

Parliamentary Freedom of Speech and the Rule of Law Debate on 23 May 2019

Summary

On 23 May 2019, the House of Lords is due to debate a motion moved by Lord Brown of Eaton-under-Heywood (Crossbench) that “this House takes note of the potential conflict between the right of members to speak freely in Parliament and the obligation under the rule of law to obey court orders”. Lord Brown is a former justice of the Supreme Court.

Freedom of speech is a key element of parliamentary privilege, which is guaranteed by article 9 of the Bill of Rights of 1689. MPs and Members of the House of Lords have legal immunity for what they say or do during proceedings in Parliament. However, both Houses have passed *sub judice* resolutions which limit the discussion in Parliament of ongoing legal cases. This is intended to maintain an appropriate balance between the respective constitutional roles of Parliament and the courts.

On occasion, parliamentarians have used parliamentary privilege to disclose information in Parliament that was subject to a court order intended to prevent the dissemination of that information. Generally, someone who knowingly breaches the terms of such a court order could run the risk of being found in contempt of court. However, parliamentary privilege means that this does not apply to information disclosed in parliamentary proceedings. This has raised issues where a parliamentarian has revealed a name protected by a court order and it is subsequently repeated in the media, particularly in cases where proceedings were still active. There have been several reviews of whether Parliament should change its own internal rules on the use of parliamentary privilege to breach court orders. To date, the conclusion has been that it would not be necessary unless the frequency of such cases were to increase. Some of these reviews also identified practical difficulties in implementing rules to further restrain freedom of speech in parliamentary proceedings.

The purpose of this briefing is not to go into detail about any specific cases that have occurred. Rather, it explores the underlying principles and sets out the findings of parliamentary committees that have previously examined the subject.

Parliamentary Privilege and Freedom of Speech

Freedom of speech in Parliament is one of the key elements of parliamentary privilege. A joint committee of both Houses that reviewed parliamentary privilege in 1999 offered the following definition:

Parliamentary privilege consists of the rights and immunities which the two Houses of Parliament and their members and officers possess to enable them to carry out their parliamentary functions effectively. Without this protection members would be handicapped in performing their parliamentary duties, and the authority of Parliament itself in confronting the executive and as a forum for expressing the anxieties of citizens would be correspondingly diminished.¹

Freedom of speech in Parliament is guaranteed in statute by article 9 of the Bill of Rights 1689, which provides that “freedom of speech and debate or proceedings in Parliament ought not to be impeached or questioned in any court or place out of the Parliament”. The *Companion to the Standing Orders and Guide to the Proceedings of the House of Lords* explains what this means in modern terms:

Article 9 affords legal immunity (“ought not to be questioned”) to Members for what they say or do in “proceedings in Parliament”. The immunity applies in any “court or place out of Parliament”. The meaning of “proceedings in Parliament” and “place out of Parliament” has not been defined in statute.²

The *Companion* also explains that freedom of speech in Parliament is one facet of the broader principle that “what happens within Parliament is a matter for control by Parliament alone”.³ This is known as ‘exclusive cognisance’.

Both freedom of speech and exclusive cognisance are central to Parliament’s role. The 1999 Joint Committee on Parliamentary Privilege said it was “fundamental to the effective working of Parliament” that Members should be able to “speak and criticise without fear” of facing civil or criminal liabilities.⁴ It also said it was an “essential” element in parliamentary independence that the executive and the courts accepted that Parliament has the right to make its own procedures and to determine whether they have been breached.⁵ A more recent Joint Committee on Parliamentary Privilege, which reported in 2013, said that the “archaic language” used to describe parliamentary privilege “should not disguise its continuing relevance and value”.⁶ It argued that because the work of Parliament is “central to our democracy”, its proceedings “must be immune from interference by the executive, the courts or anyone else who may wish to impede or influence those proceedings in pursuit of their own ends”.

It should also be understood that parliamentary privilege is the privilege of each House as a whole and not of the individual member.⁷ A green paper on parliamentary privilege published in 2012 said the connotations of the word ‘privilege’ were “unfortunate”, as it could wrongly be associated with “special treatment for individuals” or implying that parliamentarians as individuals are “above the law”.⁸ Instead, it said parliamentary privilege is “a protection for the proceedings of Parliament—debates, committee hearings, votes and so forth—and only indirectly for the individuals who participate in them”. Parliamentary privilege protecting freedom of speech applies to what MPs and Members of the House of Lords say in parliamentary proceedings, but not to what they say outside the context of Parliament. In this way, the green paper said that parliamentary privilege functions as “a safeguard to ensure that parliamentarians [...] are able to carry out their duties to the best of their ability, and that all of Parliament’s vital constitutional functions can be carried out to the highest possible standards”. It argued that “parliamentary privilege is part of the law, rather than something that puts MPs or peers above the law”.⁹

Restraint on Freedom of Speech: The *Sub Judice* Rule

Parliament has set its own restraint on exercising its freedom of speech through the ‘*sub judice*’ rule, which limits discussion in Parliament of ongoing legal cases. As the *Companion* notes: “The privilege of freedom of speech in Parliament places a corresponding duty on members to use the freedom responsibly”.¹⁰ To this end, both Houses have passed resolutions stating that cases in which proceedings are active in UK courts shall not be referred to in any debate, motion or question.¹¹ This applies to both civil and criminal proceedings. The rule is subject to the discretion of the chair in the Commons (such as the Speaker or Deputy Speaker) and of the Lord Speaker in the Lords. It does not affect the right of either House to legislate on any subject or to discuss delegated legislation.

Erskine May notes that successive Commons Speakers have exercised their discretion in this area. They have allowed the discussion of matters that fall within the strict terms of the *sub judice* rule where they consider there is no substantial risk of prejudicing legal proceedings.¹² Commons standing order 42A provides that “the Speaker, or the chair, may direct any Member who breaches the terms of the *sub judice* resolution of the House to resume his seat”.¹³ This effectively gives the Speaker the power to direct an MP to cease talking if they are breaching the *sub judice* rule.

In the Lords, a Member must give the Lord Speaker 24 hours’ notice if he or she intends to refer to a matter which is *sub judice*.¹⁴ The *Companion* states that the exercise of the Lord Speaker’s discretion may not be challenged in the House.¹⁵ In the self-regulating House of Lords, the Lord Speaker does not have the power to direct a Member to resume his or her seat. However, it is open to any Member to move “that the noble Lord be no longer heard” if another Member is “thought to be seriously transgressing the practice of the House”.¹⁶

Relationship Between Parliament and the Courts

The rationale behind the *sub judice* rule is to do with finding an appropriate balance between the respective constitutional roles of Parliament and the courts. The House of Commons Procedure Committee has described the reasons for the rule as “the need not to prejudice court proceedings (which applies also outside Parliament, where it is enforced by contempt of court rules)” and “the principle of ‘comity’, whereby it is considered undesirable for Parliament to act as an alternative forum to decide court cases”.¹⁷

These considerations arise from the separation of powers in the UK constitution. In its report, the 1999 Joint Committee on Parliamentary Privilege described the separate roles of Parliament and the judicial system:

The legislature and the judiciary are, in their respective spheres, estates of the realm of equal status [...] Parliamentary privilege is founded on the principle that the proper conduct of parliamentary business without fear or favour, let or hindrance, requires that Parliament shall be answerable for the conduct of its affairs to the public as a whole (and specifically in the case of the Commons to the electorate). It must be free from, and protected from, outside intervention. Parliament is sovereign over its own business. The courts have a legal and constitutional duty to protect freedom of speech and Parliament’s recognised rights and immunities, but they do not have power to regulate and control how Parliament shall conduct its business. Parliament in turn is careful not to interfere with the way the judges discharge their judicial responsibilities. Parliament enacts the law, but the courts are then left to interpret and administer it without interference by Parliament.¹⁸

The joint committee acknowledged that the separation of powers “inevitably gives rise to a question of boundaries”.¹⁹ It noted the necessity of identifying “the areas where the ordinary law of the land prevails, enforceable by the courts, and the no-go areas where the courts must step back and the special rights and immunities of parliamentary privilege prevail”.²⁰ It argued that the proper relationship between Parliament and the courts “requires that the courts should be left to get on with their work”. Parliament, in turn, should “not permit itself to appear as an alternative forum for canvassing the rights and wrongs of issues being considered by the judicial arm of the state on evidence yet to be presented and tested”.

The 2013 Joint Committee on Parliamentary Privilege also reflected on the potential for there to be tensions between the roles of Parliament and the courts. It recognised that Parliament's exclusive cognisance and the consequent legal immunity for participants in parliamentary proceedings could "in certain circumstances [...] override other generally accepted legal rights".²¹ It was in effect "an exception to the general principle of the rule of law". The joint committee accepted that tensions between parliamentary privilege and the general rule of law could be "uncomfortable", but it suggested that there could be good reason for this.²² To make this point, it cited Dr Adam Tucker, Lecturer in Law at the University of Manchester:

Parliamentary privilege [...] undermines the requirement, which is central to the rule of law, that the law be general [ie generally applicable to everyone]

[...] The rule of law is not, however, an absolute principle. Its claims must be balanced against the competing claims of other principles. One of those competing principles is the separation of powers, specifically the requirement that no branch of government should interfere in the operation of another branch of government. There are occasions when insisting upon the general application of the law would cause (or risk causing) the judiciary or the executive to interfere with the proper operation of Parliament.²³

The joint committee declared that "both courts and Parliament are necessary", but there lay a challenge in "set[ting] the boundaries between them in a way which enables them to function effectively without encroaching on the proper responsibilities of the other".²⁴ With this in mind, Parliament's claim to exclusive cognisance should be "strictly limited to those areas where immunity from normal legal oversight is necessary to safeguard the effective functioning of Parliament".²⁵

The Lord Chief Justice of England and Wales, Lord Burnett of Maldon, set out similar views in a recent speech.²⁶ He said that the importance of exclusive cognisance and the freedom of speech in Parliament "cannot be overstated", but he cautioned that abuse of this privilege had the "potential [...] to undermine the rule of law".²⁷ He argued that it was not simply for the courts to ensure that they did not overstep the boundaries of parliamentary privilege, but that this relationship should be a two-way street:

Comity, arising from the separation of powers, and the rule of law do not simply place an onus on the courts to respect boundaries, and to police the boundaries of privilege with care. They also place an onus on a legislature and its members individually, together with the executive, to act compatibly with the rule of law. Comity is to be exercised by all three branches.²⁸

Both the Lord Speaker and the Speaker of the House of Commons have emphasised that parliamentarians should exercise their freedom of speech responsibly, especially where it touches on individual cases and/or the work of the courts. For instance, John Bercow, the Commons Speaker, said in 2010:

On receiving royal approbation for my re-election as Speaker, I made the traditional claim to Her Majesty for all the House's ancient and undoubted rights and privileges, particularly to freedom of speech in debate. That is at the very heart of what we do here for our constituents, and it allows us to conduct our debates without fear of outside interference, but it is a freedom that we need to exercise responsibly in the public interest, and taking into account the interests of others outside this House. I would encourage any Member to research carefully and to take advice before exercising this freedom in sensitive or individual cases.²⁹

In a written statement about parliamentary privilege in October 2018, the Lord Speaker said:

A robust and healthy democracy such as ours rests upon a number of common and shared features. Two of the most important are the freedom for members of the legislature to speak freely, without repercussion and respect by the legislature for the independence of the courts and the rule of law [...] The relationship between these two should not be one of conflict but one of mutual respect. As parliamentarians we should be keen to respect the proper business of the courts, just as we expect the courts to respect the authority of Parliament. In particular, we should be careful that in exercising our undoubted right to free speech in Parliament we do not set ourselves in conflict with the courts or seek to supplant them.³⁰

Court Orders and Disclosure in Parliament

Specific issues have arisen in relation to parliamentary freedom of speech and court orders restricting the disclosure of certain information about a legal case. The courts can impose interim injunctions to restrict the dissemination of information while proceedings are ongoing, pending a final decision in the case. Super-injunctions are a type of interim injunction which not only restrict publishing certain information but also publicising or informing others of the existence of the court order and the legal proceedings.³¹ Some types of court order restricting the revelation of certain information may continue to have effect beyond the conclusion of legal proceedings.

Senior legal figures have said that court orders to restrict the disclosure of information are not, or should not be, made lightly. In 2011, the Committee on Super-Injunctions, chaired by Lord Neuberger of Abbotsbury who was then Master of the Rolls, declared that derogations from the “fundamental constitutional principle of open justice” could “only properly be made where, and to the extent that, they are strictly necessary in order to secure the proper administration of justice”.³² In a recent speech, Lord Burnett of Maldon, the Lord Chief Justice of England and Wales, agreed that “open justice is the default position”.³³ However, he said there were “countless examples of cases” where the courts might determine that a party or witness should be protected by anonymity, with reasons ranging “from the commonplace to the difficult and even controversial”. Examples he gave included protecting:

- the identity of children caught up in proceedings;
- the safety of someone involved in proceedings who might be compromised by identification;
- privacy and confidentiality;
- trade secrets;
- intelligence material.

Lord Burnett said that decisions to grant anonymity were taken “after full argument and the consideration of much evidence” and would “strike balances”, taking account of competing interests.

On occasion, parliamentarians have used parliamentary privilege to disclose information in Parliament that was subject to a court order intended to prevent the dissemination of that information. In 2012, the Joint Committee on Privacy and Injunctions noted that such instances had been “quite rare”, listing a handful of occurrences that had taken place from 2009 to 2011.³⁴ More recently, Lord Hain (Labour) made a personal statement in the House of Lords to name Sir Philip Green as a businessman whose identity was covered by an interim injunction. Lord Hain emphasised he saw it as his “duty” to do so, “given that the media have been subject to an injunction preventing publication of the full details of a story which is clearly in the public interest”.³⁵

Generally, someone who knowingly breaches the terms of a court order restricting the revelation of certain information could run the risk of being found in contempt of court.³⁶ However, parliamentary privilege means that this does not apply to information disclosed in parliamentary proceedings. The Committee on Super-Injunctions concluded that “no super-injunction, or any other court order, could conceivably restrict or prohibit parliamentary debate or proceedings”.³⁷ The Joint Committee on Privacy and Injunctions concluded that “it would not be constitutionally possible for a court order, including an injunction, to apply to Parliament”. It therefore followed that “it is not a contempt of court for a parliamentarian to reveal in parliamentary proceedings information subject to an injunction”.

Nevertheless, instances where MPs and Members of the House of Lords have breached court orders have raised several issues. The Joint Committee on Privacy and Injunctions, which was established partly in response to the disclosure in Parliament of information covered by anonymised or super-injunctions in 2011, identified some of these:

Injunctions are granted by a judge after hearing evidence and representations from both sides. A parliamentarian who does not conform to the injunction can be seen as in effect placing him- or herself in the shoes of the judge, and overruling the decision to grant anonymity. Once the name has been revealed in Parliament, and subsequently reported in the media, anonymity cannot be regained: the effect of the anonymity order is set at naught. Moreover, there is no redress for the individual whose identity or private information has been revealed; article IX prevents them taking proceedings against the Member.³⁸

Having considered these matters, the committee concluded that the absolute privilege for freedom of speech granted by article IX placed “a significant responsibility on parliamentarians to exercise it in the public interest”. It said there should be a presumption that court orders are respected in Parliament. When a member of either House decided not to comply, he or she should be able to “demonstrate that it is in the public interest or enables the parliamentarian to discharge his or her parliamentary duties (such as representing constituents)”.³⁹

The Lord Chief Justice raised further issues in his recent speech. Lord Burnett said that in each of the most recent cases, the court order that was breached by a parliamentarian had been made at an interim stage of proceedings.⁴⁰ He said the MPs and Members of the House of Lords concerned had spoken “notwithstanding the *sub judice* rule” and there had been “no question” of them “canvassing the view of the Speaker or the Lord Speaker in advance”. Lord Burnett described it as “a matter of concern that parliamentarians have taken this approach in active litigation”.

Lord Burnett also raised the question of whether an additional rule was required to cover circumstances where a matter covered by a court order was “not technically *sub judice*, in other words where the case is concluded”.⁴¹ The Joint Committee on Parliamentary Privilege in 1999 suggested that, in those circumstances, different consequences might result from the breaching of a court order in Parliament:

The *sub judice* rule exists to ensure trials can be conducted without external interference. That purpose applies to interim no publicity orders. Breach of such an interim order can prejudice the trial. That reason no longer applies once a trial is finished or a decision has been made. After the trial is over, the mischief is different. The mischief then is that publicity may undermine the result achieved by the court, to the prejudice of the parties or the national interest.⁴²

Review of Current Arrangements

There have been several reviews of whether Parliament should change its own internal rules on the use of parliamentary privilege to breach court orders. To date, the conclusion has been that it would not be necessary unless the frequency of such cases were to increase.

The Joint Committee on Privacy and Injunctions said in its report in 2012 that the “threshold for restricting what Members can say during parliamentary proceedings should be high”. It did not believe that threshold had yet been crossed.⁴³ However, it concluded this calculation could change if more cases were to arise:

If the revelation of injunctioned information becomes more commonplace, if injunctions are being breached gratuitously, or if there is evidence that parliamentarians are routinely being ‘fed’ injunctioned material with the intention of it being revealed in Parliament, then we recommend that the Procedure Committees in each House should examine the proposals made to us for new restrictions with a view to implementing them.

The following year, the Joint Committee on Parliamentary Privilege found there had been “no significant developments” in respect of breaches of court injunctions since the recommendations of the Joint Committee on Privacy and Injunctions.⁴⁴ It therefore endorsed these conclusions and said there was no need to re-open the issue.

Also in 2012, the Coalition Government published a green paper on parliamentary privilege, prompted largely by the attempts of some MPs and peers to invoke parliamentary privilege to avoid prosecution for criminal offences relating to expenses claims. On the subject of parliamentary freedom of speech, the green paper said it would “clearly be a matter of some concern if privilege were routinely used to flout court orders designed to protect the privacy or security of individuals”.⁴⁵ However, the Government did not think it was appropriate to legislate on the issue.⁴⁶ It noted that each House of Parliament could consider making changes to its own internal procedures to address the issue “if desired”.

Earlier parliamentary committees had also reached similar conclusions. In 1996, an early day motion in the House of Commons breached a court order prohibiting identification of the parties in a particular legal case concerning a child referred to by the courts as Child Z. Betty (now Baroness) Boothroyd, who was then Speaker of the Commons, asked the Commons Procedure Committee to report on whether it would be desirable or practicable to establish a rule prohibiting discussion of matters subject to injunction by the courts.⁴⁷ The committee concluded:

If there were strong evidence to suggest that breaches of court orders as a result of proceedings of the House represented a serious challenge to the due process of law, we would not hesitate to recommend a further limitation on the rights of free speech enjoyed by Members, whatever the practical difficulties [...] We do not however consider it necessary to take action as a result of one specific case, given the importance the House rightly attaches to protecting the right of Parliament to freedom of speech. We urge Members to exercise the greatest care in avoiding breaches of court orders. Should there be a number of instances of such breaches, the House would be well advised to adopt a resolution along the lines we set out.⁴⁸

In 1999, the Joint Committee on Parliamentary Privilege also found that no action was necessary at that time:

If breaches of injunctions became frequent and Parliament were perceived to be impeding the interests of justice, implementation of the substance of the Procedure Committee's draft resolution would seem inevitable, at least in respect of court orders relating to particularly sensitive matters such as those made to protect the identity of children. But until there is evidence that such a step is essential, we are as reluctant as our predecessors to limit freedom of speech more than is necessary. We recommend that at present no action should be taken to limit freedom of speech in respect of court injunctions.⁴⁹

Some of these reviews found practical difficulties in implementing rules to further restrain freedom of speech in parliamentary proceedings. The Joint Committee on Privacy and Injunctions considered whether each House might pass a "self-denying ordinance" on the pattern of the *sub judice* resolutions, which could be waived on occasion.⁵⁰ However, it thought that the Lord Speaker and the Commons Speaker could be put in an "invidious position" when approached with a request to exercise the waiver. He or she "would in effect be substituting his or her interpretation of the public interest for that of the judge—in most cases with fewer facts to hand than the judge and no ability to test the evidence".⁵¹

This joint committee also pointed to some practical difficulties in enforcing any new rule:⁵²

- As it would only take a moment for a Member to reveal a name, there might not be time for the Speaker to anticipate what was going to happen.
- The Lord Speaker does not have the same powers as the Commons Speaker to rule on matters of order.
- The parliamentary authorities would have to be aware of injunctions to ascertain whether material was covered by one.

The 1999 joint committee considered proposals that a member breaching an injunction should be required to justify his or her action before a select committee after the event, or risk punishment for misconduct.⁵³ The committee thought this might deter "frivolous or ill-conceived breaches" but was not likely to put off a member who was "determined" to breach an injunction. It believed the procedure could only work if criteria that would justify (or not justify) a breach of a no-publicity order were published in advance. It also considered other options, such as:

- prior vetting by a select committee when a Member proposed to breach an injunction; or
- permitting an injunction to be breached only if the House was sitting in private, with the public excluded.

However, it concluded that these options were "not practicable", and overall that there was "a real difficulty in identifying the limits and any workable criteria or procedures" for restricting parliamentary freedom of speech in relation to court orders.⁵⁴

Glossary

Comity: Under the principles of comity, Parliament and the courts have a duty to respect the boundaries of each other's constitutional roles.

Exclusive Cognisance: The right of both Houses of Parliament to regulate their own internal affairs.

Parliamentary Privilege: The rights and immunities which the two Houses of Parliament and their members and officers possess to enable them to carry out their parliamentary functions effectively, including freedom of speech and the right of each House to regulate its own internal affairs.

Sub Judice Rule: Both Houses have passed resolutions stating that cases in which proceedings are active in UK courts shall not be referred to in any debate, motion or question.

Super-injunction: type of interim injunction which not only restricts publishing certain information but also publicising or informing others of the existence of the court order and the legal proceedings

¹ Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#), 9 April 1999, HL Paper 43-I of session 1998–99, para 3.

² House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2017, p 205.

³ *ibid*, p 206.

⁴ Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#), 9 April 1999, HL Paper 43-I of session 1998–99, para 12.

⁵ *ibid*, para 13.

⁶ Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#), 3 July 2013, HL Paper 30 of session 2013–14, p 7.

⁷ House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2017, p 204.

⁸ HM Government, [Parliamentary Privilege](#), April 2012, Cm 8318, p 10.

⁹ *ibid*, p 11.

¹⁰ House of Lords, [Companion to the Standings Orders and Guide to the Proceedings of the House of Lords](#), 2017, p 59.

¹¹ *ibid*; and Sir Malcolm Jack (ed), *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 2011, 24th edition, pp 441–3.

¹² *ibid*, p 442.

¹³ House of Commons, [Standing Orders of the House of Commons](#), May 2018.

¹⁴ House of Lords, [Companion to the Standings Orders and Guide to the Proceedings of the House of Lords](#), 2017, p 60.

¹⁵ *ibid*.

¹⁶ *ibid*, p 56.

¹⁷ House of Commons Procedure Committee, [The Sub Judice Rule of the House of Commons](#), 4 April 2005, HC 125 of session 2005–06, p 3.

¹⁸ Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#), 9 April 1999, HL Paper 43-I of session 1998–99, para 23.

¹⁹ *ibid*, para 24.

²⁰ *ibid*, para 192.

²¹ Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#), 3 July 2013, HL Paper 30 of session 2013–14, p 7.

²² *ibid*, p 8.

²³ *ibid*.

²⁴ *ibid*, p 31.

²⁵ *ibid*.

²⁶ Lord Burnett of Maldon is a member of the House of Lords, but is currently disqualified from sitting because of his judicial position (House of Lords, '[Lord Burnett of Maldon](#)', accessed 14 May 2019).

²⁷ Lord Chief Justice of England and Wales, '[Parliamentary Privilege—Liberty and Due Limitation](#)', 9 April 2019, pp 3 and 5.

²⁸ *ibid*, p 14.

²⁹ [HC Hansard, 27 May 2010, col 301](#).

- ³⁰ House of Lords, '[Written Statement: Parliamentary Privilege](#)', 29 October 2018, HLWS1017.
- ³¹ Master of the Rolls, [Report of the Committee on Super-Injunctions: Super-Injunctions, Anonymised Injunctions and Open Justice](#), May 2011, p iv.
- ³² *ibid.*
- ³³ Lord Chief Justice of England and Wales, '[Parliamentary Privilege—Liberty and Due Limitation](#)', 9 April 2019, p 16.
- ³⁴ Joint Committee on Privacy and Injunctions, [Privacy and Injunctions](#), 27 March 2012, HL Paper 273 of session 2010–12, p 47.
- ³⁵ [HL Hansard, 25 October 2018, col 1020](#).
- ³⁶ Joint Committee on Privacy and Injunctions, [Privacy and Injunctions](#), 27 March 2012, HL Paper 273 of session 2010–12, p 29.
- ³⁷ Master of the Rolls, [Report of the Committee on Super-Injunctions: Super-Injunctions, Anonymised Injunctions and Open Justice](#), May 2011, p vii.
- ³⁸ Joint Committee on Privacy and Injunctions, [Privacy and Injunctions](#), 27 March 2012, HL Paper 273 of session 2010–12, p 48.
- ³⁹ *ibid.*, p 49.
- ⁴⁰ Lord Chief Justice of England and Wales, '[Parliamentary Privilege—Liberty and Due Limitation](#)', 9 April 2019, pp 17–18.
- ⁴¹ *ibid.*, p 18.
- ⁴² Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#), 9 April 1999, HL Paper 43-I of session 1998–9, para 205.
- ⁴³ Joint Committee on Privacy and Injunctions, [Privacy and Injunctions](#), 27 March 2012, HL Paper 273 of session 2010–12, p 51.
- ⁴⁴ Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#), 3 July 2013, HL Paper 30 of session 2013–14, p 42.
- ⁴⁵ HM Government, [Parliamentary Privilege](#), April 2012, Cm 8318, p 42.
- ⁴⁶ *ibid.*, p 43.
- ⁴⁷ House of Commons Procedure Committee, *Second Report: Reference to Matters Subject to Injunction*, 1 May 1996, HC 252 of 1995–96, para 1. The possible text of a resolution proposed by the committee was as follows: "That, subject always to the discretion of the chair and to the right of the House to legislate on any matter, no reference should be made in any motion, in debate or in any question or supplementary question to a Minister to any matter, (a) the publication of which is subject to restraint by order of a court of law in the United Kingdom, or (b) is of a class of information the publication of which is expressly prohibited by the criminal law".
- ⁴⁸ *ibid.*, para 16.
- ⁴⁹ Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#), 9 April 1999, HL Paper 43-I of session 1998–99, para 210.
- ⁵⁰ Joint Committee on Privacy and Injunctions, [Privacy and Injunctions](#), 27 March 2012, HL Paper 273 of session 2010–12, p 49.
- ⁵¹ *ibid.*, p 50.
- ⁵² *ibid.*
- ⁵³ Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#), 9 April 1999, HL Paper 43-I of session 1998–99, para 206.
- ⁵⁴ *ibid.*, paras 205–7.

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