

but a scarcity of precedents could ever have persuaded your Lordships to make use of this instance.

As for the precedent of 3 E. I., cited by your Lordships, the Commons have most reason to rely upon that case. Your Lordships say, in the beginning of impositions, when 40s. upon a sack of wool was granted to E. I. and his heirs, the Lords joined in the grant; for the words are, *Magnates, Prelati, and tota Communitas concesserunt*, wherein are these mistakes:—

First, that record was not a grant of 40s. upon a sack, as your Lordships suppose, but a reducing of 40s. upon a sack, which E. I. took before Magna Charta was confirmed, to half a mark, viz., 6s. 8d. per sack: and it was at the prayer of the Commons, as some books say, and cite for it 3 E. I. *Rot. fin. Memb. 24.*

Secondly, the record which your Lordships cite is twice printed, once in the second part of the *Institutes*, page 531; and again in the fourth part of the *Institutes*, page 29. And by both those places it is evident that the *concesserunt* is to be applied only to the *tota Communitas*, and not to the *Magnates*, for this was a grant of the Commons only, and not a grant of the Lords. And, to demonstrate this beyond all possibility of scruple, the printed books do refer us to the Statute of 25 E. I., c. 7, called *Confirmationes Chartarum*, wherein it is expressly so declared by Act of Parliament; for, by the last statute, it appears that the *Male tot'* of 40s. upon a sack was again demanded by E. I.; and was therefore now abrogated, saving to the King and his heirs, the demi mark upon a sack of wool granted by the commonalty, which is the very same grant of 3 E. I., cited by your Lordships in the present question.

But this is also a convincing evidence that these words, “the Lords and Commons grant,” are words of form, and made use of in such cases where the grant did certainly proceed from the Commons alone. And, to clear this point yet more fully by a modern precedent, we pray your Lordships to take notice of the statute of 2 and 3 E. VI., cap. 36, where a relief is given to the King by Parliament, and in the title of the Act, as also in the body of it, it is still called, all along, the grant of the Lords and Commons. Yet in 3 and 4 E. VI., cap. 23, this former Act is recited, and there it is acknowledged to be only a grant of the Commons.

And as for the case of 9 H. IV., called the Indemnity of the Lords and Commons, these things are evidently proved by it:—

First, that it was a grievance to the Commons, and a breach of their liberties, for the Lords to demand a Committee to confer with about aids.

Secondly, that the Lords ought to consider by themselves, and the Commons by themselves, apart.

Thirdly, that no report should be made to the King of what the Commons have granted, and the Lords assented to, till the matter be perfected, so that a plain declaration is made that the Commons grant and the Lords assent.

Fourthly, that the gift ought to be presented by the Speaker of the Commons.

The Book Case, 33 H. VI., 17, is the weakest of all, for the words are, “Si les Communs grant Tonage p' 4 Ans, & S'urs grant mes p' deux Ans ceo ne serra reliver aux Communs mes via versã si Communs Grant p' 2 Ans, & S'urs p. 4 ceo ne ser' reliver.”

Now, first, this was no opinion of any Judge, but only of Kirkby, Cl' de Parl'.

Secondly, this was a case put by-the-by, and not pertinent to the matter in hand.

Thirdly, it is impossible to be law, being against the constant practice and usage of Parliament, for then your Lordships may not only lessen the rates and time, but you may chose whether you will send us the Bill or no back again with amendment, which was never heard of. And, if that may be, why was it not done so now?

Fourthly, that Clerk says your Lordships may increase impositions too, which part of the case you thought not fit to cite, because you pretend not to it.

Fifthly, *Brook.*, Parl'm 3, puts a quære upon the case, as it deserved.

But if the law books are to be heard in this matter, 30 H. VIII., Dyer 43, is a judicial authority where subsidy is defined to be a tax, “Assess p' Parliament & Grant al Roy p' les Communs durant vie de chest' ou Roy tantu p' Defence des Merchants sur le Mere.”

The provisoes in the Bill of 1^o H. VIII., which your Lordships seem mainly to rely upon, we conceive to be of no force at all, unless it be against your Lordships; for, by your Lordships' Journals, the case was this: The Bill itself did not pass till 3 H. VIII.; and upon the forty-third day of the Parliament the Lords assented to it. Afterwards, upon the forty-fifth day, two provisoes came in, one touching the merchants of the Hanse Towns, another touching the merchants of the staple of Calais. Both were signed by the King and the Chancellor; and the Bishop of Winchester did declare that the signing of those provisoes by the King's own hand was enough, without the consent of either House. So that the addition of those provisoes prove nothing for which your Lordships cited them, because—

1. They were signed by the King;
2. They were brought in, against all course of Parliament, after the Bill passed;
3. The provisoes were nothing but a saving of former rights, usually considered in former Acts of that nature;
4. Your Lordships' Journal declares that the King, without those provisoes, might have done the same thing by his prerogative. Only this may be fit to be observed by the way: that, as the Bill was a grant of the Commons alone, so the thanks for that Bill was given to the Commons alone; and so appears upon the endorsement of that very record.

The precedents for the Commons which on the sudden we find (for we have had but few hours to search) are all these following:—

11 E. I., *Walsingh.*, 471. *Populis dedit Regi tricesimam partem nonum.*

25 E. I., *Wals.*, 486, & pag' 74. *Populus dedit Regi denarium nonum.*

7 H. IV., *Wals.*, 566. *Postquam milites Parliamentares diu distulissent concedere Regi subsidium in fine tamen fracti concessere.*

6 H. IV., *Wals.*, 564. *Subsidium denegatum fuit Proceribus renitentibus.*

So, hitherto, when granted, the Commons gave it; when denied, the whole Bill rejected; never abated.

1 E. III., Stat. 2, c. 6. The Commons grieved that when they granted an aid, and paid it, the taxes were reviewed.

18 E. III., cap. 1. Statute at large. The Commons grant two fifteenths. The great men grant nothing, but to go in person with the King.

36 E. III., cap. 11. The King, having regard to the grant made by the Commons, for three years, of wood and leather, grants that no aid be levied but by consent of Parliament.

21 R. II., N. 75. Is the first grant of tonage and