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Exclusion of Strangers: Reporting of Debates

But before Wilkes had obtained this crowning triumph over the Commons, he had contrived to raise another storm against their privileges, which produced consequences of greater constitutional importance; and again this bold and artful demagogue became the instrument, by which popular liberties were extended.

Exclusion of Strangers

Among the privileges of Parliament, none had been more frequently exercised by both Houses, than the exclusion of strangers from their deliberations; and restraints upon the publication of debates. The first of these privileges is very ancient; and probably originated in convenience, rather than in any theory of secrecy in their proceedings. The members met not so much for debate, as for deliberation: they were summoned for some particular business, which was soon disposed of; and as none but those summoned were expected to attend, the chambers in which they assembled, were simply adapted for their own accommodation. Hence the [28] occasional intrusion of a stranger was an inconvenience, and a disturbance to the House. He was in the midst of the members,—standing with them in the gangway,—or taking his place, where none but members had the privilege of sitting. Such intrusion resembled that of a man who, in the present day, should force his way into Brookes's or the Carlton, and mingle with the members of the club. Some strangers even entered the House, pretending to be members. Precautions were necessary to prevent confusion; for even so late as 1771 a stranger was counted in a division. Hence, from early times, the intrusion of a stranger was generally punished by his immediate commitment, or reprimand. The custom afterwards served as an auxiliary to the most valuable of all privileges,—the freedom of speech. What a member said in his place, might indeed be reported to the king, or given in evidence against him in the Court of Kings Bench, or the Stannary Court, by another member of the House: but strangers might be there, for the very purpose of noting his words, for future condemnation. So long, therefore, as the Commons were obliged to protect themselves against the rough hand of prerogative, they strictly enforced the exclusion of strangers.

Long after that danger had passed away, the privilege was maintained as a matter of custom, rather than of policy. At length [29] apprehensions arose from another quarter; and the privilege was asserted as a protection to Parliament, against the clamours and intimidation of the people. But the enforcement of this privilege was gradually relaxed. When the debates in Parliament began to excite the interest of the public, and to attract an eager audience, the presence of strangers was connived at. They could be dismissed in a moment, at the instance of any member: but the Speaker was not often called upon to enforce the orders of the House.

Towards the middle of last century, attendance upon the debates of both Houses of Parliament had become a fashionable amusement. On the 9th of December, 1761, the interest excited by a debate in the Commons, on the renewal of the Prussian Treaties, was so great, that Lord Royston, writing to Lord Hardwicke, said, 'The house was hot and crowded,—as full of ladies as the House of Lords when the king goes to make a speech. The members were standing above half way up the floor.' It became necessary on this occasion to enforce the standing order for the exclusion of strangers. And in this way, for several years the presence of strangers, with rare exceptions, was freely admitted. But the same Parliament which had persecuted Wilkes, was destined to bring to an issue other great questions, affecting the

relations of Parliament to the people. It is not surprising that the worst of Parliaments should have been the most resolute in enforcing the rule for excluding [30] strangers.(1) It was at war with the public liberties; and its evil deeds were best performed in secret. The exclusion of strangers was generally more strict than had been customary; and whenever a popular member of opposition endeavoured to make himself heard by the people, the ready expedient was adopted of closing the doors. Burke, describing the position of an opposition member at this period, wrote, 'In the House he votes for ever in a dispirited minority,—if he speaks, the doors are locked.' Could any abuse of privilege be more monstrous than this? Was any misrepresentation of reporters half so mischievous?

Lord Chatham's repeated motions impugning the proceedings of the Commons upon the Middlesex election, were naturally distasteful to ministers, and to the majority of the House of Lords; who, being unable to repress his impetuous eloquence, determined that, at least, it should not be heard beyond their walls. Accordingly on the 14th May, 1770, on his motion for a dissolution of Parliament, the Lords ordered the exclusion of all but members of the House of Commons, and the sons of peers; and no reports of the debates reached the public.

Conflict Between the Houses

[31] In the next session, the same tactics were resumed. On the 10th December, the Duke of Manchester rose, to make a motion relative to preparations for the war with Spain, then believed to be impending; when he was interrupted by Lord Gower, who desired that the House might be cleared. He urged, as reasons for excluding strangers, that the motion had been brought on without notice; that matters might be stated which ought not to be divulged; that, from the crowded state of the House, emissaries from Spain might be present; and lastly, that notes were taken of their debates. The Duke of Richmond attempted to arrest the execution of the order; but his voice was drowned in clamour. Lord Chatham rose to order, but failed to obtain a hearing. The Lord Chancellor attempted to address the House and restore order; but even his voice could not be heard. Lord Chatham, and eighteen other peers,—indignant at the disorderly uproar, by which every effort to address the House had been put down,—withdrew from their places. The messengers were already proceeding to clear the House, when several members of the House of Commons, who had been waiting at the bar to bring up a bill, desired to stay for that purpose: but were turned out with the crowd,—several peers having gone down to the bar, to hasten their withdrawal. They were presently called in again: but the moment they had delivered their message,—and before time had been allowed them to withdraw from the bar,—an outcry [32] arose, and they were literally hooted out of the House.

Furious at this indecent treatment, the members hastened back to their own House. The first result of their anger was sufficiently ridiculous. Mr. George Onslow desired the House to be cleared, 'peers and all.' The only peers below the bar were the very lords who had in vain resisted the exclusion of strangers from their own House, which they had just left in indignation; and now the resentment of the Commons,—provoked by others,—was first expended upon them.

In debate, the insult to the Commons was warmly resented. Various motions were made:—for inspecting the Lords' journals; for demanding a conference upon the subject; for sending messages by the eldest sons of peers and masters in Chancery, who alone, it was said, would not be insulted; and for restraining members from going to the Lords without leave. But none of them were accepted. The only retaliation that could be agreed upon, was the exclusion of peers, which involved a consequence by no means desired,—the continued exclusion of the public.

In the Lords, sixteen peers signed a strong protest against the riotous proceedings of their House, and deprecating the exclusion of strangers. An order, however, was made that none

but persons having a right to be present, should be admitted [33] during the sitting of the House; and instructions were given to the officers, that members of the House of Commons should not be allowed to come to the bar, except when announced as bringing messages; and should then immediately withdraw. To this rule the Lords continued strictly to adhere for the remainder of the session; and none of their debates were reported, unless notes were communicated by the peers themselves. The Commons were less tenacious, or their officers less strict; and strangers gradually crept back to the gallery. Lord Chatham happily expressed his contempt for a senate debating with closed doors. Writing to Colonel Barré on the 22nd January 1771, he says, 'I take it for granted that the same declaration will be laid before the tapestry on Friday, which will be offered to the live figures in St. Stephen's;' and again on the 25th he writes to Lady Chatham, 'Just returned from the tapestry.' The mutual exclusion of the members of the two Houses, continued to be enforced, in a spirit of vindictive retaliation, for several years.

In the Commons, however, this system of exclusion took a new turn; and, having commenced in a quarrel with the Peers, it ended in a collision with the press. Colonel George Onslow complained of the debates which still appeared in the newspapers; and insinuating that they must have been supplied by members [34] themselves, insisted upon testing this view, by excluding all but members. The reports continued; and now he fell upon the printers.

Reporting of Debates, to 1770

But before this new contest is entered upon, it will be necessary to review the position which the press occupied at this time, in its relation to the debates of Parliament. The prohibition to print and publish the debates, naturally dates from a later period than the exclusion of strangers. It was not until the press had made great advances, that such a privilege was declared. Parliament, in order to protect its freedom of speech, had guarded its proceedings by a strong fence of privilege: but the printing of its debates was an event beyond its prevision.

In 1641, the Long Parliament permitted the publication of its proceedings, which appeared under the title of 'Diurnal Occurrences in Parliament.' The printing of speeches, however, without leave of the House, was, for the first time, prohibited. In particular cases, indeed, where a speech was acceptable to the Parliament, it was ordered to be printed: but if any speech was published obnoxious to the dominant party, the vengeance of the House was speedily provoked. Sir E. Dering was expelled and imprisoned in the Tower, for printing a collection of his speeches; and the book was ordered to be burned by the common hangman.

[35] The prohibition to print debates was continued after the Restoration; but, in order to prevent inaccurate accounts of the business transacted, the House of Commons, in 1680, directed its 'votes and proceedings,' without any reference to debates, to be printed under the direction of the Speaker. Debates were also frequently published, notwithstanding the prohibition. When it served the purpose of men like Lord Shaftesbury, that any debate should be circulated, it made its appearance in the form of a letter or pamphlet.(2) Andrew Marvell reported the proceedings of the Commons, to his constituents at Hull, from 1660 to 1678;(3) and Grey, for thirty years member for Derby, took notes of the debates from 1667 to 1694, which are a valuable contribution to the history of that time.(4)

After the Revolution, Parliament was more jealous than ever of the publication of its proceedings, or of any allusion to its debates. By frequent resolutions, and by the punishment of offenders, both Houses endeavoured to restrain 'news-letter writers' from 'intermeddling with their debates or other proceedings,' or 'giving any account or minute of the debates.' But privilege could not prevail against the press, nor against the taste for political news, which is natural to a free country.

Progress of Reporting

[36] Towards the close of the reign of Anne, regular but imperfect accounts of all the principal debates were published by Boyer.⁽⁵⁾ From that time, reports continued to appear in Boyer's 'Political State of Great Britain,' the 'London Magazine,' and the 'Gentleman's Magazine,' the authors of which were frequently assisted with notes from members of Parliament. In the latter, Dr. Johnson wrote the Parliamentary reports, from the 19th of Nov., 1740, till the 23rd of Feb., 1743, from the notes of Cave and his assistants. The names of the speakers, however, were omitted. Until 1738, it had been the practice to give their initials only, and, in order to escape the censure of Parliament, to withhold the publication of the debates, until after the session. In that year, the Commons prohibited the publication of debates, or proceedings, 'as well during the recess, as the sitting of Parliament;' and resolved to 'proceed with the utmost severity against offenders.' After this period, the reporters, being in fear of parliamentary privilege, were still more careful in their disguises. In the 'Gentleman's Magazine,' the debates were assigned to 'the Senate of Great Lilliput;' and in the 'London Magazine' to the Political Club, where the speeches were attributed to Mark Anthony, Brutus, and other Roman worthies. This caution was not superfluous; for both Houses were quick to punish the publication of their proceedings, in any form; and printers [37] and publishers became familiar with the Black Rod, the Sergeant-at-Arms, and Newgate.⁽⁶⁾ At length, in 1771, at the instigation of Wilkes, notes of the speeches, with the names of the speakers, were published in several journals.⁽⁷⁾

These papers had rarely attempted to give a correct and impartial account of the debates: but had misrepresented them to suit the views of different parties. Dr. Johnson is said to have confessed that 'he took care that the Whig dogs should not have the best of it;' and, in the same spirit, the arguments of all parties were in turn perverted or suppressed. Galling as was this practice, it had been less offensive while the names of the speakers were withheld: but when these were added, members were personally affronted by the misconstruction of their opinions and arguments, and by the ludicrous form in which they were often presented. The chief complaints against reporting had arisen from the misrepresentations to which it was made subservient. In the debate upon this subject in 1738, nearly all the speakers, including Sir W. Wyndham, Sir W. Yonge, and Mr. Winnington, agreed in these complaints, and rested their objections to reporting, on that ground. The case [38] was well and humorously stated, by Sir R. Walpole. 'I have read some debates of this House, in which I have been made to speak the very reverse of what I meant. I have read others, wherein all the wit, the learning, and the argument has been thrown into one side, and on the other, nothing but what was low, mean, and ridiculous; and yet, when it comes to the question, the division has gone against the side which, upon the face of the debate, had reason and justice to support it. So that, had I been a stranger to the proceedings, and to the nature of the arguments themselves, I must have thought this to have been one of the most contemptible assemblies on the face of the earth.' In this debate, Mr. Pulteney was the only speaker who distinctly objected to the publication of the speeches of members, on the ground 'that it looks very like making them accountable without doors, for what they say within.'

Indeed, it is probable that the early jealousies of Parliament would soon have been overcome, if the reports had been impartial. The development of the liberty of the press was checked by its own excesses; and the publication of debates was retarded by the unfairness of reporters. Nor were the complaints of members confined to mere misrepresentation. The reports were frequently given in the form of narratives, in which the speakers were distinguished by nicknames, and described in opprobrious terms. Thus, Colonel George Onslow was called 'little cocking George,' 'the little [39] scoundrel,' and 'that little paltry, insignificant insect.' The Colonel and his cousin were also spoken of in scurrilous comments, as being like 'the constellations of the two bears in the heavens, one being called the great, and the other the little scoundrel.'⁽⁸⁾

To report the debates in such a spirit, was at once to violate the orders of the House, and to publish libellous insults upon its members. Parliament had erred in persisting in the prohibition of reporting, long after its occasion had passed away; and the reporters had sacrificed a great public privilege, to the base uses of a scurrilous press. The events of the first ten years of this reign had increased the violence of public writers, and embittered the temper of the people. The 'North Briton' and 'Junius' had assailed the highest personages, and the most august assemblies, with unexampled license and audacity. Wilkes had defied the House of Commons, and the ministers. The city had bearded the king upon his throne. Yet this was the time chosen by an unpopular House of Commons, to insist too rigorously upon its privileges, and to seek a contest with the press.

Footnotes.

1. This Parliament, assembled May 10th, 1768, and dissolved June 22nd, 1774, was commonly called the unreported Parliament, in consequence of the strict enforcement of the standing order for the exclusion of strangers. Pref. to Cavendish's Deb. Sir Henry Cavendish has supplied a great hiatus in the debates of this period, and it is much to be regretted that the publication of his valuable work has never been completed. The reports consist of forty-nine small 4to. volumes, amongst the Egerton MSS. at the British Museum, of which less than half were edited by Mr. Wright, and published in two volumes.
2. 'Letter from a Person of Quality to a Friend in the Country,' 1676, by Locke. 'Letter from a Parliament-man to his Friend, concerning the Proceedings of the House of Commons, 1675.'
3. Letters to the Corporation of Hull; Marvell's Works, i. 1-400.
4. They were published in ten volumes 8vo. 1769.
5. Boyer's Political State of Great Britain was commenced in 1711.
6. Woodfall, Baldwin, Jay, Millar, Oxlade, Randall, Eggesham, Owen, and Knight, are amongst the names of publishers committed or censured for publishing debates or proceedings in Parliament. Such was the extravagance with which the Lords enforced their privilege, that in 1729, a part of their Journal having been printed in Rymer's *Fœdera*, they ordered it to be taken out and destroyed. *Lords' Journ.*, xxiii. 422.
7. The London Evening Post, the St. James' Chronicle, the Gazetteer, and others.
8. Cavendish Deb., 258, 377, 379.

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