining during all the Session; other Committees were made occasionally, & dissolved after the Business committed unto them, was reported.

The standing Committees are for	}	<i>Priviledges & Elections.</i>
		<i>Religion.</i>
		<i>Grievances.</i>
		<i>Courts of Justice.</i>
		<i>Trade.</i>

The Committees for Religion, Grievances and Courts of Justice, are alwayes *Grand Committees* of the House, which are to sit in the Afternoons upon such Dayes as the House doth appoint to them respectively.

The Committee for Trade hath sometimes been a select Committee particularly named, and all such Members as should come to it, to have Voices, as in *November, 1640.* Sometimes a Grand Committee of the whole House, as *21. Iacobi.*

CHAP. IV.

Power and proceedings of the Committee for Priviledges.

But the Committee for Priviledges and Elections hath alway had the precedence of all other Committees, being commonly the first Committee appointed, and ordinarily the first day after, or the same day the Speaker did take his place.

This Committee is constituted of particular Members named by the House.

21. *Jacobi*, Upon naming a Committee for Priviledges and Elections, a Motion was made, That all that come should have Voices: but Sir *Thomas Creu* then Speaker (and well versed in Rules of Parliament) minded the House, That by the Orders of the House, that was not to be done; and by divers other Members it was insisted on, to be contrary to all former Precedents; yet upon the Debate a Question was put, Whether all that should come should have Voices at that Committee; and it passed in the Negative. And another Question being put, Whether

ther the Persons nominated only should be of that Committee; it was resolved in the Affirmative.

It was then also agreed, That *Council should be admitted at that Committee.*

The Power anciently given to this Committee, appears by the Entry in the Journal Book 26. Feb. 1600. in 39. Eliz. *That this Committee should, during all that present sitting of Parliament, examine and make report of all such Cases touching the Elections and Returns of any the Knights, Citizens, Burgesses and Barons of the House. And also, of all such Cases for Privilege, as in any wise may occur or fall out during all the same Session of Parliament; to the end, the House upon Report of the same Examinations, might proceed to such further Course in every the same Cases as should be thought fit.*

And notice was given, That all the Members of the House might repair thither as there should be cause.

This latter Power touching Privilege seems to have been inserted to prevent the Houses being troubled with Informations, untill they were examined and ripe for a Determination.

But in other Parliaments, both before
and

and since, that Power doth not appear to have been given them so absolutely; but matters of Priviledge were, upon Information to the House, there heard, and not in a Committee, unless in some special Cases, wherein there was cause of Examination, or of some preparation of a Charge; as in the Case of *Smaley*, 23 *Eliz.* and many other Cases.

The Power of this Committee usually was, as it is entred 6. *November*, 1640. *To examine and consider all Questions which shall grow and arise in that Parliament about Elections, Returns and other Priviledges.* Or, as in the Parliament 1^o *Iacobi*, thus: *This Committee are to examine all matters questionable touching Priviledges and Returns, and to acquaint the House with their proceedings from time to time, so, as Order may be taken according to the occasion, and agreeable with ancient Custom and Precedent.*

And to the end these Questions might be speedily determined: and the House might know their Members, Days are usually assigned, beyond which there shall be no questioning a former Election.

So in the Parliament of 21. *Jacobi*, the second day of sitting, It was Ordered, That

all

all Petitions about Elections and Returns should be preferred to the Committee of Priviledges within a Fortnight from that Day, or else to be silenced for that Session.

16. April. 1640. Ordered, that those who would question Elections, should do it within Ten days by Petition.

6. Novemb. 1640. Ordered, That all such as will question Elections now returned, should do it in Fourteen dayes, and so within Fourteen dayes after any new Return.

Some questions have been, where there have been double Indentures returned for several persons for the same place, whether all or any, or which of them should sit. *Vid: Stat. 7. W. 3. 10:*

The general rule and practice hath been in such case, That neither one nor other should sit in the House, until it were either decided or Ordered by the House: Therefore in April 1640. the Lord High Steward, who had power by himself or his Deputies, to minister the Oathes of Supremacy and Allegiance to all Members returned, before they sate in the House, gave Order, That where there were more returned for any one place then ought to be, there should be none of them sworn till

till it were decided by the House who were duly Elected. But that which may satisfie herein, is the Order of the House in that Parliament, that if any sit in the House, that are returned by more Indentures then usual, they should withdraw till the Committee for Priviledges had further Ordered.

In the Parliament begun *April, 1640.* and *November, 1640.* It was moved; That where some are returned by the Sheriff or such other Officer, as in Law hath power to Return, and others by private hands; there those returned by the Sheriff or such Officer, should sit till the Election be quashed by the House.

But nothing was Ordered upon it.

24. *Febr. 1623.* Sir *Francis Popham* being returned a Burgess for *Chippenham* by one Indenture, and another person returned for the same place by another Indenture; it was moved he might be admitted into the House till the matter were determined against him, and a precedent quoted in Sir *Thomas Wentworths* Case the last precedent Parliament. But it was then insisted on by the Chancellor of the Dutchy and others, That this being a Case of a double Return, he was not to be admitted,

mitted, and so it was referred to the Committee for Priviledges. His Case being reported 9. *April*, he was judged to be duly Elected.

21. *Jacobi*, Two Indentures were returned for *Southwark*, the one returned *Yarrow* and *Mingy*, the other *Yarrow* and *Bromfield*; upon a Report from the Committee for Elections, it was resolved, That the Election and Return for *Yarrow* should stand good, and that he should sit in the House.

22. *Martii* 21. *Jacobi*, The House was acquainted that Sir *John Jackson* and Sir *Tho. Beaumont* were both returned for one Burgesse's place for *Pomfret*; and therefore it was moved, That both might be suspended till it were determined: Mr. *Glanvill* made answer to that Motion, That he that was returned might sit in the House until it were determined; which being contradicted by others, and much Dispute on both sides, it was lastly urged by Sir *Robert Phelips*, That there was not any Precedent for it, and therefore moved the Committee might take the Election into consideration to morrow, and that in the mean time the parties might forbear to come into the House: which was Ordered accordingly.

4. No-

4. *Novemb. 1640.* Upon a Report from the Committee for Priviledges, That several Indentures were returned for Burgeses for the Burrough of *Bossinny* in the County of *Cornwal*, the one by the Major of the Town, the other promiscuously : The Committee were of opinion upon view of the bare Indenture, That Sir *Ch. Harbord*, who was returned by the Major, was well returned ; but the House declared he should not sit till the Election were decided.

In the same Parliament, two Returns were made for *Marlo Magna*, in both Indentures *John Burlace Esq;* was returned ; therefore, upon Report from the Committee, he was admitted to sit, but the other to forbear till the Question be determined.

17. *April. 19. Jacobi*, It was Ordered, That no Petition should be received by a Committee, but openly at the Committee, and read at the Committee before the party go that preferred it, and the parties name that preferred it be subscribed.

In the Parliament in 21. *Jacobi*, upon a Report made from the Committee for Elections and Priviledges, praying the direction of the House, whether Affidavits might

might be made use of at that Committee.

These Reasons being insisted upon, that Affidavits should not be admitted.

1. Because it makes the Parliament lame without the Chancery.

2: It entitleth the Chancery to judge of Returns.

3. Affidavits are oftentimes cautelously made by Council or Parties.

4. Witnesses produced *Viva voce*, by Words, Actions, Gestures, or the like, may discover much, whereby the Committee may judge.

It was likewise informed by Sir *Edward Coke* late Lord chief Justice, That in the Parliament when he was Speaker, which was 35. *Eliz.* Affidavits were not used, nor since, until of late.

5. Though the Committee examine not on Oath, yet they may punish any that shall testify untruly: of which an instance was given in the last preceding Parliament in the Case of one *Dāmpport*; It was Resolved, *That all Affidavits to be taken in any Court concerning Elections, Returns, or any thing depending thereupon, should be rejected, and not hereafter to be used.*

CHAP.

CHAP. V.

Members chosen in several Places.

IT falling out ordinarily, that one person is chosen and returned to serve for several places, it is in his Election to make his choice in the House in his own person for what place he will serve, and waive the other Election, so as a Writ may go out for a new Election for such place waived, that the number may be full; but if he shall not do it by the time which the House shall appoint, then it hath been said, the House will appoint for what place such Person shall contigue a Member, and that Writs may go out for the other places: but *Quare* whether it hath been done.

Oftentimes on the First day of the meeting of the House, as soon as the Speaker hath been approved, and sometimes before, such Persons as have been so doubly returned have made their choice.

In the first Session of Parliament 1st *Jacobi*, the same day Sir *Edward Phelips* was chosen Speaker (before he was presented to the King) he signed a Warrant as
 Speaker,

Speaker, by command of the House, for Election of another Person in the place of Sir *Francis Bacon* being chosen in two places. And in the same Session, the same day after the Speaker had taken his place, divers Members who were severally returned, as elected in several places, made their choice for what places they would stand, and new Writs ordered.

The Parliament beginning the 13. *April*, 1640. and the Speaker being presented the 15th, upon the 16th day divers made their choice upon such double Returns.

The Parliament beginning 3. *Novemb.* 1640. Upon a long Debate for granting time for Elections on double Returns of this nature, It was resolved, *That all such as are doubly returned shall make their choice for which place they will serve on Monday next.*

9. *Martii*, 21. *Jacobi*, Resolved, *That all Members of this House doubly returned, shall make their Elections for which they will serve, and that those in the House shall do it presently, or else new Writs to issue for both.*

CHAP.

CHAP. VI.

New Writs for vacant Places.

A General Order hath usually been made in the beginning of the Session, to authorize the Speaker to give Warrant for new Writs, in case of Death of any Member, or of double Returns, where the party makes his choice openly in the House during that Session; so it was Ordered in the beginning of the Parliaments 18. and 21. *Jacobi.*

Where such general Order is not made, Writs have issued by Warrant of the Speaker, by virtue of special Order, upon Motion in the House.

This Warrant is to be directed to the Clerk of the Crown in Chancery, by Order of Parliament 13. *Novemb.* 1601.

CHAP.

CHAP. VII.

*Rules and Methods of Debates
in the House.*

WHEN a Motion hath been made, the same may not be put to the Question until it be debated, or at least have been seconded and prosecuted by one or more persons standing up in their places as aforesaid, and then the same may be put to the Question, if the Question be called for by the House, or their general Sense be known, which the Speaker is to demand, unless any Member stand up to speak.

When a Motion hath been made, that Matter must receive a determination by a Question, or be laid aside by the general Sense of the House before another be entertained. An instance is in the Journal 28. June, 1604. A Motion being made, another interposed a Speech tending to another Business: but it was answered, *That there was no Precedent for that Speech to be used before the other Motion, which was made before, had received an Answer and an end.* And the House did accordingly

ingly determine the first Motion in the first place.

4. Decemb. 1640. Ordered, *That till the Business in agitation be ended, no new Motion of any new Matter shall be made without leave of the House.*

If the Matter moved do receive a Debate *pro & contra*, in that Debate none may speak more then once to the Matter : And after some time spent in the Debate, the Speaker collecting the Sense of the House upon the Debate, is to reduce the same into a Question, which he is to propound; to the end, the House in their Debate afterwards may be kept to the Matter of that Question, if the same be approved by the House to contain the substance of the former Debate.

After such Question is propounded, any Member may offer his Reasons against that Question in whole or in part, which may be laid aside by a general consent of the House without a Question put.

But without such general consent, no part of the Question propounded may be laid aside or omitted; and although the general Debates run against it, yet if any Member, before the Question be put *without that part*, stand up and desire that
such

such Words or Clause may stand in the Question, before the main Question is put; a Question is to be put, Whether those Words or such Clause shall stand in the Question.

The like Method is observed, where any other Alteration is debated upon, to be made in a Question propounded; but upon putting a Question for such Addition, Alteration or Omission, any person who hath formerly spoken to the Matter of the Question, may speak again to shew his Reasons for, or against such Alteration, Addition or Omission, before such Question be put.

When the Speaker (the House calling for a Question) is putting the same, any Member that hath not before spoken to the matter, may stand up before the Negative be put.

13. Junii, 1604. A Bill touching a Subsidy of Tonnage and Poundage having been formerly upon a third Reading recommitted, was returned; And a *Proviso* being tendred for *Chester*, which was twice read, the Question was put for Commitment in the Affirmative: but before the Negative was put, one stood up and spake to it, which was admitted for Orderly, because

because it is no full Question without the Negative part be put as well as the Affirmative:

Every Question is to be put first in the Affirmative: *viz.* *As many as are of opinion that* (repeating the words of the Question) *say, Yea.* And then the Negative thus: *As many as are of another opinion say No.* To which Question every Member ought to give his Vote one way or other, and the Speaker is to declare his opinion, whether the *Yea's* or the *No's* have it, which is to stand as the Judgment of the House. But if any Member before any new Motion made, shall stand up and Declare, That he doth believe the *Yea's*, or *No's* (as the Case shall be) have it, contrary to the Speakers opinion, then the Speaker is to give direction for the House to divide, declaring whether the *Yea's* or the *No's* are to go forth.

Upon the dividing of the House, those are to go forth who are for varying from, or against the constant Orders of the House, (as that a Question shall not be put, or not be now put, it being the course of the House, that after a Debate the same should be determined by a Question or the like) or against any Positive Order made

made by the House, or for the passing any new thing, as reading a Petition or Bill, and Committing, Ingrossing, or passing such Bill, or the like.

10. Decembr. 1640. An Order being made the 9. day, That the House should be resolved into a Grand Committee the next day, for Debating the way for raising Money; Upon the 10. Day a Question was upon Debate put, whether the House should be resolved into a Grand Committee; upon which the House was divided, and a Doubt moved which were to go forth. It was declared for a constant Rule, *Those that give their Votes for Preservation of the Orders of the House, should stay in; and those who give their Votes otherwise, to the introducing any new Matter, or for any Alteration should go forth.*

24. Martii, 21. Jacobi, Upon a Report from the Committee for Priviledges, a Question was put, That Sir Tho. Holland and Sir John Corbet were well Elected Knights for Norfolk; The House was divided, and a Contest which should go forth; It was over-ruled by the House the No's should go forth.

Which is also the course upon any

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Question to agree with a Report in favour of the Opinion of a Committee.

Upon dividing the House, the Speaker is to nominate two of those that are in the Affirmative, and two of the Negatives, to count the House; which four (each of them having a Staff in his hand) are to count the number of the Persons who remain sitting in the House; and then to stand within the Door, two on the one side and two on the other, and to count the Number of them who went forth as they come in.

While the House is thus divided or dividing, no Member may speak, nor (unless it be to go forth upon the Division) remove out of his place.

When the House is thus told, those two of the Tellers who are of the number of those who have the major Votes, standing on the right hand, and the two others on the left at the Bar, (the rest being all set in their places) are to come from thence up to the Table together, (making the usual Obeysance to the House three times; once at the Bar, again in the middle of the House, and again when they are come to the Table) And that person who stands on the right hand, is to declare to
the

the Speaker the number of the *Yea's* (who fate or went out as the Case is) and of the *No's* : and then with like reverence to depart into their places ; after which, Mr. Speaker is to report the same to the House.

If the Affirmatives have the major Votes by the judgment of the Speaker, or (in case of division) upon the division, the Clerk is to enter the Vote, *Resolved*. If the Negatives, then he is to enter it thus ; The Question being put (setting down the Words of the Question) It passed in the Negative:

Upon the division, if the Members appear to be equal, then the Speaker is to declare his Vote, whether he be a *Yea* or a *No*, which in this Case is the casting Voice ; but in other Cases, the Speaker gives no Vote.

- 1. *Maii*, 1606. A Question was moved, whether a Man saying *Yea*, might afterwards sit and change his Opinion ; and a Precedent was remembered by Mr. Speaker (Sir Edward Phelips) of Mr. Morris Attorney of the Wards, in 39: *Elizab.* that in like Case changed his Opinion.

If upon a Debate it be much controverted,

verted, and much be said against the Question, any Member may move, That the Question may be first made, whether that Question shall be put, or whether it shall be now put; which usually is admitted at the instance of any Member, especially if it be seconded and insisted on; and if that Question being put, it pass in the Affirmative, then the main Question is to be put immediately, and no man may speak any thing further to it, either to add or alter: But before the Question, whether the Question shall be put, any person who hath not formerly spoken to the main Question, hath liberty to speak for it, or against it; because else he shall be precluded from speaking at all to it:

If in a Debate, there arise more Questions then one, and it be controverted which Question should be first put; the Question first moved and seconded is regularly to be first put, unless it be laid aside by general consent. If the first Question be insisted upon to be put, and the major part seem against it, the Question is to be, Whether that Question shall be now put: if that pass in the Negative, then the other Question may be put, if desired: nevertheless, any person may speak

Speak to it again before it be put. If in the Affirmative, then it is to be put without any addition or alteration, as before: And after that Question is put, if any Member move to have the other Question put, every one hath leave to speak to it again as if it were a new Question.

If a Matter be received into Debate, and a Question grow, whether the House shall proceed in that Debate at this time, and it fall out that the House be divided; in such Case the *No's* are to go forth, it being contrary to the course of the House, that any business should be laid aside till it be determined by a Question; If the Question be for an adjournment of a Debate, the *Yea's* are to go forth upon the same reason.

After a Question is propounded, no man may speak more then once to the Matter; but having spoken to the Matter, when the Question comes to be put, he may speak to the Manner or Words of the Question, keeping himself to that onely, and not raveling into the Merits of it.

If a Question upon a Debate contain more parts then one, and Members seem to be for one part, and not for the other, it may be moved that the same may be

divided into two or more Questions : as, 2. *Decemb.* 1640. The Debate having been, whether the Election of two Knights for the County of *Warwick* were void; a Question was put, whether it should be two Questions: and that being Resolved in the Affirmative, the Questions were put severally, upon the Election of the one first, and then of the other.

No member in his Discourse in the House may mention the name of any other Member then present, but to describe him by his Title or Addition; as, that Noble *Lord*, *Worthy Knight*; or by his Office, as, *Judge*, *Serjeant*, *Gentleman* of the long or short Robe; or by his Place, as the Gentleman near the Chair, near the Bar, on the other side; or thus, the Gentleman that spake last; or last save one, or the like.

During any Debate, any Member though he have spoken to the Matter, may rise up and speak to the Orders of the House, if they be transgressed, in case the Speaker do not; but if the Speaker stand up, he is first to be heard, and when he stands up, the other must sit down till the Speaker sit down. But if any person rise up to speak to the Orders of the House

House in the midst of a Debate, he must keep within that Line, and not fall into the Matter it self; if he do, he may be taken down by the Speaker, or any other Member, calling to the Orders of the House.

Whiles a Member is speaking to a Debate or Question, he is to be heard out and not taken down, unless by Mr. Speaker, in such Cases as you find therein expressed, or that he speak of such Matter as the House doth not think fit to admit.

24. *Januar. 23. Eliz.* Upon a Debate in the House, Mr. *Carleton*, endeavouring to speak contrary to the Sense of the House, was interrupted; and afterwards offering to speak again, saying with some repetition, That it was for the liberty of the House, the Speaker and the House did stay him.

April 1604. Agreed for a Rule of the House, *He that digresseth from the Matter to fall upon the Person, ought to be suppressed by the Speaker.*

17. *April 1604.* Agreed for a general Rule, *If any superfluous Motion or tedious Speech be offered in the House, the party is to be directed and ordered by the Speaker.*

2. *Maii 1610.* A Member speaking,

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and his Speech seeming impertinent, and there being much Hissing and Spitting; It was conceived for a Rule, *That Mr. Speaker may stay impertinent Speeches.*

18. *Maii* 1604. It was Resolved, That eight ingrossed Bills should be read the next day half an hour after eight: The next day about that time, a Member entering into a long discourse *De mera fide & sola fide*, &c. was interrupted, and the Question offered, whether he should go on in respect of the Order. But it was agreed for a Rule, *If any may speak not to the Matter in Question, the Speaker is to moderate:*

14. *April.* 1604. In a Matter formerly proposed, touching the abuse of the Purveyors, it was argued, Whether it were fittest to proceed by way of Petition to the King, or by Bill: which was spoken to by Mr. Marten, Mr. Hoskins and others, and lastly by Sir Henry Jenkin, who was observed to mistake the Question; and therefore (to prevent the idle expence of time) was interrupted by Mr. Speaker, and thereupon a Rule conceived, *That if any Man speak impertinently or besides the Question in hand, it stands with the Orders of the House for Mr. Speaker to*

to interrupt him, and to know the pleasure of the House, whether they will further hear them.

A Matter upon Debate having been once finally determined by a Question, ought not to be again brought into dispute.

27. Martii, 1604. Sir Edward Coke Attorney-General, and Doctor Hone bring a Message from the Lords, desiring a Conference about the Case of Sir Francis Goodwyn: Upon this Message it was argued, That now the Judgment having passed the House, it could not, nor ought to be reversed by them; and upon the Question it was Resolved, There should be no Conference.

In sapientum decretis non est litura.

2. April. 1604. A Vote having passed some dayes past, That no Conference should be admitted with the Lords, the same Question was again moved, but was carried in the Negative; And it was then urged for a Rule, That a Question being once made and carried in the Affirmative or Negative cannot be questioned again, but must stand as the Judgement of the House:

In the Answer of the Commons House

of Parliament to King *James* his Objections in *Sir Francis Goodwyn's Case*, 3 April 1604. The Objection being, that they refuse Conference with the Lords.

The Answer is in these words, Concerning our refusing Conference with the Lords, there was none desired untill after our Sentence passed; and then we thought that in a matter private to our own House, *which by Rules of Order might not be by us revoked*, we might without any imputation refuse to confer.

CHAP.

CHAP. VIII.

*Grand Committees, and their manner
of Proceedings.*

A Grand Committee consists of as many Members, at least, as constitute the House, (less may not sit or act as a Committee) who have general Powers to consider of any Matters touching the subject Matter referred, and to present their Opinions therein to the House, the better to prepare Matters of that nature, or Bills therein, for the House; which may better be prepared, by the liberty that every Member hath in a Grand Committee, as well as in other Committees, to speak more then once to the same Business, (if there be cause) which is not permitted in the House:

But Grand Committees have their Powers and Rules, in other Circumstances, given them in express words by the House; as, to send for Witnesses, to hear Council, or assign them on either part, to send for Records; which appears by several Motions made in the Parliament 21. *Jacobi*. Sir Robert Phelips (a person
of

of much Experience in the Course and Orders of Parliament) moved the House from the Grand Committee for Courts of Justice, that they might have Power in the particulars aforesaid.

8. *Martii* and 13. *Martii* in the same Parliament, Upon report from the Committee for Trade, (which then was a Grand Committee) the House was moved for their Order to the Merchants Adventurers to bring in their Patents, and that the Inventor of the pretermitted Customs should attend the Committee.

15. *Maii* 22. *Jacobi*, Upon Complaint from the Grand Committee for Grievances, that they had sent several Warrants for divers Persons to bring in their Patents, which they had not done; the House Ordered *the Serjeant at Arms to be sent for them.*

When any great Business is in agitation that requires much Debate, or a Bill for a Publique Tax is to be committed, the House doth use to resolve it self into a Grand Committee of the whole House; which is done by a Question, and then the Speaker leaves his Chair: and thereupon the Committee (which must consist of as great a number as constitutes a House, as

is

is before declared) makes choice of a Chair-man, in which case, if more then one be generally called to the Chair, any Member may stand up, and by consent of the Committee, put a Question for one of those named to be the Chair-man.

19^o *Jacobi*, A dispute being in the Committee, which of two Members named should go to the Chair, the Speaker was called to his Chair, and put the Question That *Sir Edward Coke* (who was one of the Persons named) should take the Chair, and then the Speaker left his Chair.

The Chair-man of the Grand Committee is to sit in the Clerks place at the Table, and to write the Votes of the Committee.

If upon putting a question, the Chair-man (who is to judge by the Voices) have delivered his Opinion that the *Yea's* have it, and any Member stand up and say, He believes the *No's* have it, (or contrariwise) the Committee is to divide within the House; the Chair-man directing the *Yea's* to go to that side of the House that is on the one hand, and the *No's* to the other side, and then he is to appoint one of each to count the numbers and report them;

them; which is to be done in the same order as in the House, saving that the Obedience is only twice in the Committee, thrice in the House: if the numbers be equal, the Chair-man hath a casting Voice, otherwise he hath no Voice in the Committee.

When the Committee hath gone through the Matter referred to them, the Chair-man having read all the Votes, is to put the Question, that the same be reported to the House: If that be resolved, he is to leave the Chair, and the Speaker being again called to the Chair, (or at the next sitting of the House, if it be then adjourned) the Chair-man is to report what hath been resolved at the Committee, standing in his usual place, from whence (if it be not in the seat next the Floor) he is to go down to the Bar, and so to bring up his Report to the Table.

If the Committee cannot perfect the Business at that sitting, they may not adjourn as other Committees; but a Question is to be made for reporting to the House, and that leave be asked, that the Committee may sit at another time on that Business.

But if, as sometimes it falls out, the
Matter

Matter hath received a full Debate in the Committee, and it is judged fit to be resolved in the House, the Speaker is again called to the Chair for that purpose.

In other things then as aforesaid, the Rules of Proceedings are to be the same as are in the House.

4^o. Junii, 1607. agreed for a Rule.

1. *Every Question upon the Voices of a Committee bindeth, and cannot be altered by themselves.*

2. *Every thing directed and agreed to be reported, ought to be accordingly reported; but not every thing spoken or debated at a Committee.*

28th Julii, 1641. Declared by the House, *That no Committee ought by Vote to determine the Right or Property of the Subject, without first acquainting the House therewith.*

6^o Aug. 1641. Resolved, *that no Vote past at a Committee, and not reported nor confirmed by the House, shall be any Rule or Direction for any Court of Justice in Westminster-Hall to ground any Proceedings thereon.*

CHAP. IX.

Publique Bills, and manner of Proceeding on them.

ANy Member of the House may offer a Bill for Publique Good, except it be for imposing a Tax; which is not to be done but by Order of the House first had.

But if any Member desire, That an Act made and in force, may be repealed or altered, he is first to move the House in it, and have their Resolution, before any Bill, to that purpose may be offered; and if upon the Reasons shewed, for repealing or altering such Law, the House shall think it fit, they do usually appoint one or more of the Members to bring in a Bill for that purpose. In the beginning of every Parliament, some Persons have been appointed to consider of such Laws as had continuance to the present Session, whether they were fit to be continued or determined; as also of former Statutes repealed or discontinued, whether fit to be revived, and what are fit to be repealed.

19. April. 1654. Mr. Serjeant *Sing*
moved.

moved for some course to be entred into for continuance of Statutes, and offered something in writing to that end, but the House thought fit a Bill for continuance should not be brought in by any but the Committee for that purpose; which holds *a fortiori* in repealing Statutes.

A private Bill that concerns a particular Person, is not to be offered to the House, till the leave of the House be desired, and the substance of such Bill made known, either by Motion or Petition: nevertheless, the Speaker hath had liberty to call for a private Bill to be read every morning; and usually the morning is spent in the first reading of Bills, untill the House grow full.

If any Publique Bill be tendred, the person who tenders the Bill must first open the matter of the Bill to the House, and offer the Reasons for the admitting thereof; and thereupon, the House will either admit or deny it.

If a Bill be admitted to be read, the same is to be presented fairly written, without any razure or interlineation, together with a Breviate of the heads of the Bill, and unless it be so tendred, the Speaker may refuse it.

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When a Bill hath been read the first time, the Clerk is to deliver the same to the Speaker, who standing up uncovered, (whereas otherwise he sits with his hat on) and holding the Bill in his hand, is to open the same, first reading the Title thereof, and after he hath done, declares this to be the first reading of such Bill; and untill the Bill be opened, no Member may speak to it.

After the first reading of a Bill, and the same opened, no man regularly may speak to it, untill it hath been the second time read, unless he speak to cast it out; in which case any other may speak for the retaining thereof: Nevertheless, it is not without Precedent, That upon the first reading of a Bill, Debates have been upon it *pro* and *contra*, especially when the House hath generally disliked the Bill; and in case, after Debate, the House do call to the Question, and the Sense of the House therein be doubtfull, the first Question is to be put (not, whether the Bill shall be read the second time, for so it ought to be in ordinary course without a Question, if nothing be said against it, but) whether the Bill shall be rejected. If it pass in the Affirmative, the Clerk enters the
the

the same in his Journal, and also endorses it upon the back of the Bill.

By the Journal of the Parliament held 43^o Eliz. November 17^o. Upon Debate of the Bill against unlawful Hunting, fifth Session of the first Parliament of King James, this appears to have been the course.

In the Parliament 1604. the Bill touching Apparel upon the first reading was disliked, & so spoken to *pro* and *contra*; which is not usually admitted, without some extraordinary conceit of mischief, inconvenience or imperfection, and the Question was put presently for the Rejection: Upon the division of the House, those for the Bill fate, those against it went out; which was also done 7^o Aug. 1641. upon the Question for rejecting the Bill for Light-houses in the North.

If the Bill be not so generally opposed, but onely by some, then the Question is to be, whether the Bill shall be read a second time; and if that Question for reading the Bill a second time pass in the Affirmative, it is to be read at such convenient time as the House shall be minded of it by the Speaker, or as the House shall appoint: If it pass in the Negative, then a Question is to be put for Rejection.

Bills

Bills, especially Publique Bills, have not usually been read more then once in one day, but put off to the next day, or for two or three days, (except it require haste) to the end the Members of the House may have time to consider of it : and (if they shall desire it) may peruse the Bill, to enable them to speak to it at the next reading. But in former times Bills have been twice, yea thrice read in one day, and passed ; as may be seen in the Proceedings upon the Bill against Counterfeit Seals 16^o Febr. 23^o Eliz. and in the Bill against Disobedience to the Queen 4^o Martii, of the same Year, The Bill for Recognition of the Succession of the Crown in the first Session of the Parliament 1^o Jacobi : And therefore any Member may move it may be read the same day the second time ; and any other Member hath liberty to offer his Reasons against such second reading at that time ; but it is not done, but upon Motion or Order of the House.

Sometimes the House upon Debate doth pass some Votes to be the Heads of a Bill ; or refer it to a Committee of the whole House to prepare such Heads. Nevertheless, when it is digested into a Bill, and

and that comes to be read or passed, it is lawful to debate or argue against all or any part thereof, to alter or reject it; because Votes, in order to a Bill, are no further binding, but that the Bill is to be presented containing those Votes; and because the Bill gives occasion of a more large Debate, and being to pass into a Law, every Member hath liberty to offer his Reasons against it, as well as give his Vote, as often as it comes to a Question.

When a Bill hath been read the second time, and opened as before, any Member may move to have the same amended, but must speak but once to it; and therefore must take all his Exceptions against the Bill, and every part of it, at one time: For in the Debate of a Bill, no man may speak but once the same day, except the Bill be read more then once that day, and then he may speak as often as it is read.

4^o Junii, 1654. Agreed for a Rule; *If two stand up to speak to a Bill, he that would speak against the Bill, if it be known by demand or otherwise, is to be first heard.*

If the Exceptions be such as may not be amended at the Table, then the Question is for the committing of the Bill: but

but no Bill is to be committed without some exceptions taken to it ; as it was insisted on upon that Question for committing the Bill *for Probate of Suggestions in case of Prohibitions*, which were then made, and thereupon the Bill was committed.

No *Proviso* or Clauses are to be tendered to a Bill upon a second reading ; because if it be committed, it is proper to offer them to the Committee without troubling the House : as 16^o Junii, 1604. It was moved that sundry *Proviso's* then tendered, be offered to the Committee.

If that Question for Commitment pass in the Negative, then the Question is to be put for ingrossing the Bill ; so it was upon the second reading of the *Bill for Limitations of Actions*, 21^o Jacobi. And another *Bill for explanation of a Clause in an Act* 3^o Jacobi, Entituled, *An Act for the better discovering and suppressing Romish Recusants*, the same day. But if the Question for ingrossing the Bill pass in the Negative, then the Question is to be put for rejecting the Bill.

If the Question for committing the Bill pass in the Affirmative, then a Committee is to be named ; of which, all those that

took

took Exceptions against any particulars in the Bill (but not those who spake against the whole Bill) are to be, and any Members that please, may name one a-piece, but not more to be of that Committee.

10 Novembr. 1640. Declared for a Rule, *That at the naming of a Committee, if any man rise to speak, the Clerk ought not to write.*

11^o Novembr. 1601. Resolved and Ordered upon the Question, *That such Member as declares himself against the body or substance of any Bill upon any the readings thereof, shall not hereafter be admitted to be of a Committee in any such Bill, according to former Order used in Parliament.*

7^o Martii. 1606. Mr. Hadley being assigned of a Committee to confer with the Lords, desired to be spared, he being in opinion against the Matter it self; and it was conceived for a Rule, *That no man was to be employed in any Matter, that had declared himself against it:* And the Question being put, whether Mr. Hadley were to be employed; It was resolved, he was not to be employed.

Committees upon Bills have not usually

ly been less then Eight, sometimes Twenty, seldom more in former times ; which engaged them to attend it and speed it.

12^o Aprilis 1604. Upon a Motion made touching the slow Proceedings and dispatch of such Bills and Business as were depending in the House , which grew , as was said, by the non-attendance of Committees : It was Ordered, *That if Eight of any Committee do assemble, they might proceed to a Resolution in any Business of the House.* Formerly all were to attend.

When a competent number are named, the Speaker useth to put the House in mind of appointing the time and place of their meeting; at which time the Committee are to meet ; especially those who did make any exceptions to the Bill: Eight of the Persons named must be present to make a Committee, (unless where a less number of them are appointed to be a Committee, which hath been done sometimes in Private Cases, but seldom or never in Publique Bills) but five may adjourn.

In some Cases the House hath Ordered a Committee to withdraw into the Committee Chamber presently , and bring it back sitting the House ; as was done in
the

the Bill for Probate of Suggestions in cases of Prohibitions aforesaid.

Some Bills of great concernment; and chiefly in Bills to impose a Tax, or raise Money from the people, are committed to a Committee of the whole House: to the end there may be opportunity for fuller Debates, for that at a Committee the Members have liberty to speak as often as they shall see cause, to one Question; and that such Bills being of general concernment, should be most solemnly proceeded in, and well weighed: and sometimes when a Bill of that nature hath been conceived fit to be made, the House hath thought fit to resolve themselves into a Committee, and either there, or in the House, to Vote some heads for direction of such as shall be employed to prepare the Bill:

Any Member of the House may be present at any select Committee, but is not to have any Vote, unless he be named to be of the Committee.

The Committee are first to read the Bill, and then to consider the same by parts.

The Preamble, if any be, is usually considered after the other parts of the Bill,

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because

because, upon the consideration of the body of the Bill, such alterations may be therein made, as may also occasion the alteration of the Preamble; which will best be done last.

The Committee may not raze, interline, or blot the Bill it self; but must in a Paper by it self set down the Amendments in this manner: *viz.* In such a *Folio* and such a Line; between such a word and such a word, or after such a word; insert these words, or omit these words; and in stead thereof (if there be cause) insert these words.

When the Amendments are all perfected, every one being voted singly, all of them are to be read at the Committee, and put to the Question, whether the same shall be reported to the House. When that Vote is to be put, any Member of the Committee, may move to add to those Amendments, or to amend any other part of the Bill.

Otherwise, when a Vote is once passed at a Committee, the same may not be altered, but by the House: so the Entry is in the Journal 4^o Junii, 1607. Every Question upon the Voices of the Committee bindeth, and cannot be altered by them;

themselves. And thus every thing agreed to be reported, ought to be reported.

If the Vote of the Committee pass for reporting the Amendments to the House, then one of the Members of the Committee (which is commonly the Chairman) who is best acquainted with the Bill, is to be appointed to make the Report; which being done, that Committee is dissolved, and can act no more without a new power.

3^o Martii, 1606. It was Ordered, *That every Committee when they proceeded to Amendment of any Bill Committed to them; should also amend the Breviate annexed, and make it agree with the Bill.*

Reports are usually to be received daily, in the first place, after the House is full; except there be Bills ingrossed which are to take place, and Publique Bills before Private.

The Reporter must first acquaint the House, That he is to make a Report from such a Committee, to whom such a Bill was committed, and standing in his place, must read each of the Amendments with the Coherence in the Bill; and opening the Alterations and the Reasons of the Committee for such Amendments, until

he hath gone through all, and then must (if he sit not in the seat next the floor) come from his place to the Bar, and so come up to the Table, and deliver both the Bill and Amendments to the Clerk, by whom he is to stand, while the same are twice read; which is to be done by him (without reading any words that are to be omitted, but only such as are to be inserted) before any man speak to any of them; and then the Bill, with the Amendments, is to be delivered to the Speaker.

4^o Junii, 1607. The Bill touching the Union between *England* and *Scotland* having been committed, when the Amendments were reported, the whole Bill was by Order of the House first read, and then the Amendments by themselves; which is a single Precedent used only in a Case of great weight.

After such reading of the Amendments, any Member may speak against all, or any of the Amendments, and desire the Coherence to be read; but he is to make all his Objections at once to all the Amendments, without speaking again: onely sometimes in Matters of great concernment, it hath been desired, that the Amendments be considered one by one, and so

so put to the Question, and then may he speak to each of them.

Exceptions may be taken as well to what is omitted out of the Bill by the Committee, as to what is amended.

6^o Junii, 1604. Amendments being reported to a Bill for providing a godly and learned Ministry; a Question was made, whether the words [*or being no Graduate*] struck out by the Committee, shall stand in the Bill: and it was upon the Question Ordered to stand.

Upon this or any other Report from a Committee, the first Question ought to be for agreeing with the Report, unless the House generally dislike it.

All the Amendments reported by the Committee are to be proceeded in before any new Amendment or *Proviso* be admitted, unless it be amending the Amendments reported.

If there be Exceptions against the Amendments reported, which cannot be conveniently amended at the Table, then the Bill is to be recommitted to the same Committees.

After the House hath proceeded upon all the Amendments reported, there have been sometimes offered other Amendments,

amendments, *Proviso's*, or additional Clauses written in Paper, after acquainting the House with the substance thereof, which (if the House do approve) are to be read by the Clerk, and opened by the Speaker. After the first reading and opening, any person may speak for rejecting it, or for a second reading; which if it come to a Question, the first Question to be put, is, Whether it shall be read the second time: if that be carried in the Negative, the next Question is for rejecting it.

If the Vote pass for the second reading of such Clause or *Proviso*, then (after reading and opening it as before) is a proper time for Debate thereof, for alteration or laying it aside, or for committing the same with the Bill.

But regularly, no such thing should be offered after a commitment, but the same should be offered to the Committee, where it may be first considered and prepared, and so the time of the House saved.

If the Amendments be agreed, and no such Clause or *Proviso* tendered, or being tendered, be agreed, then the Question is to be, That this Bill with the Amendments (and *Proviso's* or Clauses added, if
any

any be) be ingrossed; at which time any may speak for rejecting the Bill, as well as upon the first or second reading. But if the Vote for ingrossing pass in the Affirmative, the same is to be ingrossed by the Clerk, and hath used to be examined by the Reporter, and one or more of the former Committee, to take care the same be truly ingrossed; especially if the Amendments be many, and not fairly written.

The Title is to be indorsed on the back of the Bill, and not within.

All Bills regularly are to be ingrossed and read a third time; which being ingrossed, the Speaker is to put the House in mind thereof, at convenient times, to have them read: And ingrossed Bills are to be read before any other, unless it be of great concernment; in which case, the House hath sometimes Ordered, That such Bill should not be read till Ten of the clock, to the end the House may be full.

The Speaker, the day before, doth usually acquaint the House, That such Bills are ingrossed, and that he intends the next day to offer them to be passed.

7^o Febr. 18. *Jacobi*. Ordered, That no Bill be put to pass till Nine of the clock,
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and

and notice to be given the day before, That Bills shall be passed the next day.

24th April. 22^o Jacobi, Ordered, That all the Members of the House do attend the House half an hour after Seven of the clock, and Bills to be put to passage by Eight; and that on Monday next they should be offered to passing.

Upon such third reading and opening thereof by the Speaker, as before (the House being acquainted this is the third reading) any Member may then likewise speak against the whole Bill to throw out the same, or to any Clause thereof, to be omitted or amended; so as such Amendment be in one or few Words, which may be done at the Table.

A *Proviso* or Clause ingrossed in Parchment, may after a third reading, and before the Question for passing it, be tendered to be made part of the Bill; but he that tenders it must be careful, that the same be so penned, as that it may pass as it is, or be capable of an Amendment at the Table, by adding or amending one or few words: else it is in danger to be rejected, because it is not regularly to be committed.

When such *Proviso* or Clause is so tendered, the substance thereof being first opened

opened to the House, if the House admit the same to be read, it is to have the same Proceeding, as in the first, second, and third Reading of a Bill; and if after the second reading there be no Objection against it; or after Debate, when it comes to a Question, the Question is to be put, Whether the *Proviso* or Clause shall be part of the Bill: If the same pass in the Negative, then the Clerk is to enter a *Memorandum* thereof; if in the Affirmative; then an Entry is to be made thereof likewise; and then he is to File the same to the Bill ingrossed.

If while such *Proviso* or Clause is in Debate, any Question be for Amendment thereof, or Addition thereunto before the *Proviso* or Clause be put to the Question; the Question is to be put, Whether such Amendment or Addition shall be made. If that pass in the Negative, and no other be desired; (which, if it be, is in like sort to be proceeded in) the *Proviso* or Clause alone (or if in the Affirmative, then with that Amendment or Addition) is to be put to the Question, whether it shall be part of the Bill as before.

If the House think fit to amend any thing in an ingrossed Bill, the same, so as

it do not deface the Bill, is to be done at the Table; for after a third reading, no Bill is to be recommitted upon the Matter or Body of the Bill: so the Journal, 1610. but the Debate hath been adjourned to another day. If it be the next day, without any other Debates between; then he who spake to the body of the Bill the day before, may not speak again to the Bill or any part thereof, no more then he might have spoken twice that day.

22. *June, 1604.* The Bill for Restraint of the excessive wearing of Cloth of Gold and Silver, Gold and Silver Lace, &c. was read the third time, and much disputed; but the time being far spent, further Dispute and the Question was deferred to the next morning.

23. *June,* The Dispute touching the Bill for Apparel was moved and continued. Upon the Dispute of that Bill, some Members of the House offering to speak, Having spoken the day before to the same Bill: It was agreed for a Rule, *If a Bill be continued in Speech from day to day, one man may not speak twice to the Matter of the same Bill.*

Or else, a Bill hath been committed upon some particular Clause or *Proviso,* which

which was done in a Case of the Fourth Session of Parliament, in the First year of King *James*, upon the *Bill touching Sea-sands*, and in the third Session of the same Parliament, upon the *Bill of Clothing*: when, upon a Report of the Committee, the next day, a *Proviso* was by direction of the House razed out of the Bill, by the Clerk at the Table, and so the Bill put to the Question, passed.

But if the words to be amended may be done at the Table, it is done there without a recommitment.

So 6^o *May*, 1606. It was much disputed, whether a Bill ingrossed, and found fault with, should be recommitted into the Committee Chamber, or amended at the Table: It was resolved, it should be amended at the Table.

When a Bill is read the third time, if any Clause be resolved by the House to be added, not being tendred in Parchment, the same ought to be written first in Paper, and read twice; and then if it be agreed, and ordered to be ingrossed and added to the Bill, it is then to be ingrossed, and read a third time; and so if it be agreed, is to be passed with the Bill: Thus it was done in the *Bill to restrain the Haunting*

Haunting of Ale-houses, in June 1604. where a Clause was added, That the Act should continue only to the end of the First Session of the next Parliament.

When all the Clauses and *Provisos* to the Bill are agreed or rejected, and the Debate ended, the Speaker is to ask the pleasure of the House, whether he shall put the Bill to the Question; if it be the general Sense of the House, and none stand up to speak against it, then he is to put the Question Affirmatively and Negatively.

If any Member stand up before the Negative be put, he having not formerly spoken to the Matter, he is to be heard.

If it pass in the Affirmative, an Entry is to be made thereof in the Journal Book, as of all other the Proceedings aforesaid: if in the Negative, the Clerk enters on the back of the Bill, *Dashed*.

11 *Novembr.* 1601. Upon Question, after Debate, whether any Member of the House, after having been a Committee in any Bill, may afterwards speak in the Negative part against the said Bill: It was resolved and ordered upon the Question by the whole House, *That any Member of this House, that hath been or shall be a Committee*

mittee in any Bill, may afterward speak or argue Negatively to any such Bill, without Impeachment, or imputation of breach of former Order: which said Order and Resolution was appointed by the House to be entred for a future Precedent accordingly.

21^o Martii, 1588. The *Bill for relief of the City of Lincoln*, was read the third time; and after many Arguments, both for the Bill and against it, the Bill was passed upon the Question, and the division of the House, with the difference of 53. persons, *viz*, with the Bill 118. and against the Bill 65. Which Difference being reported to the House, the Bill was afterwards, according to the ancient Orders of the House in such cases, carried out and brought in again by Mr. Vice-Chancellor, with the Bill in his hand, followed and attended on with all the Members of the House then present, as well those who had first before given their Voices against the passing the said Bill, as those that had given their Votes with the passing of the same.

The Entry is made in the Journal of the Session of Parliament.

4^o Jacobi, The Question being put for
passing

passing a Bill, the House was divided, the *Ye's* went forth, the *No's* fate, and it passed in the Affirmative; upon Motion, such as fate against the Bill went forth of the House, and brought in the Bill in their hands, which is according to ancient Order, and was now moved, and done once in a Parliament for preserving the memory of the Order, and so expressed by the Mover.

When a Bill is passed after the third reading, there is no further alteration to be made; yet in case of an apparent mistake therein, either by false writing or otherwise, the House hath upon notice thereof, caused the same to be amended the day following, in the House; where the Amendments are to be thrice read, and the Bill again passed, whereof there was a Precedent in 23° *Eliz.* 20° *Januarii.*

In passing a Bill, the Question is but once put.

Maii 18° 1604. The *Bill for shooting in Guns* was put to the Question, and passed in the Negative, as Mr. Speaker judged; It was urged that the Voice was doubtful, and a double Question pressed, but forborn, and this Rule agreed: *No double Question upon the passing of a Bill, though*

though-sometimes upon the committing of it, it is double, if the Voice or Question be not clear.

If it happen that two Bills be depending at the same time, which have so near affinity, as they may be fit to be joyned; after they have been twice read, the House hath sometimes Ordered, that they should be ingrossed as one Bill: this was done in two Bills concerning Treasons, as appears by the Journal Book 16^o Aprilis 13^o Elizabethæ.

A Bill once rejected, is not to be offered again the same Session, unless it be altered in some material parts.

15^o Junii, 1604. Upon Debate of a Bill for reviving divers Statutes, and repealing others, a Clause was added by the Committee, to be inserted in an Act of 35^o Eliz. Entituled, *An Act to retain the Queens Subjects in their due Obedience*; to this effect, *That the Husband should not pay for the Wives Recusancy*: which Clause was much argued, and a Question propounded.

The manner of the Question was disputed which way it should be put.

Whe- { That this Clause shall stand, or,
ther { That this Clause shall not stand:
and

and it was agreed for a Rule, *That upon the adding of any new thing, the Question is to be put in the Affirmative; whether it shall stand upon the continuing of the old: in the Negative, that it shall not stand.*

The Question being, whether the Statute of 43 Eliz. Entituled, *An Act for Explanation of a certain Act made 13 Elizabethæ, &c.* should be continued: and the House being divided, much Dispute and Difference there was, whether upon this Question the *Yea's* or *No's* should sit: It was thereupon affirmed and conceived for a Rule, *When any alteration is required of a Law in being, (as in this Case) and thereupon the Question put; the Yea's must sit still, and the No's go forth.*

15 Junii, 1654. A Question being, whether a Law, formerly made, should continue till the end of the next Session of Parliament; much difference and dispute was, whether, upon the Question, the *Yea's* or the *No's* should sit: Upon a Question put, it was resolved, the *Yea's* ought to sit still, and the *No's* to go forth: The House was divided, the Reporters differ in the number, the House divided again: this did not satisfie, it being affirmed

affirmed to be contrary to Precedent, and bred much debate, what was to be done: at length, the House was content to let the Question rest as it was, and thought fit to Order a new Bill for reviving the Law.

May, 1604. Resolved to be entred as the Judgment of this House, *That no Speaker from henceforth shall deliver a Bill, whereof the House is possessed, to any whomsoever, without leave and allowance of the House, but a Copy onely. Eodem die: It is no possession of a Bill, except the same be delivered to the Clerk to be read, or that the Speaker read the Title of it in the Chair.*

CHAP.

CHAP. X.

*Private Bills, and Proceedings
on them.*

WHEN there are many Private Bills, the House hath sometimes set apart certain times for that Business only :

As, 7^o Maii, 1571. It was Ordered, That the House do begin to sit on Friday next at Three of the clock in the afternoon, and continue till Five; and so every Monday, Wednesday and Friday, till the end of that Session, the same time to be employed only in the first reading of Private Bills.

And in the first Parliament of King James, It was Ordered, *That the House should meet at Seven of the clock, and the time till Nine of the clock should be spent in reading Private Bills.*

When any Private Bills, that is, Bills concerning Private Persons, Corporations, or some one or more particular Shire, or Counties; or any Publique Bill, wherein is any Clause or *Proviso*, that concerns such Person, Corporation, County or Counties, is preferred to the House,
or

or in agitation in the House, such person or persons may be heard by themselves or Council, either at the Bar of the House, if it be desired, or at a Committee to whom such Bill is committed; whereof are many instances.

28 Junii, 1607. *A Bill for mending the High-ways in the Counties of Sussex, Surrey and Kent*, was ruled to be a Private Bill; and it was Ordered, That ordinary Duties should be paid and performed for the same, or else there should be no further proceeding in it.

20^o Aprilis, 1606. A Bill was appointed to be read touching the *Fens*; those who followed the Bill, desired their Council might be heard, to open the state of their Case, and the equity and reasonableness of their Petition, before it were read; but it was not admitted: It being declared, That if the Council of the other side desired to be heard, then both should be received; and accordingly it was ruled, *That Council for the maintenance of any Bill, ought not to be heard before it be opposed.*

22^o Maii, 1604. It was moved, That whereas the Prothonotaries of the Court of Common-Pleas found themselves agrieved

ved by a *Bill*, preferred into this House, for registering *Judgements that may impeach Purchasers, &c.* being now ingrossed, their Council might be heard at the Bar upon the third reading; and thereupon it was Ordered, *That Council on all parts interessed, should be heard on Thursday following*; and upon hearing Council, the *Bill* was dashed.

7^o *Maii*, 1604. It was moved, That in the Proceedings of a *Bill for confirmation of the Lands of Henry Butler Esq;* upon the *Marriage of his Son*, there might be notice given by Mr. Speaker to the said *Henry*: which was Ordered, and a Letter written accordingly.

In the same Session it was moved, That in the Case between *Le. Grice* and *Cotterel*, notice might be given by Letter under Mr. Speakers hand, before any further proceeding; and that Council and Witnesses might be heard at the Committee: which was Ordered.

In the Case of a *Bill* between the Earl of *Hertford* and Mr. *Seymour*, Council was heard at the Bar; the Earl of *Hertford* and the Lord *Henry Seymour* his brother came into the House, and were admitted to come within the Bar, and to sit

fit upon stools with their Heads covered.

11. Febr. 1557. In the Parliament 4. and 5. *Phil. & Mariae*, the Abbot of *Westminster* had leave to come with his Council to the Bar of the Commons, touching his claim to the Sanctuary of *Westminster*; and accordingly he came the next day in Person into the House, and produced several Patents to make good his Claim; and had a further time given for himself and his Council to be heard.

4. Maii, 1607. The Council on both sides were heard at the Bar in the House upon the *Bill for the Marshalsea*.

11 Novemb. 1640. It is Declared as a constant Order of the House, That if a Witness be brought to the House, the House sitting, the Bar is to be down; otherwise, if the House be in a Committee:

CHAP.

CHAP. XI.

In what Cases Members are to withdraw.

18^o **I**acobi, Upon the Report from the Committee for Priviledges, touching Election for *Gatton*, Sir *Henry Brittain* being concerned, and offering to speak in his own Case; it was resolved upon long Debate, *he should be heard to inform the House, and then go forth.*

21^o *Jacobi*, A Bill which concerned *the Master and Fellows of Magdalen Colledge in Cambridge*, being read the second time, and in Debate, It was moved, that *Dr. Gooch* Master of *Magdalen Colledge* (who served for the *University*) and so a party, ought to withdraw; It was resolved, *He may first speak, and then withdraw.*

June 1604. A Bill for establishment of divers Mannors, &c. of the late Duke of *Somerset*, being offered to the Question of commitment; it was moved, That *Mr. Seymour*, a Member of the House and party to the Bill, might go forth during the Debate; which was conceived to be agreeable to former Orders and Precedents

lents in like Cafes, and was fo Ordered, and Mr. *Seymour* went prefently forth of doors.

When any Complaint is made againft a Member, or Exceptions taken to any thing fpoken by him, (after he hath been heard to explain himfelf, if he defire, or he **Houfe** command it, which is ufually done by him ftanding in his place) if the Houfe be not fatisfied, but fall into Debate thereof, fuch Member is to withdraw; as in the feveral Cafes of Doctor *Barry*, the Chancellor of the Dutchy, and others appears.

CHAP.

CHAP. XII.

*Censures of Members for offensive
Words or Misbehaviour.*

THough freedom of Speech and Debates be another undoubted Privilege of the House; yet whatsoever is spoken in the House, is subject to the censure of the House: and where they find cause (as, *In licitis facile fines transgredimur*) offences of this kind have been severely punished, by calling the person to the Bar, to make submission; committing him to the Tower, (being the usual Prison to which the Commons did commit Delinquents) expelling the House; disabling him to be a Member during that Parliament, and sometimes of any future Parliament.

The Entries in the Journal I find to be as followeth:

17. *May*, 1572. Upon sundry Motions made by divers Members of the House, It was Ordered, That *Arthur Hall* Esq; for sundry Speeches used by him in the House and abroad, should be warned by the Serjeant to be at the House on Monday following,

lowing, and at the Bar, to answer Matters charged against him; and all such persons as had noted his Words, either in the House or abroad, were forthwith to meet, and set down the same Words in writing, and deliver the same to the Speaker.

On Monday following, Mr. *Hall* was brought to the Bar by the Serjeant, was charged with several Articles, and confessed his folly; and humbly submitted himself to the House, and was remitted.

8. Febr. 1575. P. W. Esq; one of the Burgeses of *Tregony* in the County of *Cornwal*, was, for unreverend and undutiful Words uttered by him in the House, touching the Queen, sequestred; that the House might proceed to conference and consideration of his said Speech: upon Debate whereof he was committed to the Serjeants Ward, as Prisoner, and so remaining, should be examined upon his said Speech, for extenuating his fault therein.

The next day a Report was made of his examination and confession of the words; he was brought to the Bar by the Serjeant, received this Judgment by the mouth of Mr. Speaker.

That he should be committed close
D prisoner.

prisoner to the Tower, till the House should take further consideration concerning him.

4^o Febr. 1580. Being the third Session of the Fourth Parliament of Queen *Elizabeth* 23. Year of her reign, complaint was made in the House against *Arthur Hall* Esq; before named, who had caused a Book to be printed, wherein was published the Conferences of the House; and in it was contained matter of Reproach against some particular Members of the House, derogatory to the general Authority, Power, and State of the House, and prejudicial to the validity of the Proceedings of the same. The matter was referred to a Committee to examine, and upon Report thereof, and bringing the said Mr. *Hall* to the Bar several times to Answer; he was sentenced by the House to be committed to the Tower, (as the prison proper to this House) there to remain for the space of Six months, and so much longer, as until he should himself willingly make a Retraction of the said Book, to the satisfaction of the House, or of such Order as the House should make during that Session.

That the said *Arthur Hall* should be
fined

fin'd to the Queen Five hundred pounds for his said Offence.

That he should be presently severed and cut off from being a Member of this House during this Parliament, and a Writ to issue for Election of a new Burgess, for the Borough of *Grantham*, in his stead.

That the said Book should be deemed, and adjudged false and erroneous.

Thereupon, the said Mr. *Hall* was brought to the Bar, unto whom Mr. Speaker, in the name of the whole House, pronounced the said Judgment, in form aforesaid; and the Serjeant was commanded to take charge of him, and to convey him to the Tower, and deliver him to the Lieutenant of the Tower, by Warrant of this House to be signed by the Speaker.

18. *March*. 1580. He having continued Prisoner in the Tower without any Retractation, the House appointed a Committee to allow the said Retractation, and to report it to the House at the next Session,

It appeareth by the Journal 21 *November*, 1586. That he was disabled for ever to serve in Parliament.

17. *December*, 1584. A Bill against
D 2
Jesuits

Jesuits and Seminary Priests passed upon the Question : Dr. *Parry* onely gave at Negative ; and after inveighed in violent Speeches against the whole Bill. Upon which, he was sequestred from the House into the outer room, into the hands of the Serjeant, and not to confer with any while the House was in debate of that Business. Afterwards he was brought to the Bar, and there kneeling, was told by the Speaker, If he thought fit, the House was content to hear his Reasons; but he refusing, was committed to the Serjeants Ward.

The next day he was brought to the Bar, and kneeling, confessed he had undutifully behaved himself ; and had rashly and unadvisedly uttered those Speeches he had used ; and was, with all his heart, very sorry for it: Alledging withall, he had never been of the House till that Session, and so could not so well know the Orders of the House as he should do ; and that he would not henceforth willingly offend the House, nor any one man in it ; and so humbly prayed their good favor towards him. Whereupon, being again sequestred out of the House, after some Arguments and Debates, it was resolved, Upon this ac-
know-

knowledge of his fault, and his humble submission, he should be received into this House again, as a Member thereof, and take his place as before, so that he would still afterwards behave himself in good sort as he ought to do : and thereupon, being called again to the Bar, and there kneeling, and directly reiterating his former Confession of his fault, and humble submission, with promise of better demeanor, he was admitted.

13. Febr. 1606. Upon a Report made in the House, of the Remembrances formerly set down of the particulars of a Conference, the Speaker offering to read the Paper, and being interrupted by some Motions and Disputes, whether they should be read one by one and so debated, or all at once: in that difference, one of the Knights for *Buckinghamshire*, with a loud voice (not standing up bare-headed, as the Order is) pressed to have them read. The House observing his earnestness, and manner of fitting and calling, for Orders sake urged him to stand up and speak. He stood up, and pretending to offer some Reasons, fell into an Invective against the Scots, much distasting the House; yet out of a common care to expedite

pedite the weighty Business then in hand, his Speech was neglected without Tax or Censure.

But on Monday following it was remembered, and his words of offence recited in particular ; the Gentleman being absent, was sent for by the Serjeant.

Touching the manner of proceeding in this Case, many Motions and Questions were moved : as, 1. Whether to name a Committee to consider wherewith to charge him. 2. Whether to censure him upon their own knowledge, without other Circumstances, the fault being apparent. 3. Whether to charge him in general, or with the particular Words. Much was said upon these Questions *pro* and *contra*, and the Precedents of *Parry* and *Throckmorton* remembered, wherein for Words spoken in the House, the Proceeding was by the House, and not by Committee ; the Offences generally charged, and punished, and the Words put in oblivion : and so in this Case, the Judgment and Proceeding resolved to be accordingly.

The Serjeant having brought the Offender, it was moved he might be heard at the Bar, which was assented unto ; and after he had spoken, he was commanded

to

to retire ; and not long after , was called in again to the Bar, where kneeling, Mr. Speaker acquainted him, since the Offence was so apparently hainous, the House did not hold it fit, that any particlars should be named, or to give any Reason of their Judgment ; but the Order was, He should be carried to the prison of the Tower, and there remain during the pleasure of the House : and that he should be dismissed from his place of Knight of the Shire for *Bucks*, and a new Writ to issue for a new Choice.

15. Febr. 18. *Jacobi*, A Bill being read the second time for *the better Observation of the Sabbath*: one of the Members made an Invective against it, and something which seemed to reflect on a Member of the House who presented it, as favouring of a Puritan and a Factious spirit. Exceptions were taken at the words. After he had explained himself, he was ordered to withdraw out of the House ; and Debate being had, he was called to the Bar, and upon his knees, he received the Judgment of the House pronounced by the Speaker : That he should be discharged from the Service of the House ; with an intimation , that his Judgement was very
D 4. merciful,

merciful, for that the House might for so exorbitant an Offence, have Imprisoned and further punished him.

3. *April, 1604.* In a Debate upon a Bill, a Member of the House uttered some Speeches highly distasting the House; but no notice was taken of it till the Bill was committed, and then the Words being repeated, he was called to the Bar, where he made his excuse, and was pardoned.

26. *April, 1641.* Great Offence was taken by the House at words spoken by Mr *J.H.* He was first heard to explain himself, and then commanded to withdraw, and was called to the Bar and suspended the House during that Session of Parliament.

27. *May, 1631.* A Paper was brought in containing Words spoken by Mr. *Taylor* a Member of the House, concerning the passing the Bill of Attainder of the Earl of *Strafford*: who being heard to explain himself, and then commanded to withdraw; after some Debate in the House, it was resolved, That he should be expelled the House; be made incapable of ever being a Member of this House; and should forthwith be committed prisoner to the Tower, there to remain during the pleasure of the House; and should make an
acknow-

acknowledgement of his Offence, both at the Bar and at *Windsor* publicly. And he was called to the Bar, and there kneeling, Mr. Speaker pronounced the Sentence accordingly.

Of later times it hath been observed, as most conducing to the Service of the House, that if in Debate Words be let fall that give offence, Exceptions should be taken the same day, and before such Member go out of the House; or he who is offended may move, That such person may not go out of the House, until he hath given satisfaction in what was by him spoken. And in such Case, after the present Debate is over, the words must be repeated by the person excepting; and in case he desire, or the House command him, he is to explain himself, standing in his place; which if he refuse to do, or the House be not satisfied with such Explanation, then he is to withdraw: But neither is this to interrupt the present Business of the House, as in the cases before-mentioned; nor if it be omitted that day, hath it been recalled afterwards to avoid mistakes, and out of a willingness rather to pass by, then take occasion of Offence.

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13. May,

13. *May, 12 Jacobi*, Upon report of the Amendments to the Bill for the due observation of the Sabbath day, complaint was made that some indignity was offered to Sir *R. Owen*, when he was in the Chair at the Committee, by Sir *W. H.* that told him he was partial; and by Sir *R. K.* who took him by the hand, and told him, he would pull him out of the Chair, that he should put no more tricks upon the House.

Sir *W. H.* being present, made an acknowledgment of his Error, which upon the Question was taken for a good satisfaction:

Sir *R. K.* was Ordered by the House to acknowledge his error at the Bar.

19 *Jacobi*, Some speeches passing in the House privately between two of the Members, and some offence taken, which seems was not intended to be given; one of them in going down the Parliament stairs struck the other; who thereupon caught at a sword then in his mans hand to strike with it. Upon complaint made of it to the House, they were both of them ordered to attend the House. Being come, he who gave the blow was called in, and standing (not at the Bar, but) by the Bar,

Bar, was examined by Mr. Speaker; confessed the giving the blow; insisted on the provocation, and withdrew. The other was also called in, to relate the truth: After he had made the relation, and was likewise withdrawn; and testimony given by a Member of the House who heard the words; the House proceeded to Sentence against Mr. C. who struck the blow: he being brought to the Bar, there on his knees he received Judgement, which was pronounced by the Speaker, That he should be committed to the Tower during the pleasure of the House.

CHAP.

C. H A P. XIII.

Calling the House.

THere are two ends of Calling the House.

1. To discover whether any were in the House, who are not returned by the Clerk of the Crown in Chancery; it having been accounted a great Crime, and severely punished.

5. *Martii*, 1557. In the Parliament held 4 & *Phil.* & *Maria*, I find this Entry.

For that *Christopher Perne* affirmed, that he is returned a Burges for *Plimpton*, in *Devon*. and hath brought no Warrant thereof to the House, nor is returned hither by the Clerk of the Crown, by Book or Warrant; he is awarded to be in the custody of the Serjeant, till the House have farther considered.

It appears by that Book afterwards, that he was chosen a Burges, and admitted.

9. *January*, 1562. In the second Parliament of Queen *Elizabeth*, For that it seemed

seemed to the House, being very full, that there were a greater number then was returned; therefore the Names were immediately called over, and as they were called, departed out of the House.

7 Febr. 1588. The House was called, and every one answered to his name, and departed out of the House as they were called.

2. But chiefly the Calling the House, is to discover what Members are absent without leave of the House, or just cause; in which case, Fines have been imposed. And on this occasion, if the House be called, the manner hath been to call over the Names, and each Member to stand up at the mention of his name, uncovering his head. Such as are present are marked, and the Defaulters called over again the same day, sometimes the day after, sometimes summoned, sometimes sent for by the Serjeant.

19. June, 1607. The House was called by the general Book of Names, in order as they were set down by the Clerk of the Crown at the beginning of the Parliament, (so it is there entred) The Clerk called every one by his name; the person called, if present, riseth up bare-headed, and

and answereth; if absent, he is either excused, and so entred, *viz.*

either { *Licentiatur per speciale servitium.*
Excusatur ex gratia.
Ægrotat.

If none excuse him, he is entred, *Deficit.*

That no Person may sit in the House until he be so returned as aforesaid, appears by several Instances of Persons who were not Members; and for coming into the House, were brought to the Bar, and some committed; and some sworn before they departed, to keep secret what they had heard there.

CHAP.

CHAP. XIV.

Petitions in Parliament:

PEtitions are usually presented by Members of the same County; if they be concerning private Persons, they are to be subscribed, and the Persons presenting them, called in to the Bar to avow the substance of the Petition, especially if it be a Complaint against any.

So 18. November, 1640. one *Vivers* presented a Petition in the name of the Major, Aldermen, Burgessees, and other Inhabitants of *Bambury*, was called in, and did acknowledge the hand to the Petition to be his; and that he did deliver it by order, and on behalf of the Town of *Bambury*, and thereupon it was committed.

The like, in the same Parliament, upon reading the Petition of one *Ward* of *Salop*: And likewise on reading the Petition of *Henry Hoogan*.

CHAP.

CHAP. XV.

Priviledge of Parliament.

IT is often mentioned in the Journals upon Debates, That Priviledge was due *eundo, morando, redeundo*, for the persons of Members, and their necessary Servants; and in some cases for their Goods and Estates also during that time.

Some Question hath been touching the time in which the Priviledge is to be allowed, and the manner how it is to be obtained.

For the first, the Precedents are very numerous for allowing *Priviledge* during the Session.

I. For their own persons, They have been priviledged from Suits, Arrests, Imprisonments, attendance on Trials, serving in Juries, and the like; yea, from being summoned or called to attend upon any Suit in other Courts by *Subpœna* served on them. To begin with the latter.

Subpœna.

In the Parliament 4 & 5. *Phil: & Mariae*, 29. *January*, 1557. *Thomas Enmys* Burgess for the Borough of *Thusk*, complained that a *Subpœna* was delivered him to appear in Chancery; and required the
Privi-

Priviledge of the House; whereupon Sir *Clement Higham* and Mr. Recorder of *London* were sent to the Lord Chancellor to revoke the Proces.

And albeit an Entry is made in the Journal 10 *Februarii*, 1584. 26 *Elizabethæ*, That upon Motion made touching the opinion of the House for Priviledge, in case of a *Subpœna* served out of the Chancery upon M. *Richard Cook* a Member of the House: It was Ordered, That the Recorder of *London*, and two other Membets of the House, attended by the Serjeant, should repair presently in the name of the whole House, into the body of the Court of Chancery, and there to signifie to the Lord Chancellor and Master of the Rolls, That by the ancient Liberties of this House, the Members of the same are priviledged from being served with *Subpœna's*: and to require withal, not onely the discharge of Mr. *Cook's* Appearance, but from thenceforth, to grant Priviledge for other Members, upon the request of the House signified under the Speakers hand: which Mr. Recorder and the rest did accordingly. But they return this answer, That the Lord Chancellor told them, he knew no such Priviledge

ledge touching *Subpœna's*, and would not allow it, unless the House did prove it had been allowed also in that Court of Chancery: whereupon Precedents were directed to be viewed; but within few days after the Parliament ended.

Yet the practice in succeeding times declares the Priviledge, as appears by the Instance following, (which was the next Year after) and these that follow, with a multitude more which might be mentioned.

27 *Eliz.* One *Kirle* having caused a *Subpœna* out of the Star-Chamber to be served on a Member of the Commons House; and for want of Appearance, taken out an Attachment, and inforced the payment of Money to discharge the same; the said *Kirle* was committed till he had paid costs to the person served, and made a submission to the House on his knees at the Bar.

15. *Maii*, 1604. A *Subpœna* out of the Chancery to appear, was served on the person of Sir *Robert Needham* Knight, a Member of Parliament: upon complaint thereof, the Serjeant was sent to Attach the body of him who served the *Subpœna*.

7 *Maii*, 1607. The Serjeant was sent for

for *Edward Throckmorton*, for serving a *Subpœna* on *Sir Oliver Cromwel*.

14 *Maii*, 19 *Jacobi*, Upon complaint of the service of a *Subpœna* on a Member of this House, *Sir Edward Coke* vouched a Precedent; 10 *Eduardi* 3. That a *Subpœna* being served on the Clerk of this House, the party was committed for breaking the Priviledge of this House.

4 *Maii* 1607. A *Subpœna* out of the Exchequer being served on *Sir R. Pawlet* a Member of the House; the House thought fit to grant Priviledge, and that the same course should be taken, as in other the like cases are usual: *viz.* The Serjeant by his Mace to Attach the parties Delinquents, and to bring them to the Bar, to receive the Judgement of the House; and Mr. Speaker the next day wrote a Letter to the Lord chief Baron, that no further Proces do issue against the said *Sir R. Pawlet*.

3 *Decemb.* 19 *Jacobi*, Upon occasion of a *Subpœna* served on *Mr. Breeriton*, it was agreed by the whole House, That the serving of a *Subpœna* upon a Member of this House, knowing him to be a Parliament man, is a Breach of Priviledge; and *Napper* who served the *Subpœna* was committed.

33 *Eliz.*

Arrest.

33 *Eliz.* The Sheriffs of *London* were fined by the Commons, and sent to the Tower, for not delivering a Burgess arrested for Debt, sitting the Parliament.

6. *April*, 1593. The Serjeant at the Mace who arrested Mr. *Neal*, a Member of this House, upon an Execution; as also *Weblin*, at whose Suit he was arrested, contrary to the Priviledge of this House, were this day brought to the Bar, and were both committed Prisoners to the Tower; and the Setjeant at Arms attending this House, was ordered to deliver them over to the Lieutenant of the Tower.

Utlary.

13. *May*, 1607. *Nicholas Allen* an Attorney, and *Palmer*, at whose Suit Mr. *Martin*, a Member of this House, was outlawed, were ordered to be sent for by the Serjeant, and brought to the Bar to answer their Contempt.

Attachment.

In the same Parliament, there being Complaint, that an Attachment was taken forth

forth against Mr. *Bellingham*, a Member of this House, out of the Court of Chancery, for a Contempt; the House ordered to have Priviledge, and a Letter was ordered to be sent to Mr. *Evelin*, one of the six Clerks, to stay the Suit.

Issues.

A Writ of Petition being issued out, a Writ was directed to the Sheriff, to levy xx. l. Issues upon Sir *Robert Oxenbridge*, for Non-appearance; the same was complained of, and the House granted Priviledge, with this, That if the Issues were not discharged before the next day at night, the parties Delinquent were the day after to be brought to the Bar by the Serjeant.

Tryals.

14. May, 1576. Sir *Edward Montague*, a Member of the House, was warned to attend a Tryal in *London*, which was to be had against him; and was by Order of the House priviledged; and the party that gave the warning, was summoned to appear at the Bar the next morning.

21. Febr. 1588. Upon Motion made by

by divers Members of the House, having Writs of *Nisi prius* brought against them, that Writs of *Superfedeas* might be awarded, in respect of the Priviledge of this House, due to the Members: It was Ordered, That those Members of the House, who have occasion of such Priviledge, should declare their Case to the Speaker, who shall thereupon direct the Warrant of this House to the Lord Chancellor for awarding such Writ of *Superfedeas*.

3. *Martii*, 18 *Jacobi*, Upon a Report from a Committee appointed to consider of a way of staying Tryals against Members of the House; That by several Precedents, the Custom appeared to be in such Cases, That on Motions and Orders in the House, Letters were written to the Justices of Assize for stay of Tryals against Members of the House; which Letters were entred in the Journal Book, and that it belongeth to the Clerk to write the same. It was thereupon resolved, That the former course of writing Letters to the Justices of Assize, should be held according to former Precedents.

10 *Junii*, 1607. Sir Robert Johnson, a Member of the House, moyed for a Letter
to

to stay a Tryal against him in the Exchequer, which was granted, as appeareth by the Entry on the 13th day, when a Petition of Sir *Robert Brett* was read against that Priviledge. The Priviledge formerly granted was affirmed, upon this Reason, that no man should have any thing to withdraw him from his Service in the House. The like 14 *Feb.* 18 *Jacobi*.

And so much this Priviledge hath been insisted on by the House, that it hath been a Question, Whether any Member of the House could consent that himself should be sued during the Session; because the Priviledge is not the persons so much as the Houses: And therefore, when any person hath been brought to the Bar for any Offence of this nature, the Speaker hath usually charged the person in the name of the whole House, as a breach of the Priviledge of the House.

And when, 3. *June*, 1607. Sir *Thomas Holcroft* a Member of the House, had occasion to sue at Law, and was sued, with which he was content, and desired the leave of the House; there was a Question, whether the House should give leave for a breach of Priviledge, and it was resolved *The House might give leave.*

Juries.

7 *Maii*, 1607. Sir *Thomas Bigg* and Sir *Thomas Love*, being returned upon an Attaint in the Kings Bench; it being moved, that in this Case they ought to have Priviledge: it was so ordered, and the Serjeant sent with his Mace, to deliver the pleasure of the House to the Secondary, the Court sitting.

22. *Novemb.* 1597. Sir *John Tracy*, a Member of this House, being at the Common-pleas Bar, to be put upon a Jury; the Serjeant at Arms was presently sent with his Mace to fetch him thence, to attend his Service in the House.

Commitment.

April 12 Jacobi, Sir *William Bampffield* was committed by the Lord Chancellor for a Contempt, after the Writ of Summons, but before the Election. Ordered upon the Question, That he shall have his Priviledge by Writ of *Habeas Corpus*.

Sheriff.

1 *Jacobi*. 2 *Sess.* Sir *John Peyton* Knight for *Cambridge*, being returned the last Session,

Session; and since chosen Sheriff; Mr. Speaker moved to know the pleasure of the House, Whether he should attend his Service here: And it was resolved upon the Question in the House; he should attend his Service here.

Priviledge to Servants.

Priviledge was also granted to the *Servants* of *Members* during the sitting of Parliament.

16 Febr. 5 Eliz. Robert Parker Servant to Sir *William Woodhouse* Knight for *Norfolk*, being attached in *London*, at the Suit of one *Baker*, in a *Trespas*; had a Warrant of Priviledge, notwithstanding Judgement given against him for Four Marks.

20 Febr. 18 Eliz. 1575. Upon the Question, and also upon Division of the House, *Edward Smaley* Servant unto *Arthur Hall* Esq; one of the *Burgesses* for *Grantham*, being arrested upon an Execution, had Priviledge.

16 Decembr. 44 Eliz. *Anthony Curwen* Servant to *William Huddleston* Esq; one of the *Knights* of *Cumberland*, being arrested upon a *Capias ad satisfaciendum*,

E

out

out of the Common-Pleas, for six pounds Debt, and Forty shillings Damages, and detained in Execution; a *Superfedeas* was awarded, and he was delivered.

11 *Maii* 19 *Jacobi*, The Under-Sheriff of *Middlesex* was called to the Bar, for causing *Alexander Melling* Servant to the Chancellor of the Dutchy to be arrested; he denied he knew him to be his Servant: Mr. Speaker let him know, the House had ordered him to have Priviledge; and therefore ordereth the Under-Sheriff to discharge him.

2. Session of the Parliament 1 *Jacobi*, Sir *Edward Sandys* moveth a breach of Priviledge by Sir *Robert Leigh* a Justice of Peace, for committing his Coachman to *Newgate*: Sir *Robert Leigh* was sent for by the Serjeant, and an *Habeas Corpus* for the prisoner. Sir *Robert Leigh* being brought to the Bar, acknowledged his fault, and was discharged, and so was the prisoner.

3 *Maii*, 1606. *Valentine Syre* Servant and Bag-bearer to the Clerk of the Commons House, being arrested upon an Execution, was by Order and Judgment of the House enlarged.

7 *Sep.* 1601. Woodal Servant of William Cool

Cook Esq; a Member of the House, being arrested, and in prison in *Newgate*; the Serjeant at Arms was presently sent to *Newgate* to bring him to the House, *sedente Curia*; and being brought to the Bar with his Keeper, was discharged by Order of the House from his said Keeper, and from his Imprisonment.

1 July, 1607. *John Pasmore* the Marshals man, being sent for and brought to the Bar, for arresting *John Jessop Waterman*, Servant to *Sir Henry Nevil*, a Member of the House; he denied that he knew he was *Sir Henry's* Servant until afterwards; notwithstanding, he took an *Assumpsit* from him to answer the Action: The House thought fit to commit him to the Serjeant till the House's pleasure were further known, and till he had discharged the *Assumpsit*, and paid the Fees.

17. June, 1609. Upon a Report of the Committee for Priviledges, That a menial Servant of *Sir Robert Wroth* was arrested eight days before this Session; the Serjeant was sent for the prisoner, and the Serjeant that made the arrest, one *King* who followed it, and *Fisher* at whose Suit he was arrested.

4 Junii, 19 Jacobi, *Johnson* a Servant

to Sir *James Whitelock*, a Member of the Commons Houle, was arrested upon an Execution by *Moor* and *Lock*, who being told Sir *James Whitelock* was a Parliament man ; *Fulk* one of the Persecutors said, He had known greater mensmen then Sir *James Whitelock* taken from their Masters heels in Parliament time. This appearing, *Lock* and *Moor* were called in to the Bar, and by the Judgment of the House were sentenced,

1. That at the Bar they should ask forgiveness of the House, and of Sir *James Whitelock* on their knees.

2. That they should both ride upon one horse bare-backed, back to back, from *Westminster* to the *Exchange*, with papers on their breasts, and this Inscription, *For Arresting a Servant of a Member of the Commons House of Parliament* : and this to be presently done *sedente Curia* : which judgment was pronounced by M. Speaker against them at the Bar upon their knees.

28 Aprilis 22. Jacobi, A Warrant was Oedered to be issued by the Speaker for a Writ of Priviledge, to bring up *Andrew Bates* servant to Mr. *Richard Godfrey* of the House, in Execution with the Sheriff of *Kent*, at the suit of one *Hunt*.

Goods.

That the Members of this House have also Priviledge for their Goods, is not without some Precedent.

12 March. 1606. Complaint was made by Mr. *James*, a Burgess of Parliament; That his horse standing at his Inn was taken by the Post-masters servant; both the Post-master and his servant were sent for and brought to the Bar: *Moreton* the Post-master appearing to be ignorant of what his servant had done, and disavowing it, was by Order of the House discharged: But upon the testimony of a witness at the Bar, that he told the servant when he took the horse, that a Member of Parliament was owner of it the servant was committed.

In Adjournment.

During the Adjournment, like Priviledge was granted and affirmed.

In December 1606. *Thomas Finch*, a servant to Sir *Nicholas Sandys* Knight, one of the Buggesses for *Quinborough*, was arrested during the Adjournment; which being conceived to be a great Contempt

to the Priviledge of the House, an *Habeus Corpus* was awarded to bring him to the House, and he was accordingly brought, and also one *Knight*, who procured the arrest, and *Harrison* the Yeoman.

The excuse was, *Finch* was an Attorney at Law, yet it being avowed by Sir *Nicholas Sandys*, that *Finch* lay in his house, solicited his Causes, and received Wages from him; and it being insisted on, that all menial and necessary servants are to be priviledged, and instance given of a Precedent of the Baron of *Walton's* Solicitor, and *Huddleston's* Solicitor, in the time of Queen *Elizabeth*: upon the Question, *Finch* was priviledged, and delivered according to the said Precedents.

During that Adjournment, a Suit was prosecuted in the Court of Wards against *Nicholas Potts* Esq; and *Francis Wethered* Gent. Committees of a Ward which concerned Mr. *Nicholas Davyes*, servant to the then Speaker, as Assignee of the Ward. The Speaker by vertue of a former general Order of the House, wrote a Letter to Sir *Cuthbert Pepper* Surveyor of the Court of Wards and Liveries, to make known to the Court, That the said *Davyes* was one of his Clerks, and nearest Servants,

yants, and the Priviledge now as warran-
able as in time of sitting; and therefore
prayed him and the Court to take notice
of it.

During another Adjournment in *March*
following, the Speaker warranted by the
like general Order, at the desire of Sir
Edmund Ludlow, who was summoned to
attend the Execution of a Commission out
of the Chancery, wrote a Letter to the
Commissioners to Excuse his attendance,
and that he should not be prejudiced by
his absence.

In *May, 1607.* during an Adjournment,
the Speaker directed a Letter to the Lord
President and Council at *York*, to stay
Proceedings in a Suit against *Talbot Bowes*
a Member of this House.

*Priviledge, as well before as after
the Parliament.*

The great Question is, Within what time
this Priviledge may be claimed before and
after the sitting of the Parliament. It is
clear, it hath been claimed and allowed for
some time before, and after the sitting. One
Precedent may serve, because it is famous,
and for the proceedings in it *instar omnium.*

I Jacobi, The first day of sitting, complaint was made, That Sir *Thomas Shirley* chosen a Member of the House, was arrested four days before the sitting of this Parliament; a Warrant issued to the Clerk of the Crown for a *Habeas corpus*, to bring him to the House being then prisoner in the Fleet; and the Serjeant and his Yeoman were sent for in custody, who being brought to the Bar, and confessing their fault, were remitted for that time: The Writ being not executed, the House fell again into Debate touching the Privilege, and how the Debt to the party might be satisfied, because the Debt was gone if the party were delivered; and thereupon came to three Questions:

1. Whether Sir *Thomas Shirley* shall have Priviledge.

2. Whether presently, or be to deferred till further Order.

3: Whether the House should be Petitioners to the King, according to former Precedents, for some course, for securing the Debt to the party, and saving harmless the Warden of the *Fleet*. All which Questions were resolved in the Affirmative, and a Bill drawn to secure *Simpsons* Debt, &c. which also produced a
Bill

Bill for relief of Plaintiffs in Writs of Execution, where the Defendants in such Writs are arrested, and set at liberty by Privilege of Parliament.

17. April, Upon hearing Council in the House at the Bar, for Sir *Thomas Shirley* and the Warden of the *Fleet*; and upon shewing divers Precedents, 39. Hen. 6. one *Clark* taken in Execution before the Parliament begun, was priviledged 30. Hen. 6. *Ferrers* Case in *Hollingsheads* Chronicle; the Case of *Huddleston's* servant before remembered; this being added, that his Body was freed, but his Lands and Goods left subject. It was Ordered, That *Simpson* at whose Suit, and the Serjeant by whom the Arrest was made, should be committed to the Tower.

4. May following, an *Habeas corpus* was awarded to the Warden, to bring Sir *Thomas Shirley* to the House; the Warden denied to execute it, for which 7. May following, he was sent for by the Serjeant, and brought to the Bar, who denying to bring his Prisoner, a new Writ of *Habeas corpus* was awarded, and the Warden was committed to the Serjeant, with this, That if that Writ were not executed,

then he should be delivered over to the Lieutenant of the Tower, as the House's prisoner.

8. *May*, The Serjeant was sent with his Mace to the *Fleet*, the House sitting, to require the Body of Sir *Thomas Shirzey*, being directed by the House to pursue the Precedent of *Ferrers*, recorded in *Hollingshead's Chronicle*, and in the Book of Jurisdiction of Courts by *Crompton*: but the Serjeant being denied, a Warrant was made to the Serjeant, to deliver the Warden of the *Fleet* to the Lieutenant of the Tower, to be kept close prisoner.

11. *May*, The Warden was again sent for, and brought to the Bar, and refusing to deliver up his prisoner, he was committed to the place called the *Dungeon*, or *Little-case*, in the Tower.

14. *May*, A new Warrant was ordered for a new Writ of *Habeas corpus*, and that the Serjeant should go with the Writ; that the Warden should be brought to the Door of the *Fleet* by the Lieutenant himself; and there the Writ to be delivered to him, and the Commandment of the House to be made known to him by the Serjeant, for the Executing of it. That in the mean time, the Warden to be presently

presently committed to the Dungeon and after to be returned thither again.

* 18. *May*, The Warden did deliver Sir *Thomas Shirley*, and so was not put into the Dungeon.

19. *May*, He attending at the door, was brought in to the Bar, where, upon his Knees, confessing his error and presumption, and professing he was unfeignedly sorry he had so offended this Honorable House; Upon that submission, by direction of the House, the Speaker pronounced his pardon and discharge, paying ordinary Fees to the Clerk and the Serjeant.

That this Priviledge doth take place by force of the Election, and that before the Return be made, appears by the proceeding in the Case following.

19. *November*, 1601. Upon Information to the House, that one *Roger Baston* Servant unto *Leniton*, Baron of *Walton*, who (upon credible report of divers Members of the House, was affirmed to be chosen a Burgess for the Borough of *Newton* in *Lancashire*, but not yet returned by the Clerk of the Crown) had been during that Session of Parliament arrested in *London*, at the Suit of one *Muscle*;

Muscle; the said *Muscle*, together with the Officer that made the arrest, were sent for by the Serjeant and brought to the Bar; and there charged by Mr. Speaker in the name of the whole House, with their Offence herein: and having been heard, *Baston* was ordered to have Priviledge, and to be discharged of his Arrest and Imprisonment, and the Offenders for three days committed to the Serjeant; and ordered to pay such Charges to *Baston*, as the Speaker shall set down, and their Fees.

For how long time before, and after the Parliament.

By these Instances, as also by *Clarks Case*, 39. *Hen. 6.* and the Case of *Sir Robert Wroths* servant before recited, it appeareth, That Priviledge doth take place before the Parliament begin, but for what time is the Question: what appears by the Journall Book tending to clear it, is thus.

6. *March*, 1586. This day *William White* brought to the Bar, for arresting *Mr. Martin* a Member of the House, made answer, That the Arrest was above
fourteen

fourteen days before the beginning of the Parliament : the House thereupon appointed a Committee to search the Precedents.

Upon Report made, that Mr. *Martin* was arrested above twenty days of the beginning of the Parliament, held by prorogation ; and upon Debate, the House being divided in opinion about the Privilege ; for the ending of the business, three Questions were propounded by the Speaker.

1. Whether the House would limit a time Certain, or a Reasonable time, to any Member of the House for his Privilege ?

The House answered, *A Convenient time.*

2. Whether Mr. *Martin* was arrested within this Convenient time ?

The House answered, *Yea.*

3. If *White* should be punished for arresting Mr. *Martin* ?

The House answered, *No.* And the reason is given, Because the arrest was twenty days before the beginning of the Parliament, and the Creditors did not know what should be taken for a Reasonable time.

24 April

24. *April, 1640.* It was this day said in the House, and not contradicted, That every Member of the House hath Priviledge for Sixteen days *exclusive*, and Fifteen days *inclusive*, before and after every Parliament.

The like mention is made in several Parliaments, by Members in Debate.

How Obtained.

For the manner of Obtaining this Priviledge, 22. *March 18 Jac.* It was resolved, That no protection under any mans Hand of this House is good.

22. *Febr. 6. Edw. 6.* It is Ordered, If any Burgess require Priviledge for himself or his servant, upon declaration thereof to the Speaker, he should have a Warrant signed by Mr. Speaker to obtain the Writ.

22. *Febr. 18 Eliz. Aug. 1575.* A report was made by the Attorney of the Dutchy from a Committee, for delivery of *Smaley* a servant to *Arthur Hall*, before mentioned, That they found no Precedent, for setting at large by the Mace any person in arrest, but onely by Writ. And that by divers Precedents of Record perused

perused by them, it appears, That every Knight, Citizen, or Burges of this House, which doth require Priviledge, hath used in that case to take a Corporal Oath before the Lord Chancellor or Lord Keeper, That the party for whom such Writ is prayed, came up with him, and was his Servant at the time of the arrest made. But on the 27. *Febr.* after sundry Reasons, Arguments, and Disputations in the House, It was resolved, That the said *Smaley* should be brought the next day to the Bar by the Serjeant, and so set at Liberty by warrant of the Mace, and not by Writ.

According to which Resolution, the next day *Smaley* was brought to the Bar in the House by the Serjeant, accompanied with two Serjeants of *London*, and was presently delivered from his Imprisonment and Execution, according to the former Judgment of this House, and the said Serjeants discharged of their said prisoner:

2. *March*, 1592. Upon a report from the Committee of Priviledges and Elections, That one Mr. *Fitzherbert* was returned a Burges, and excepted against, because he was alledged to be out-lawed, and

and detained upon such Outlawry: the House Ordered, That Mr. Speaker should move the Lord Keeper for an *Habeas corpus cum causa*, to bring up the Body and Cause of Mr. *Fitzherbert*.

But the next day Sir *Henry Knivet* entering into a Discourse, touching the Privileges of the House of ancient times, used and accustomed for the conventing of any persons into this Court, declared his opinion, That Mr. *Fitzherbert* was rather to be called to appear in this House, by the Serjeants Mace of this House, then any Writ of the Chancery, and quoted a Case of *George Ferrers*; but was put in remembrance by Mr. Speaker, that the manner for bringing Mr. *Fitzherbert* had received the Order of the House yesterday, and was therefore now, neither to be recalled, nor further treated of by this House, till the Appearance of the said Mr. *Fitzherbert* be first made in this House, according to the said former Order for the same.

On the 7th of the same Month, The House being acquainted by Sir *Edward Hobby*, that the Lord Keeper having been moved for a Writ of *Habeas corpus cum causa*, for Mr. *Fitzherbert*, his Lordship thought

thought it best, in regard of the ancient Liberties and Priviledges of this House, That the Serjeant at Arms be sent, by Order of this House, for the said Mr. *Fitzherbert*, at his own charge; by reason whereof he may be brought hither to the House, without peril of further being arrested by the way: which was also approved of.

Injuries offered to the Members and their Servants, during the Session, have been usually punished by the House, upon complaint.

29 Febr. 1575. One *VWilliams*, for assaulting a Burgefs of this House, was upon complaint sent for by the Serjeant, and brought to the Bar, and committed to the Serjeants Ward.

23 April 1 *Marie*, One *Monington*, for striking *William Johnson* a Burgefs, was sent for, and confessing it, was committed to the Tower.

28 Nov. 1601. Complaint being made by Mr. *Fleetwood* a Member of the House, That one *Holland* a Scrivener, and one *Brooks* his servant, had evil intreated and beaten the servant of the said Mr. *Fleetwood* in his presence; they were both sent for

Burgeses of *Wareham*, is a good Election; It was Ordered, That the Officer, that was the Officer when the Return was made, or his Deputy, or the Electors, should amend the Return. But the next day it was Ordered, That *Edward Harbin*, the late Mayor of *Wareham's* Duputy, should come to the Bar of the House, and amend the Return.

20 Febr. 1640. The Bayliff of *Midhurst* in *Suffex* came to the Bar, (being sent for by Order of the House) and amended one of the Indentures of Return of Burgeses for that Town, and the other was taken off the File.

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Bracton.
Fortescue.
Brook.
Liber Assis.
Book of Entries.
The Year-Books.
Coke.
Lambert.
Yelverton.
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