

lined to explanation and the removal of misunderstandings, thus spoke of the raising of the demurrer as a barrier to the hearing of the action and the disclosure of the evidence on which the action was based:—

“Being an officer, the boy could not go to a court of justice in respect of his dismissal. It was for him as a law officer not to make the law, but to administer the law as he found it, and the books were full of the judgments of the courts declaring that there was no such right of action. The late Lord Esher, when Master of the Rolls, said it was quite impossible for the court to discuss questions of this kind, and added that not even the Queen herself could alter that. In order that there should be no misapprehension, it should be pointed out that, when the rights of the Crown were spoken of, the meaning was the rights of the public, and it has been held that it was in the interests of the community, on the ground of public policy, that there should be no right of action in the courts in such cases. . . . Was it the view of the honourable and learned member (Mr. Cave, K.C.) that it would be the duty of the law officers to say that they were content to have such actions tried? This was one of the matters in which a law officer had no right to waive the privileges of the Crown, which were the rights of the public.”

The doctrine thus so emphatically laid down, that the prerogatives of the Crown are the privileges of the people, would before the Revolution of 1688 have been regarded as a travesty of our whole constitutional system. In a collusive action brought by his servant against Sir Edward Hales, a Roman Catholic, to recover the penalty of £500 imposed by the Test Act for accepting the commission of a colonel of a regiment without the previous qualification of receiving the Sacrament in the Church of England, from which he had been dispensed by the King in the exercise of his Royal prerogative, eleven judges out of the twelve held that the prerogative of the King could be exercised in his own interest and at his own discretion quite irrespective of the interest of the public. The Chief Justice (Herbert) laid it down that the Kings of England were sovereign princes, but