

125-2



0441

THE PROCEEDINGS
AGAINST
SIR FRANCIS BURDETT,
FROM THE
INTRODUCTION OF THE COMPLAINT
TILL HIS BEING
FORCED TO THE TOWER.

WITH
The Letter to the Sheriff of Middlesex.
The Case and Opinion of the Attorney General as to the Legality of Forcible Entry.
Letter to the Speaker of the House of Commons, and
The Proceedings thereon.
Sir Francis Burdett's Letter of Notice of Action against the Speaker for Trespass and Illegal Imprisonment.
The Opposite Verdicts of Coroners' Inquests on People slain by the Soldiery.

TO WHICH IS ADDED, A
NARRATIVE OF THE PROCEEDINGS
IN THE
ARREST OF SIR FRANCIS,
THE
DISTURBANCES IN THE METROPOLIS,
AND THE
CONDUCT OF THE MILITARY.

WITH A PREFATORY DEDICATION TO
S. BROOKS, ESQ.
Chairman of Sir F. BURDETT'S Committee.

Selected and Arranged from Authentic Sources of Information
BY B. CURWEN, ESQ.

L O N D O N :

Printed by S. ROUSSEAU, Wood Street, Spa Fields ;
SOLD BY M. JONES, NEWGATE STREET ; J. JOHNSTON,
101, CHEAPSIDE ; SHERWOOD, NEELY, AND
JONES, PATER NOSTER ROW ; AND ALL
OTHER BOOKSELLERS.

1810.

TO
SAMUEL BROOKS, ESQ.

CHAIRMAN OF THE COMMITTEE FOR CONDUCTING
THE ELECTION OF SIR FRANCIS BURDETT, BART.

SIR,

IN publishing the following Report of the Proceedings in the House of Commons relative to the Conduct of Sir FRANCIS BURDETT, I am actuated by a laudable ambition to support the true Constitution of this Country, and take this opportunity of acquainting you, that herein the worthy Electors of Westminster, for whose assistance I have thought fit to publish it, will be able to examine a faithful representation of the arguments, both for and against, the Letter and the Argument which followed it, (in Cobbett's Weekly Register of March 24, 1810, and which was acknowledged by Sir Francis Burdett to have been published by his authority,) as they occurred in that House, from the time when the motion was made by Mr. Lethbridge till the committal of the Honourable Baronet to the Tower: and at the close is given an Authentic Narrative of the Proceedings in the Arrest of Sir Francis, from the Passing of the Vote for his Commitment, till his Entrance into that Fortress. The only merit, Sir, which I can in any wise claim to myself, is that of rescuing from oblivion those Debates which have so much interested the minds of the Public, and of presenting my fellow Electors with a faithful Detail of the circumstances as they took place; in which I have not presumed to hazard an opinion, leaving every

(iv)

every man to judge for himself. And as the matter will be canvassed before another tribunal, the Reader will here be furnished with every Document necessary for his Information.

It may be necessary to mention, that there has lately been published an authentic copy of

MAGNA CHARTA,

with an Introduction, containing the History of its Rise and Completion, and Observations on Laws relative to its Promulgation. To which is added an authentic Copy of

THE BILL OF RIGHTS.

By which every Englishman may see the grand foundation upon which his Liberties are built, and wherein it is expressly declared, "No man shall be taken or imprisoned, or disseised of his freehold, or outlawed, or banished, or any ways destroyed; nor will we pass upon him, or commit him to prison, unless by the legal Judgement of his Peers, or by the Law of the Land."

That this sacred Paladium of British liberty may never be violated with impunity is the unfeigned wish of

SIR,

Your most obedient Servant,

BURDON CURWEN.

REPORT OF THE PROCEEDINGS

IN THE

HOUSE OF COMMONS,

RELATIVE TO THE CONDUCT OF

SIR FRANCIS BURDETT.

Monday, March 26, 1810.

MR. LETHBRIDGE was anxious to ascertain one fact, before he submitted to the House a motion which he felt it his duty to make; that fact was, whether an Honourable Baronet then present (Sir F. Burdett) was the writer of the letter signed with his name, and lately published in Cobbett's Register.

Sir F. BURDETT had no objection to answer any question on what he had done. It might have been concluded that the writing signed by himself was his; but he now avowed it, if that were wanting to gratify the Hon. Gentleman.

Mr. LETHBRIDGE thanked the Hon. Baronet for his frankness in the declaration. He (Mr. Lethbridge) thought that letter a high insult on the House, and a flagrant violation of its privileges. As such, he must notice it, and declared that he would make a very short motion on the subject to-morrow.

Lord TEMPLE objected to the informality of this proceeding. It would have been more proper to have summoned the attendance of the person accused, and then to lay the complaint before the House.

The SPEAKER was of opinion, that this rule only applied when the accused person was actually absent; but when he was on the spot, the subject-matter of complaint might be brought forward or delayed, at the pleasure of the Honourable Member.

Mr. LETHBRIDGE was not aware that he should have seen the Honourable Baronet, and excused himself from informality, by his short experience in the business of the House. He was willing to put off his motion.

Lord FOLKESTONE was surprised to see the motion about to be deferred, after the way in which it had been opened. Was the individual pointed at to sit down under the stigma of so heavy an accusation; or, if the House had suffered so violent an attack on its privileges, was the justice, due to the

B.

Commons

(6)

Commons of England to be deferred at the pleasure of the Hon. Member (Mr. Lethbridge)? It ought to be brought forward at once.

After some conversation between Gen. Gascoyne, Mr. W. Wynne, and the Chancellor of the Exchequer, the motion was fixed for to-morrow.

Tuesday, March 27.

Mr. LETHBRIDGE rose, and said: I rise, Sir, pursuant to what I promised to do, when last I spoke upon the subject; and I do it with a degree of pain which I never felt before; for I am to make a complaint against one of the Members of the United Commons of Great Britain and Ireland, who had violated, in my opinion, the Privileges of this House. It is not my intention to go farther than the mere expression of my opinion: It is my intention only to lay the document before the House, which the Honourable Baronet (Sir Francis Burdett) has admitted to have written, and to have been published by his authority.—I have marked the passages which justify me in my opinion in making the complaint which may be deemed proper by the House.

The SPEAKER stated, that the orderly course now to pursue was to desire the Clerk to read the passages, upon which the Honourable Member grounded his complaint, or the whole of the publication alluded to, if any other Member desired it.

Mr. LETHBRIDGE lamented, that he should feel it necessary to press this matter upon the attention of the House, particularly at a period when business of so much public importance occupied their consideration. But he was actuated by an irresistible sense of duty. He had no objection, if the House desired it, that the whole of the document referred to should be read.

The Clerk accordingly commenced the reading of Sir Francis Burdett's letter from Cobbett's Register of the 24th instant. When he had proceeded for a few minutes,

Mr. H. SUMNER expressed a wish that the Honourable Member should, for the convenience of the House, state his object before the Clerk proceeded farther in the reading of this paper.

The SPEAKER apprehended that the course the House was now pursuing could not be regularly revoked or altered. The complaint should be first read; the Honourable Member to whom that complaint referred should be called upon for his defence, and having made that defence he should be called upon to withdraw.

The Clerk proceeded and read the whole of Sir Francis Burdett's

(7)

dett's letter, together with the report of his speech respecting the case of Gale Jones, in Cobbett's Register of Saturday last, (March 24, 1810.) Upon his conclusion,

The SPEAKER addressed Sir Francis Burdett stating, that the Honourable Baronet was then called upon to answer to the complaint alledged against him.

Lord FOLKSTONE rose to order. The Honourable Gentleman having merely delivered in a paper which he thought proper to pronounce a breach of the privilege of that House, and upon which he founded a complaint against his Honourable Friend, he submitted that his Honourable Friend could not be called upon for any defence until it was explained to him in what his offence consisted—or what were the views of the Honourable Gentleman; what were the particular passages he objected to, and what were the grounds upon which his objection rested. Without such an explanation, it appeared to him quite extraordinary that his Honourable Friend should be called upon to undertake a defence where the nature of the charge was not even intimated to him—where he was not given to understand what parts of the publication alluded to were actually deemed offensive. In such circumstances, he thought it impossible for his Honourable Friend to make any defence, if upon such a loose indistinct charge it were not unjust to put any man upon his trial. He submitted, therefore, that the Honourable Mover should offer some farther explanation of the object and grounds of his complaint, before his Honourable Friend was called upon to state any thing in the shape of defence.

Mr. LETHBRIDGE stated in reply, that he had marked the specific passages in the paper on the table, which he conceived to involve a breach of the Privileges of that House (*Hear, hear, hear! on the Ministerial Benches*). He thought it did not become him to call for the reading of these passages alone, lest it should be imputed to him that he wished the House to decide upon garbled extracts. The objectionable passages he had marked, he had no disinclination to read to the House if called upon so to do.

The Honourable Member being called upon, read the following passages:—

“The House of Commons having passed a Vote, which amounts to a declaration, that an Order of theirs is to be of more weight than Magna Charta and the Laws of the Land, I think it my duty to lay my sentiments thereon before my Constituents, whose character as free-men, and even whose personal safety, depend, in so great a degree, upon the decision of this question—a question of no less importance than

(8)

than this: Whether our liberty be still to be secured by the laws of our forefathers, or be to lay at the absolute mercy of a part of our fellow-subjects, collected together by means which it is not necessary for me to describe."

"Then, again, as to the *kind* of punishment; why should they stop at sending persons to jail? If they can send whom they please to jail; if they can keep the persons, so sent, in jail as long as they please; if they can set their prisoners free at the end of the first hour, or keep them confined for seven years: if, in short, their absolute Will is to have the force of Law, what security can you have, that they will stop at *Imprisonment*? If they have the absolute power of imprisoning and releasing, why may they not send their prisoners to York Jail, as well as to a jail in London? Why not confine men in solitary cells, or load them with chains and bolts? They have not gone these lengths yet; but, what is there to restrain them, if they are to be the sole judges of the extent of their own powers, and if they are to exercise those powers without any controul, and without leaving the parties, whom they choose to punish, any mode of appeal, any means of redress?"

"Had I not been prevented by indisposition from being present when the House of Commons passed by vote a Sentence of Imprisonment on Mr. Gale Jones, I should have endeavoured to shew, That under the false notion of Privilege, they were exercising a power, and committing an act of oppression, ill suited to the character of Guardians of Public Liberty, and destructive of the first and most important object of the Constitution, viz. The Personal Security of the Subject."

"Founded on such a basis; fortified by such Authorities as I shall have occasion to appeal to in the progress of this enquiry, I have little doubt of being able to convince every impartial mind, that the House of Commons, by proceeding to judgment—passing a Sentence of Imprisonment—and issuing a Warrant of Commitment, has gone beyond its prescribed limits, acted in a manner inconsistent with the ends of its institution; and violated the fundamental principles of the Law and Constitution of the Land. And this I shall prove by the application of the standard of the law to the Proceedings of that House."

"That, by proceeding thus, they have exercised a jurisdiction not vested in them; a jurisdiction beyond the limits of King, Lords, and Commons, whilst Magna Charta remains unrepealed; and repealed it can never be, till England shall have found her grave in the corruption of a House of Commons."

"Let this Instrument—this thing *sui generis*—be contrasted with the description above given of the properties of a lawful Warrant.

(9)

Warrant. Does it not evidently appear, that this piece of unsealed paper signed by the Speaker, by which an untried subject has been outlawed, bears no feature of Legality? And that from the commencement of this proceeding—in its progress and to its conclusion—there is not one step that has not been marked in a peculiar manner with disrespect for the laws—a disrespect in which all the parts have been wonderfully consistent throughout, in constituting the most unlawful act the mind of man can possibly conceive."

"But no wonder, when they have so entirely departed from the ends of their institution—as was offered to be proved by Mr. Madocks, and acknowledged by themselves, in the never-to-be forgotten morning of the 11th of May, one thousand eight hundred and nine; when, from being the Lower or Inferior (for it is the same sense, one being an English, the other a Latin word), Branch of the Legislature, they have become the proprietors, by burgage tenure, of the whole Representation; and, in that capacity, inflicted with their high blown fanciful ideas of majesty, and tricked out in the trappings of royalty, think Privilege and Protection beneath their dignity, assume the Sword of Prerogative, and lord it equally over the King and the People."

These the Honourable Gentleman observed, were the principal passages which he had marked, and upon these specific passages, he thought himself warranted in making the charge he preferred, that the publication which contained them, involved a violation of the privileges of that House.

The SPEAKER stated, that the proceeding was now arrived at that stage, when the Honourable Baronet was called upon to say what he had to offer as to the subject matter of this complaint.

Sir FRANCIS BURDETT spoke as follows:—I am perfectly willing to leave this matter to the consideration of the House, and to abide the consequences of my conduct. I have really nothing to say upon the subject in the shape of defence—for I know not in what I have offended. The Honourable Gentleman has not, until this moment, furnished either the House or me with any explanation of the ground of his complaint—of what even he deemed offensive; but still he has not explained why he considers the passages alluded to, involve a breach of the privileges of this House. I have no intention of violating your privileges, and as to the doctrines contained in the publication referred to, I conceive those doctrines to be perfectly constitutional. I have stated the reasons why I think so, and until those reasons are answered, I think it unnecessary to offer any thing more.

The

(10)

The SPEAKER then observed that when a complaint was made against any Member for a breach of privilege, it was for such Member to deny, to justify, or to excuse it, and having done as he thought proper, to withdraw.

[Here Sir Francis Burdett withdrew amidst a cry of "No! No!" on the Opposition Benches.]

Mr. WILSON asked, whether it would be consistent with the order of the House to postpone any further proceeding for the present?

The SPEAKER replied, that upon such a complaint being made, the course was, according to general practice, to go on to a conclusion.

Lord OSSULSTON thought it unnecessary for his Hon. Friend to withdraw, as it did not appear that there was really any regular complaint preferred against him.

The SPEAKER stated, that according to the best of his opinion the House, so far as it had yet advanced, had proceeded according to its established usage in such cases.

Mr. LETHBRIDGE, in rising to make his motion, said, that he should have little to offer in the shape of observation.

Here some conversation took place between the Speaker, Lord Folkstone, and Mr. Perceval, as to the form of proceeding.—After which

Mr. LETHBRIDGE said, that in prefacing his motions he should be extremely short. It was a consolation to him, that as the matter was clear it might be brought within a very small compass. This reflection was a relief to his mind, as it released him from the necessity of attempting any length of observation previous to the Resolutions which he felt it his duty to submit, and which he trusted the House would adopt, if it wished to maintain its own character—if it had a regard for Old England "and the country." What he had to say he wished the Honourable Baronet was there to hear; that the forms of the House would allow of his presence. Again he repeated he must express his regret at the course the Hon. Baronet was pursuing, and his apprehension of the consequences too likely to follow. He had really heard of doctrines lately which made his hair stand on end (*a loud laugh*). He meant that he heard sentiments which so much excited his astonishment and affected his feelings, as to have that effect upon him. He had heard it said, that the character of that House had not a leg to stand upon. It was time for the House to interfere, and he trusted it would by the adoption of his Resolutions. The Hon. Gentleman read his Resolutions; the first was, that the publications which had been read to the House from Cobbett's Register of the 24th inst. was a libellous and

(11)

and scandalous paper reflecting upon the just rights and privileges of that House; the second Resolution was, that Sir Francis Burdett having admitted that he was the author of the paper alluded to, was guilty of a gross breach of the privileges of that House. The first Resolution being moved,

The motion being seconded, an extract was read from the Journals to shew how careful Parliament had been in old times to repress such injurious reflections as this paper contained.

The motion being then read,

Mr. PONSONBY trusted that he would not be thought wanting in proper respect to the House, when he said that the motion was not of a nature to be immediately decided upon. It was one which required the most grave, solemn, and deliberate consideration. If this was difficult in other cases, how much more so when the paper complained of consisted, in a great measure, of a detailed legal argument. He therefore, proposed that the discussion on this subject should be adjourned till this day se'nnight.

Mr. PERCEVAL did not rise to oppose an Adjournment; but he thought the intrinsic importance of the question itself, and the situation of the individual accused, required that the earliest possible day should be fixed for taking the subject into consideration, and pronouncing a decision upon it. The House would recollect, that the Hon. Baronet had been ordered to withdraw, but if the Hon. Baronet could be present, the consequence would be, that the individual who might be found upon the discussion of this accusation to have villified the character of the House, would have a share in its Councils. He therefore moved, as an amendment, that that debate be adjourned till to-morrow.

Mr. WHITBREAD observed, that the only object of his Right Hon. Friend was, to have the matter postponed till the merits of the question should be fully known and fairly appreciated. Considering the length of the paper that had been read, and the importance which might attach to the comparison of the different passages, in order to judge fairly of the whole, he thought a longer adjournment than that proposed by the last speaker absolutely necessary. On Friday it might be possible to take the matter into consideration, in a manner becoming its gravity and importance; and therefore, he should propose, with the permission of his Right Hon. Friend, that this debate be adjourned till Friday.

Lord FOLKSTONE thought the question of so much importance, that though he was sorry for the situation in which his Honourable Friend (Sir F. Burdett) would be placed by the

the delay, he was glad that an adjournment was to be agreed upon. But he would venture to say, that no one who wished to give an honest opinion upon the subject could be satisfied with the short adjournment proposed by the Right Honourable Gentleman opposite. It ought to be borne in mind that the decision on this question might have a most material influence on the fundamental law of the land.

Mr. STEPHEN observed, that the remarks of the Noble Lord suggested to his mind an argument for the shortest adjournment possible. He confessed he could not see the difficulty which appeared to press so heavily on the Noble Lord's mind. But if there was a doubt as to the power of the House to imprison for a breach of its privileges, then the custody in which an individual was retained at this moment for having violated their privileges was of doubtful legality, and those who entertained this view of the matter ought to be the most anxious for an early decision. He thought the adjournment till to-morrow fully enough; and, perhaps, too much.

Mr. PERCEVAL said, that when the Hon. Gentleman on the other side charged him with a desire to interpose a delay of twenty-four hours in the final determination upon the subject of the inquiry, it could not be expected that he should sit silent (*Hear, hear!*) And he would only refer to his conduct, during the whole course of the inquiry, and ask, whether there was any thing in it that justified the charge of his having interposed an unnecessary delay of one hour (*Hear, hear?*) It ought to be recollected, that the question of law had been already almost unanimously decided against the Hon. Baronet. He said almost unanimously—for though 14 Members had divided with the Hon. Baronet, yet these, with the exception of one or two, were against him on the point of law, and only supported his motion because it was imagined that the offender had been already sufficiently punished. The consideration, however, that one individual was in custody, and another under accusation, was a reason for restricting the adjournment to the shortest possible period.

Mr. BATHURST argued in favour of a longer adjournment. But as to the privileges of the House, they were a part of the law of the land—they had already declared their view of that law, and if they were wrong, the remedy would be found by application to a Court of Law; yet he thought the adjournment ought to be protracted till the House had decided on the Inquiry.

Mr. WYNNÉ said, that as to the question of law, he had debated it before, and it might be supposed he had made up his

his mind on the subject; but there were a great many Members who had not been present during that discussion, and who must still have to examine the matter.

Mr. MADOCKS observed, that an interval of five days had taken place in the cases of the Chancellor of the Exchequer and the Secretary of State.

The House then divided on the question, whether the adjournment should be till Friday or till to-morrow:

For the discussion to-morrow	-	196
For the adjournment till Friday	-	146
Majority	-	—50

Wednesday, March 28.

Mr. SHERIDAN moved the order of the day, on the charges against Sir F. Burdett. He admitted that it was a question of great importance. The Hon. Baronet had denied the power of the House to commit in any case, and this denial was accompanied by very strong, perhaps unjustifiable, observations, in his Letter to his Constituents. But as to the accompanying Arguments, if they were merely a repetition of the Hon. Baronet's speech in that House, he did not see that any complaint could be entertained, as the Speaker would certainly not have permitted any improper observations to have been made in that House. He should therefore propose, that the Letter and Arguments be referred to a Committee of Privileges on Wednesday next, who should report thereon to the House.

Mr. BRAND thought the Debate should be adjourned. It had long been a question how far the power of the House was limited. The question had been often agitated, and much difference of opinion existed. Time should be granted to consult authorities upon so momentous a question. Mr. Hargrave had distinctly stated, that the House of Commons ought not to exercise any authority where the case was remediable in a Court of Law. A libel was remediable in a Court of Law, and if the Hon. Baronet's language was deemed libellous, a Court of Law was competent to redress the evil. The Hon. Baronet had alluded to the manner in which the House was collected together; he had frequently urged this charge in the House, a charge founded in evidence produced during the last Session. It would certainly be matter of astonishment, if what was generally admitted as the universal language last Session, should in this be deemed a libel on the House! There was one passage in the Hon. Baronet's Letter he would not defend, where he speaks of the House of Commons as "lording it equally over the King and the People." But except this he could see nothing in the publication which was

(14)

not synonymous with what had repeatedly fallen from the Hon. Baronet in that House; and the right of a Member to convey to his Constituents what he had urged in Parliament, was yet to be investigated. At all events, this was not the moment to distract the attention of the House, occupied as it was by a question of the utmost importance. But Ministers were happy to catch at any opportunity to divide the attention of the House and of an indignant People. He concluded by moving an Amendment, that the debate be adjourned till to-morrow, se'nnight.

Mr. LETHBRIDGE would not consent to adjourn the debate.

Mr. CURWEN, if compelled to vote, should vote against the Resolution, though he thought the conduct and language of the Hon. Baronet merited severe reprehension. But the House was not in a situation to enter into the question, and time should be allowed, if its dignity was consulted.

Mr. OWEN was quite astonished that any Amendment should be proposed, after hearing the doctrines of the Hon. Baronet. The passage alluded to by the Hon. Gentleman was so grossly libellous, that it alone would justify the Resolutions.

Mr. WHITEHEAD observed, that when the Right Hon. Spencer Perceval and my Lord Castlereagh were charged with a breach of privilege, (*Hear! hear!*) the Right Hon. Gentlemen said they were not prepared to enter on their defence, and five days were allowed them in consequence. On another occasion, too, when my Lord Castlereagh was charged with an attempt to barter seats in that House, an amendment was made by the Secretary of State for allowing his Lordship time for his defence. Looking to these facts, he would ask, *to whom was the degradation of the House of Commons to be attributed?* (*Loud cries of hear! hear!*) At the commencement of the present administration, the House was threatened with a dissolution, if they did not adopt certain measures; and this dissolution actually took place. He would therefore again ask, to whom was the degradation of the House of Commons of England attributable? (*Hear! hear!*) For his own part he had not had time to read the Papers, much less to weigh with due deliberation their contents. This affair was a sort of Godsend to Ministers, and fully exemplified the observation that they were catching at straws like drowning men. Many things, however, happened between the cup and the lip: a great many things occurred between the halter and the gallows. (*Some sensations were here observed on the Treasury bench.*) The Hon. Gentleman need not to be alarmed; he

(15)

he was certainly not entitled to the honour of being beheaded, (*a laugh*), but accidents did happen in most critical cases. One Hon. Gentleman had expressed his fears that delay would endanger the safety of the Constitution, which reminded him of the late Mr. Yorke, now most happily provided for! This was one of the legacies left by the Teller of the Exchequer, from whom the House was so properly relieved and who was now made a man of consequence by favour and not by right. But he would refer to the bench of Lawyers opposite, (*the Treasury bench*), whether it was consistent with the laws of evidence in Courts of Law, that a decision be made without giving time to weigh the facts? Mr. Jones had made a submissive apology at the bar of the House, and the affair might well have ended there. He had heard the argumentative speech of the Hon. Baronet, and he would not say that it had made no impression upon him; he found nothing reprehensible in that speech; but he was wrong in not making a specific motion on the subject: and he had also to complain that the Hon. Baronet had introduced matter into his publications which he had not noticed in his speech. This however did not affect the main point. If they did not adjourn this question, they would that night be called upon to pronounce the Hon. Baronet guilty. Those might do so who had no doubts upon their mind—but all those who doubted must acquit. He had voted for Mr. Jones's enlargement, not as a matter of right, but upon the fact of his submission and the extreme lightness of the offence itself. Had that question, agitated in the British Forum, been passed by, it would have been succeeded by some other upon love or marriage, or both, in Napoleon; and perhaps the Teller of the Exchequer would not have met that warm reception with which he had since been favoured by his friends at Cambridge.

Sir J. YORKE said, in answer to that part of the Hon. Gentleman's speech that alluded to his relative (Mr. Yorke), that he begged leave to tell that Hon. Gentleman that the late Mr. Yorke, as he had called him, had before his departure left his legacy behind him. He had left with that House a legacy of sound constitutional knowledge, and manly political integrity—a legacy that would be as valuable in the eyes of that House, though left by a Teller of the Exchequer, as any that might hereafter devolve to them from a brewer of bad porter. (*A loud and general cry of "order! order! chair! chair! take down the words."*)

Mr. WHITEHEAD said, that he was anxious to assure the House that he felt himself no farther affected by what had fallen from the Hon. Gentleman, than in having any imputations

(16)

tions thrown upon his fair dealing as a tradesman; and to that he would only say, that the Hon. Gentleman had no right to hold him out as a brewer of bad porter, if he had never tried it. He suspected he had not; and he now requested of him to do him the honour to order one cask of his porter—he would take care it should be of the best—and the only pay he would require was, that the Hon. Gentleman and the Electors of Cambridge would take a cup of it to the health of Mr. Yorke. (*Hear, hear!*)

Lord MILTON, to order, said, that for the preservation of decency in the proceedings of that House, he felt himself compelled to move that the words of the Hon. Gentleman be taken down.

Mr. WHITBREAD earnestly expressed his anxious wish that a matter of such trivial import would be allowed to proceed no farther.

Mr. CROKER said, that if a motion of censure had been moved upon what he allowed to be intemperate language, he doubted if the House would have cheerfully adopted any rigorous measures against a sudden sally of fraternal feeling. He then proceeded, after complimenting the good humour manifested by an Hon. Gentleman, (Mr. Whitbread,) to comment upon the "Argument" of Sir F. Burdett. He said that the paper was filled with observations he had never dared to utter in that House. The Hon. Baronet had questioned the exercise of their most ancient privileges—privileges that had existed in the oldest times of that House, (*No! No!*) he repeated it, and he must be convinced of the contrary by other than monosyllabic arguments; the right of exercise of an undoubted privilege had been denied, an exercise that in the case in question had been resorted to without one dissentient voice; there were many passages in that paper which if clothed in tasteful and gentlemanly language would not have been so grossly offensive, but there were others, betraying equally unconstitutional principles and corrupt taste in them; the style, bad as it was, was the smallest fault. Here Mr. Croker cited several of the passages already quoted, which he pronounced as in the highest degree libellous upon that House.

Sir SAMUEL ROMILLY said, that the House were Judges in their own cause, though they were Judges from necessity, and therefore time should be allowed to consider the subject. When it was considered that numerous meetings throughout the country had on many grand public questions unanimously differed with the decisions of that House, he was not prepared to say that the nation was wrong, and the majority in that House right. He was not prepared to say that the

(17)

the publication was not a libel, but he entertained doubts about it. Any man has a right to discuss every great constitutional question, whether of power or of constituted authority. He might shew his folly in arguing a point in which no other man would agree with him, but still he had a right to do so. There might be inflammatory language in the paper in question, but, at the same time, it was argued with great ability, and all the great authorities and precedents on the subject were given and argued on with great learning. This was a grave argument, and God forbid that any man should be precluded from discussing such a subject. The paper said that the right assumed to themselves by the House was contrary to Magna Charta; and Gentlemen objected that many parts of it were conceived in strong language. Why should there not be strong language in arguing a question of great consequence, involving the rights of the Public and the Constitution of the Country? There were offensive paragraphs in the Paper, but he could not view them in the mischievous light in which some Gentlemen had been induced to conceive them. The paragraph in which the House is stated to "assume the sword of prerogative, and Lord it equally over the King and the People," had been particularly dwelt on, as containing matter highly objectionable. He could hardly view it in this light. The Hon. Baronet might perhaps take offence at his observation, but he could not help conceiving the paragraph as altogether nonsense. As to mischief, he could not conceive how it could arise. It was impossible that the idea of that House lording it over the King could produce any injurious effect. Could any person, not an idiot, or fit to be sent to a madhouse, be deceived by such an idea? Where had that House ever encroached on the royal prerogative? They were called on to vote this a libel, in a very singular situation. For, if this was the law of the House of Commons, a man can be punished by this House when he has not been heard. This was not the law in any Court in the kingdom.

Mr. PERCEVAL contended that the publication was a gross libel. His Hon. and Learned Friend had said, that the House ought to distinguish between manner and matter. He agreed in this; but he should shew that the publication was libellous in both respects. He did not deny what his Right Hon. Friend so properly claimed for the Hon. Baronet, and for every person else, the legality of canvassing any act they might think proper. He conceived he could satisfy his Hon. and Learned Friend that this was a libel. He said, that in a solemn proceeding in the year 1701, it was decided that

that to pretend that the House had not the jurisdiction of imprisonment on others as well as its own Members, was a high breach of their privileges; and that to publish libels reflecting on the House of Commons or its Members was also a high breach of privileges. He adverted to the case of Crosby and Oliver; and a similar authority was to be found in the King's Bench, in the time of Lord Kenyon, who then stated that when evil disposed persons attempted to overturn the country, they would begin by calumniating the Courts of Justice, and both Houses of Parliament. He thought that time was now come. In comparing the present libel with that committed by Gale Jones, the latter must appear insignificant indeed; and asked, if that House should be more indulgent to a Member of its own than to a stranger? In the one, they proceeded immediately; and in the other, should they adjourn from time to time? If they did so, they gave that Hon. Baronet a triumph, and they would shew that they deserved to be trampled on and trodden under foot.

Lord FOLKSTONE said, that the Right Hon. Gentleman had thought proper to allude to that assertion of Lord Kenyon, that when factious men wished to subvert the Government, their first efforts was to calumniate the Courts of Justice, and to entrench upon the privileges of Parliament. Really (said Lord Folkstone), above all men, I did not expect to hear such an allusion, much less such an application, from that Right Hon. Gentleman. Does he, or can he believe, that because he conceives this House to have the power of restraining the communication of the popular opinion, upon the conduct pursued within its walls, that he therefore can deprive the people of these kingdoms of the faculty of thinking or of recollecting? Does he believe, when he cites the vindication of our privileges as a proof of disaffection and of treason, that the people of England have forgotten the transactions of the two last Sessions of Parliament? Can they forget the spectacle exhibited to their view, of two Cabinet Ministers, charged, and I will say morally convicted, of a gross and heinous attack upon those privileges of this House—privileges for which, forsooth, one of them now affects to feel such sincere solicitude? Can the people of England forget that though such violations were not denied, still that the conduct of the accused was not only not censured, but almost not questioned by a British House of Commons?—(Loud cries of *hear, hear!*) He asked when the country recollected such events, as passed in the two last sessions of Parliament, and when this House cannot forget them, what confidence, what attention, can be paid to such application*

application relative to its privileges, proceeding from that very man who was a few short months past arraigned before that very House as a culprit for their violation, and who, though rescued from punishment, has still no claim to acquittal? (*Hear, hear!*) It is idle to say that the people of this country have no very anxious feelings upon the present subject. I for one never can wish that their voice should be stifled. Therefore it is that I appeal to this House for that postponement of its decision, which will allow the fullest investigation of this most important question, and which must ultimately settle the legality or illegality of this power.

Mr. ADAM was satisfied that time should be allowed to consider this important question.

The ATTORNEY GENERAL contended, that there could be no discussion now upon the right, the House having decided upon it in the case of Mr. Jones. That right being admitted, it was, in his opinion, absolutely impossible not to consider the publication as a gross violation of its privileges.

Mr. BATHURST expressed himself friendly to the proposition of adjournment.

Mr. TIERNEY challenged the Right Hon. Gentleman opposite to deny that the Resolution last night moved against Sir F. Burdett were not of Treasury manufacture—(*Hear, hear!*) He would go farther and challenge the Right Hon. the Chancellor of the Exchequer to deny if a meeting was not convened at his House, to consider, discuss, and decide upon these Resolutions, which in the person of an independent County Member were to be offered to the consideration of that House? (*Loud cries of Move! move!*)

Mr. LETHBRIDGE, in speaking to order, asserted, that his Resolutions originated with himself.

Mr. R. DUNDAS said, that as to the assertion that the Resolutions before the House were prepared at the Treasury, he could declare for himself that he knew nothing about them until they were read in the House; nor did he believe the assertion.

Mr. WILBERFORCE declared that no man was more firmly convinced than himself that the privileges of that House ought to be maintained; for he thought these privileges essential to the benefit of the people. But he did not think that the privileges of the House were to be blown away with a breath; that they could not withstand an attack without adopting sudden and precipitate means of defence. He therefore saw no danger in acceding to the proposition of delay upon this occasion, in order that the House should have the fullest opportunity for deliberation.

The

The MASTER of the ROLLS had read the paper and he was of opinion, that it was a clear libel upon that House. Many who required time for consideration, would, he had no doubt, entertain the same opinion, if that opportunity were afforded. He, therefore, would vote for the adjournment. Whatever the House felt in this case, Gentlemen must be aware that they were acting as judges in their own cause, (*bear, bear! on the opposition benches*), and therefore he always thought that, although those privileges were never to be formally relinquished, they were yet to be very discreetly exercised.

MR. PERCEVAL would confess, that after what he had heard from his Learned Friend, it would appear obstinate and pertinacious in him to press an opinion, in which, however, he still unfortunately adhered, and refuse to accede to the repeated calls which were made for a further adjournment of this question. (*Hear, bear, bear!*) He wished to be understood, that his only reason for assenting to the Adjournment was, that delay was required. One word as to the cheers of the Gentlemen on the other side. Those Gentlemen professed a wish of unanimity, and yet when that disposition appeared, they exulted in it as a species of triumph. With this short remark he would leave those Gentlemen to enjoy their triumph.

MR. PONSONBY said, that as to the Right Hon. Gentleman's allusion to our triumph, he really rates himself too high and us too low, if he supposes that there is any thing in his conduct or character which should make us feel elated by any triumph over him.

The Amendment was withdrawn, and upon the question being put for adjourning the debate till to-morrow se'nnight, some Noes were heard, but the Speaker declared that the Ayes had it. Mr. Lethbridge declared the contrary, and a division was called for. Before, however, the whole of the strangers had withdrawn, Mr. Lethbridge withdrew his opposition, — till Thursday next.

Thursday, April 5.

MR. LETHBRIDGE moved the Order of the Day for resuming the Debate, which having been read, the Resolutions originally proposed by Mr. Lethbridge were read from the Chair, when

LORD OSSINGTON rose, and in an exceedingly low tone of voice proceeded to vindicate the doctrine laid down by the Honourable Baronet respecting the right of commitment, as claimed to be exercised by the House.

He

He cited from the authority of Chief Justice Holt, that neither House of Parliament could infringe upon the liberty of the subject. He further quoted from the same authority, that the Privileges of Parliament were well known, and founded upon the laws of the land, and could not be in contradiction to those laws. He stated also, that in the argument laid down by Chief Justice De Grey, that though the law of Parliament was, in a great measure, only known to Parliament-men, and that by experience, still that that experience could not warrant any principle at open variance with the known laws of the land. The Noble Lord then adverted to those personal considerations that must shew that Sir Francis Burdett could not have been influenced by any anti-constitutional motives in his public conduct. He derived those well-grounded presumptions from the Hon. Baronet's amiable private character, his great stake in the country, and his family. The greater part of the Noble Lord's observation were wholly inaudible in the gallery.

SIR JOHN ANSTRUTHER differed materially from the Noble Lord who had just sat down, in many points, and in none more than as to his sense of the importance of any attempt, from whatever quarter, to wean the feelings of the People of England from the support of that House (*Hear*). The House stood in that peculiar situation, that it behoved it to guard itself equally from the innovations of the influence of the Crown on the one side, and the advancements of popular encroachments upon the other; and the best way to do that effectually was uniformly to support its own rights and privileges. They had never been exercised but for the good of the country at large, and it could not be for the benefit of that country to shrink from the discussion, and the support of them. The question now before them was extremely clear, whether there has been a libellous publication against the rights and privileges of that House, or not; whether the rights and privileges, so long exercised by that House belong it, or not; and if they do, whether the House has, or has not, the right of enforcing their due observance: and here he would ask, if the House was at that time of day seriously to inquire, whether it had the privileges said to be infringed upon by that publication? The first thing that presented itself in the shape of even a plausible objection to the existence of the privilege in question was, that this was a libel, and therefore did not come under the head of a contempt of court. Admitting it was a libel, how did it follow that it was not a breach of privilege? Was it not a breach of privilege here, because it was an offence

D

offence

offence of another kind elsewhere? Or, is it to be said, that because the offence has that extent as to be punishable elsewhere, it was therefore not punishable here, unless that the latitude of the crime was to be made a ground of comparative impunity? The offence was indictable in one of the Courts of Law.—What then? Because it was so, were they to pass it over; that was, in other words, were they to be told, that because it was a libel, it could not be a breach of privilege? But it had been argued, that a libel, though a breach of privilege, ought not to be punished as such, but generally as a breach of the peace. Here they had a libel admitted as a breach of privilege, and that admission ended the argument so far; for if they had privileges they must have the power of supporting them. He, however, denied altogether that a breach of privilege was removed out of the jurisdiction of that House, because that breach of privilege was also a libel. The Hon. Baronet began his letter with stating, that “the House of Commons having passed a Vote, which amounts to a declaration, that an Order of theirs is to be of more weight than Magna Charta and the Laws of the Land.” This was an insidious and false way of stating a groundless proposition—a groundless calumny—what was the question? Did the House act in violation of Magna Charta and the law of the land? What was the law of the land? Where was it to be found? Where were they to look for it? He knew of no place to look for it but in the practice of that House and the other established courts of jurisprudence (*bear! bear!*). What then was the privilege claimed by that House, that that House being a third branch of the legislature, should have the power of preventing or removing all obstructions thrown in the way of the free exercise of its judgement—all contempts will be allowed to be classed under the head of such obstructions—all calumnies circulated against the free exercise of their right of judgement would be admitted at once to be a breach of privilege; and if such calumnies, instead of evaporating in words, be elaborately embodied in a printed paper, is the breach of privilege the less, or does it, on that account, cease to be a breach of privilege? Should the House of Commons suffer itself to be run down in such a manner? Was there a common club of the meanest description that had not in itself a power of protecting itself against such calumnies from its own members—obstructions, though there were obstructions which, though not operating by actual personal force, had yet had the same effect in ultimately influencing the decision of that House. Whatever went

went to prevent the free exercise of the judgement of that House was a virtual obstruction, and as such to be removed—were such obstructions altogether unprecedented? Had they been in other times unusual? How had the vote been carried against Lord Strafford? (*Hear, bear!*) Had the exercise of the judgement of the House been free and uncontrolled in that instance? When the walls were placarded with menaces, and Members hooted and halloo'd by the mob as *Straffordians* as they passed to and from the House? And why may they not do the same to-morrow? Aye, but then it may be said that hooting is more like a personal obstruction than placarding and posting upon the walls. But was nothing to be construed as an obstruction but what was personally so? Were there no such things as constructive obstructions? Impediments which were not virtually personal, but which had the same effect.—Libels came exactly up to the case of constructive obstructions—their privileges were essentially necessary to their existence—calumny was the most dangerous assailant their privileges could have, and was it to be supposed that the putting that calumny in writing took from the House the right of protecting itself against it? Or was the House compelled, in such a case, to wait the slow progress of an indictment? a remedy that after all would not apply to the offence, as an offence against the privileges of that House. The Court to which they would in that case apply, would not look upon the offence as a breach of privilege—they would not take cognizance of it in that view—they would try it as a breach of the peace, and not as a breach of their privileges.

The next question was, if they had those privileges, had they the power of judging of their own privileges? And here, perhaps, he ought to apologize to the Chair for merely asking that question; for if the House of Commons was not judge of its own privileges, and the only judge of those privileges, he for his part did not know how the House of Commons could be said to exist at all (*Hear*). In his judgement, their independence was totally gone when any other power than themselves were allowed to be judges of their own privileges (*Hear, bear!*), and in saying this, was he claiming more than belonged to the lowest Court? The lowest Court could punish for contempt, and, what was more, no other Court interfered in commitments for contempt by any other. So that the House asked for nothing more than what belonged to every other Court. That House had the power of judging of its own privileges. That power, like every other power, admitted of abuse; but the

abuse of a thing was no argument against its existence. As to the charge of abuse of its power, the House of Commons might with confidence appeal to the past. It would be found that, for the last three hundred years, in the same proportion as their authority had become more solid and extended, had their exercise of that power been calm, moderate, and prudent.—But it had been said that breach of privilege was no contempt. This objection he did not answer, only because he did not understand it. If a breach of their privileges was not a contempt of their authority, he did not know what contempt was; again, it was objected, that if they were the judges of their own privileges, they might make what privileges they pleased. But had they done so? Let them look back, and they would see that House had never been fond of creating new privileges, they had privileges enough to uphold their own independence, and vindicate their due authority, and one, and perhaps the most important of those privileges, was to prevent their deliberations to be impeded in their exercise by the attacks of calumny. The calumny, in the present instance, came from one who had set himself high on the side of the people. He would put the case that the same attempts to run down the character and authority of that House had been made by the Crown, or he should rather say, the servants of the Crown, he would ask, in that case, what would have been the language of the Gentlemen who are now so moderate and so full of doubts upon the present question? (*Hear, hear!*) Would those Gentlemen have been quite so calm and considerate as they now appear to be? or would not the House have heard from their different language a much higher tone? But whatever the language, he (Sir John) would take the same part in either case, and impartially defend the privileges and authority of that House against both. Committal for contempt was, however, not much disputed, as being that which the House had done at all times. But it had been said, that the right of committing for libel could not be traced. He admitted that it could not. They could not trace the fact, for the very simple reason, that libels must have been subsequent to the invention of the art of printing—printing must have been common before a case of libel could have occurred. But if they could not trace the fact, they could easily trace the principle. That did not depend upon the fact of printing. Courts have uniformly punished calumnious expressions. This House had the right of doing so from its earliest stage, and the principle upon which they did so was not altered by the calumny

calumny appearing in a printed form. He was very far from being disposed to panegyrize the wisdom or prudence of the Hon. Gentleman (Mr. Lethbridge), in forcing the attention of the House to the libel now before them. But, now that it was before them, and that they were called upon either to stand by or renounce their privileges, he admitted that there was no receding from the broad question. It was a remark, that would be found to hold without one exception, that whether the Government was in the hands of the Whigs or the Tories, this power of committal had been always exercised; and in every instance that that exercise had been questioned by an appeal to the Courts of Law, the right was uniformly confirmed by their decision, who justified that power upon the same grounds upon which they professed to hold their own. He was surprized at the Noble Lord's citing a publication of the House of Lords respecting their own privileges, as an authority to weigh with that House in determining upon their's. He would refer that Noble Lord to the answer given to that publication. In all times, the House punished for libel as an attack upon their privileges. The case of the *King versus Flower* was a proof of this. He did not want to borrow from the other House, but he had no objection to their aid where their cases properly applied. Crosby, the Lord Mayor of London, was sent to the Tower. He applied to the Common Pleas for his Habeas Corpus; the other person taken up with him, and committed by virtue of the same warrant, applied to the King's Bench for his Habeas also? The Habeas was refused in both instances. Lord De Grey, a great constitutional lawyer, an upright judge, and an honest man, remanded the Lord Mayor, and why? because the reason assigned for commitment was deemed sufficient contempt on the face of the warrant. That great lawyer pronounced the House of Commons to be the judges of its own privileges. The law of their privileges was to be found in their own adjudication of those privileges, and their mode of punishment was that of commitment. But what were the words of Lord De Grey, in speaking of this right of commitment on the part of the House—"They have a right to commit, because it is necessary they should." This was the reason assigned by Lord De Grey, and the moment they parted with the right of judging their own privileges, that moment they ceased to be independent.

The case of Alexander Murray was another in which the right of the House to commit had been tried by an application for an Habeas Corpus, and confirmed. Murray was remanded.

remanded. The case of the Kentish petition was also in point. At that the Parliament was a Tory one; the Ministers, Tory; the six persons who presented the petition were committed—in the course of that year there was a change of Ministers, and the next year there was a Whig Ministry, and a Whig Parliament. What did they? They not only followed up the proceedings of their predecessors, but embodied them into resolutions, so that here was a case, where in the heat of party contest, men differing upon every other subject, agreed upon this point of privilege—this was in 1701. The case of Chief Justice Holt was greatly relied upon; but let Gentlemen remember, that if Lord Chief Justice Holt was of one opinion, eleven Judges were of an opposite opinion. Besides, were they to be told, that the authority of other great lawyers went for nothing. The Hon. Baronet had made light of the names De Grey, Mansfield, and Kenyon—those sages of modern times; but it did not follow, that the House would think as lightly of them as the Hon. Baronet. Besides, Lord Holt never denied the right of the House, to commit for contempt. Lord Holt merely questioned the limits, whereas the Hon. Baronet denied the existence of the power; and he candidly cited the authority of Lord Holt in aid of his own opinion, as if the authority that objected to the excess of the power, was fairly to be brought forward as an evidence, that the power did not exist at all! He mentioned this, therefore, merely to guard the House against confounding the opinions of the Hon. Baronet with the judgements of that Lord. He therefore was warranted in repeating, that the House of Commons in their assertion of this right, was claiming nothing more than what of right belonged to the lowest and most confined jurisdiction. Of all their privileges, none was more important than that of preserving their authority from those contumelious and licentious calumnies which had a tendency to shake their dignity by lowering their estimation; attacks, no matter how embodied, or from what quarter directed, whether from a mob out of doors, or one of their own Members from within, the privileges of that House were equally competent to resist and punish whatever form it assumed, whether a libel or a personal breach of the peace; it was in either case not the less a breach of privilege, and as such, subject to the undisputed cognizance of that House.

With respect, then, to the Hon. Baronet, he would say, that as to the course he had taken up, it appeared to him to be an hopeless one, at least, he might be allowed to say, that the reasoning upon which it had been founded, did not appear

appear to him calculated to impress conviction upon them who heard it; the arrangement was bad, and the management of that argument was worse; the question, in fact, had often been agitated; it had been the subject of many pamphlets in the time of Wilkes. In the year 1701, and on the Question involving the Legal Jurisdiction of the House of Lords in the case of Ashby and White, all the sources furnished ample matter to the Hon. Baronet, and he might have borrowed with more selection than he had done. Indeed the pamphlet of the Hon. Baronet, teemed with evidence of dull clumsy, ill-digested plagiarism, old and exploded doctrines revived without even their original strength, and put so badly, as if they were either wholly misunderstood, or stupidly misapplied, and this naturally brought him to the consideration of the importance of the pamphlet in question. He could not help thinking it (whatever it was meant to be) a very harmless production, and he could have wished that the zeal of the Hon. Gentleman (Mr. Lethbridge) had been better tempered. If the notice of that House had not been forced to that pamphlet, it would have died the death of the nonsense that had gone before it. While, however, he acknowledged the pamphlet to be any thing but mischievous, he could not help observing upon the gross want of candour that distinguished most of its quotations and mis-statements. In the motto, the opinion of Judge Blackstone was given at large upon the right of personal liberty, from the third book of his Commentaries. Now it was unfortunate for the Hon. Baronet's quotation, that Blackstone was himself one of the Judges, who remanded the Lord Mayor of London, Crosby; and as to the candour, the Hon. Baronet could not have been ignorant, that, in the same work, the King's Bench is stated to have the power of bailing all persons committed on a charge of certain offences, save those committed by either House of Parliament. Another instance of the candour of the Honourable Baronet was, his putting into what he called his argument so many things that had not been uttered by him in that House; thereby wishing to make the House an instrument of its own disgrace, in tacitly succumbing to the avowal of such doctrines.—Again, he lays it down in another part of this pamphlet, with equal candour—

“We may reasonably conclude, that all the Privileges the House of Commons then thought itself intitled to, were enumerated on the 1st of June, 1621, as Sir Edward Coke, so well acquainted with, and then contending for them against the undue prerogative of the Crown, claimed no more.”

more." But the fact was, that the House then, as in all other cases, was employed in vindicating not the whole detail of their privileges, but in the individual right of the privilege in question. The pamphlet was, he repeated, deserving only of contempt, and he had no apprehensions as to any effect it could have upon the sound good sense of the people of England; at the same time, the privileges of that House could never suffer from discussion—the more they were discussed, the firmer they would stand. What the House meant to do, he was at a loss to know. The pamphlet appeared to him to be an awkward compilation of very bad arguments in very bad language; and he must again repeat his wish that such a work had been left to its own fate. He could not extol the wisdom or the prudence of the Hon. Gentleman (Mr. Lethbridge,) in visiting it with a character of importance so foreign to its own merits. He would advise that Hon. Gentleman, the next time he felt his zeal prompting him so hastily, to pause a little to consider the ulterior consequences a first step in such matters may lead to. He would advise that Gentleman, before he took a similar proceeding in future, to consult with others whose experience might be found to equal his own, and whose counsel might prove no unworthy accession to the native resources of his own practical wisdom. (*Hear! Hear!*)

Lord FOLKESTONE expressed himself to be the more desirous to follow the Learned Gentleman, because, though a Gentleman of so grave authority, he found himself compelled to say, that he differed from him widely, both with respect to the paper itself and the question of the right of the House, of which the paper complained of treated. The Hon. Gentleman who brought forward the motion had abstained from stating what were his views of the subject. In this respect he had left the question entirely open to conjecture of every kind. He had not failed, however, to inform the House, how much he had been alarmed by the speech of the Hon. Baronet (Sir F. Burdett,) and how anxious he felt to see a check given to the practices in which that Hon. Baronet had been in the habit of indulging. Such an effect, indeed, had the speech of his Hon. Friend, the Worthy Baronet, had on the Hon. Mover, that, as he himself expressed it, "His hair stood on end."—This conduct of the Hon. Mover had been attended with disagreeable effects; for, from this circumstance, being in utter ignorance of the ideas of the Hon. Mover, every Gentleman had taken an opposite view of the matter. Some complained of one expression, others of another. The Hon. and

and Learned Gentleman who had just sat down accused his Hon. Friend of inaccuracy, but principally of bad taste. The motion of the Hon. Mover went to this, that the publication of the Worthy Baronet was a scandalous and libellous paper. The Learned Gentleman, however, had taken no steps to prove that the publication was scandalous or libellous; he only shewed, that it partook of bad taste, and, while he censured its bad taste, he admitted, that it could do no harm. The Learned and Hon. Gentleman also accused his Hon. Friend of want of candour, and for proof of it, referred to the quotation on the title page. This might have proceeded from inaccuracy; but supposing that not to have been the case, still want of candour could be no ground for complaining to that House. The Right Hon. and Learned Baronet, however, before he accused his Honourable Friend (Sir F. Burdett) of want of candour, should be certain that he had acted with complete candour himself. He had referred to the Resolutions of the House, in the year 1621, in which the Privileges of the House were enumerated, and in the giving of which he accused his Hon. Friend (Sir F. Burdett) of having made an omission, whereas, in fact, the Resolutions referred to by the Right Hon. and Learned Gentleman were those of December 1621, and his Hon. Friend (Sir F. Burdett) referred to those of June 1621, drawn up, as was supposed, by Lord Coke. Another Hon. and Learned Gentleman, the other day, had complained of the publication in question in as far as it presumed to doubt of the legality of the Speaker's warrant, in the case of Mr. Gale Jones; and he wished the House to advert to that pamphlet, which contains the following passage:

"The Speaker issues a Warrant of Commitment illegal in the gloss, and in all its ingredients—no lawful authority—no lawful cause—no lawful conclusion—and wanting that essential stamp of law, a Seal of Office. That the public may exercise its own judgement, however, the Warrant is here set forth."

"Mercurii, 21^o die Februarii, 1810."

"Whereas the House of Commons hath this day *adjudged*, that John Gale Jones, having written and caused to be printed a certain Paper containing *libellous* reflections, on the character and conduct of the said House and of some of the Members thereof, is thereby *guilty* of a high breach of the Privileges of the said House. And, whereas the said House hath thereupon *ordered*, That the said John Gale Jones be for his said offence

(30)

offence committed to his Majesty's Gaol of Newgate: These are therefore to require you, the Keeper of his Majesty's Gaol of Newgate, to receive into your custody the body of the said John Gale Jones, and him safely to keep in your custody, during the pleasure of the said House; for which this shall be your sufficient Warrant—Given under my Hand the 21st day of February, 1810.

CHARLES ABBOT, Speaker."

To the Keeper of his Majesty's
Gaol of Newgate.

The jet of his Hon. Friend's (Sir F. Burdett) argument, however, was fair on this point; and if he could question the validity of such a warrant at all, was exactly such as he must be supposed to have used. Before Gentlemen pronounced the Worthy Baronet guilty of so serious an offence as that which the motion inferred, on a ground such as this, they were bound to look to the opinions of authors on the subjects of warrants, and to their description of those which bore the marks of being legal or illegal. Hawkins in his Pleas of the Crown, talking of legal warrants, laid it down that four things were necessary in them; as, the hand and seal of the person by whom the warrant was granted; lawful cause for granting it; and, a lawful conclusion. In all of these respects, so far, at least, as they could be seen on the face of the warrant itself, the paper authorising the commitment of Gale Jones was deficient. Was it not, therefore, too much to lay it down that for a person unlearned in the law to hold, agreeably to the opinion of writers on that subject, that such a warrant was illegal, was a gross and scandalous libel? Another Right Hon. and Learned Gentleman had laid great stress on the word "*resist*," as if it was an expression of a most indefensible nature. If Gentlemen took the whole of the paper together, they would, however, find the word "*resist*" uniformly coupled with some words, imparting that nothing but a legal resistance was contemplated. They would see, "*to resist the doctrine*," "*to resist with their voice*," &c. It was impossible, he contended, without giving to the words a forced construction, that any thing improper could be inferred from thence. If the House was in any doubt on this subject, he held in his hand certain declarations of the great Lord Chatham, (who had used expressions much stronger than the Hon. Baronet at a time when the rights of that had been discussed in courts of law,) which must at once convince them how dangerous and unconstitutional it would be

to

(31)

to give such a construction to a term so innocent in itself. In these declarations the Noble Lord expressed a hope, that old as he was, he might see this House, of which he was then a Member, and the country in general, once more united to oppose despotic Ministers; he hoped to see measures fairly disputed; if not, might discord prevail for ever. It was of no consequence, the Noble Lord contended, whether the question was stated as applying to a despotic Minister, or to the House of Commons. When they saw an authority such as this, he presumed to hope the House would be slow, on a word of so slight a meaning, of passing so severe a judgement. There was another thing imputed to his Hon. Friend with equal injustice, as if he wished to represent the Bill of Rights as having been converted into a Bill of Wrongs. This was by no means the fact. The reverse indeed, was the case, as any Gentleman might see who chose to read the passage throughout. The Noble Lord then quoted, "But in order that nothing may be wanting to render truly ludicrous every part of this proceeding, which, inverting the laws of the drama, as well as all other laws, begins with a farce, and ends with a tragedy, the House of Commons imprison Mr. Jones—under the sanction of what law, think ye? The Bill of Rights. Well might Paine call it the Bill of Wrongs, if it could be thus converted into an instrument to oppress and destroy the liberties of the people; those liberties for which it was expressly framed, claimed, demanded, and insisted upon to protect. Mr. Yorke has discovered a new meaning in the Bill of Rights; and, because the Bill of Rights declares that a Member of Parliament cannot be questioned any where out of Parliament for words spoken therein, he has sapiently concluded, that the people are prohibited from exercising their understanding, for the purpose of discussing or censuring the conduct of the Gentlemen who sit in that House," &c. By this any Gentleman would be convinced, that though Mr. Yorke might be entitled to find fault with the passages in question, the House had no right to complain. The Hon. Baronet, so far from reflecting on the House, had gone out of his way to liberate them from any charge on this head. Another passage had been alluded to, in which the Worthy Baronet spoke of the House, as decked out in the trappings of royalty, lording it equally over the King and people. This was an expression, every word of which, at least, the whole substance of which, the Hon. Baronet had used in his speech on other occasions, in that House. He did not mean to say, that this amounted to a justification; it not being an

E 2

excuse

excuse for printing and publishing a speech, that it had actually been made. He declared, however, that, whatever might be attempted in the way of ridicule, he agreed with an Hon. and Learned Gentleman, (Sir S. Romily,) in thinking that the sentence had no meaning; or if it had any meaning, it amounted to this, that the House of Commons were not entitled to assume the power of punishing, where the law did not authorise them; and that where they did assume such power they went beyond the authority of the King and of the Legislature. He believed, that to make this publication scandalous and libellous, it was necessary to shew that it was false, and that it proceeded from a bad intention. As to the falsehood of the charge he had heard nothing, except as to the Speaker's warrant; and as to the bad intention, he imagined it would be difficult to make it out. The Right Hon. and Learned Gentleman, however, had said, that the paper in question reflected on the just rights and privileges of the House. The House, therefore, was called on to determine not only the scandalous and libellous nature of the publication in question, but also on the justice of its rights and privileges. The paper in question, it was to be observed, was one in which the Worthy Baronet proposed to explain to his Constituents, more fully than in the usual method, his sentiments on a particular question. It was well known, that it was the constant and uniform practice of Members to send to their Constituents, daily, weekly, and monthly accounts of their proceedings, particularly so far as the individual Member was himself concerned. In considering this question, the House must take into view that they were called on to pronounce this a libel in the particular circumstances he had mentioned. No person, the Noble Lord presumed, would venture to assert, if one were satisfied that the right did not exist, that he was not entitled to say so. In the first place, however, the question to be considered was, what was a Privilege? The definition of the term seemed to imply, that it was an exemption from the law as applied to others. This clearly implied that such privilege must be distinctly defined. The ancient privileges of the House were, freedom of speech; and freedom from arrest for themselves, and even for their servants, except in cases of treason, felony, or breach of the peace. The Right Hon. Gentleman (Sir J. Anstruther) said, that freedom from libel was necessary, for the Members of the House to enable them to give their minds to the consideration of the subject, which might chance to be before them. It would be giving a wide interpretation indeed, to the pri-

vileges

vileges of the House, however, to contend that they were to be extended to the length now contended for. The Master of the Rolls had stated, that it was necessary the House should have the power of commitment. He did not state, however, that it was necessary they should have this privilege. In former cases they had gone on equally well without any committal. They had done so in the cases of Stockdale and of Reeves. Lord Kenyon had laid it down, that contempt might be committed out of Court, but he had only adduced one instance to this effect, which was the case of an Under-sheriff, who had neglected his duty in putting in force the process of the Court. In the Court of King's Bench, Mr. Bingley, a bookseller, had been brought before Lord Mansfield, charged with publishing libels against the Court, and on his refusal to answer, insisting that he had a right to be tried by his Peers, was committed to prison, where he was detained for two years, still refusing, during the whole of the time, to submit to the jurisdiction of the Court. Finally, he was discharged on the motion of the Attorney General, on the ground that his imprisonment had been of longer duration, probably, than he might have suffered had he received judgement for the offence. This, however, instead of being an argument for, was an aggravation of the offence originally committed, and which had been weekly and daily repeated by Mr. Bingley during the whole of that period. If a contempt, therefore, had in that case been committed in the first instance, it had been aggravated, and the Court had been foiled in the attempt to punish it. In the recent case of Hart and White, printer and proprietor of a Newspaper, called the *Independent Whig*, for a libel against the Court of King's Bench, that Court had not proceeded against them as for contempt, but they had been tried, and were convicted by their Peers. In the same way, on former occasions, that House had not committed Stockdale and Reeves for contempt, but had ordered prosecutions against them. An Honourable Gentleman had said, if the Worthy Baronet denied the right of that House to commit any person not a Member of the House, why did he not object to the committal, during the last Session, of Huxley Sandon? That, however, had no relation to the present case; there then was an obstruction of the proceedings of the House. It was essential that the House should have it in their power to take every step to enforce the exercise of their own privileges as a Court of Inquiry. If, therefore, they had a power to examine witnesses at the bar, it was essential to the due exercise of this right that they should be entitled to enforce compliance

(34)

compliance with it. He contended, however, that the House was entitled to exercise this power only in the removing of obstructions to their own proceedings. At one time it had been assumed as the privilege of that House to imprison a man for a week, a month, a year, or any other indefinite period. Now, however, it was admitted, that no such power existed. It was obvious, therefore, that this could not be meant for punishment. The House could only commit during its own sitting, thereby clearly shewing that the power was conferred solely to prevent the obstruction of their own proceedings. The privileges of that House were to be regulated by Magna Charta and the Law of the Land; as Magna Charta itself bore, the subjects of this country were to be imprisoned only *per judicium parium, vel lege Terre*; that is, by the judgement of his peers, or the law of the land. Even in the reign of Charles the First, there was a direct acknowledgement to this effect, by the three branches of the Legislature, where it is declared that no freeman can be confined or detained in prison. That a writ of Habeas Corpus cannot be denied to any man. And that if any one should be committed without just call, he ought to be delivered up or bailed. This was at a time when the House was assuming to itself great powers, and when it was contending with the Crown as to the power of commitment. The House of Lords too had declared this right on the part of the Commons to be an assumption of power against law. And in the case of Ashby and White, in the year 1704, it had been resolved that neither House had any such power, so far as it was not warranted by Act of Parliament. These Resolutions passed during periods of heat and contention, and when the House had assumed powers which nobody would venture to deny were illegally assumed. On what ground did either House claim this privilege? The House of Lords might assert it in their legal capacity; but that could lay claim to it only as a branch of the legislature. The Crown could do no more than order a prosecution in case of a libel against its privileges: so could that House without resorting to the present extraordinary privilege, without which they would be equally protected with the Crown. It had been said, that this privilege was agreeable to law, and that there were instances of complaints of the kind from the earliest period. This he denied. The first instance of such a complaint was in the case of Hall, in the reign of Elizabeth. It had also been said, that there had been a regular and undisputed custom of committing on such charges. This he also denied. In the case of Crosby and Oliver,

(35)

Oliver, the House had proceeded to commitment, and the Judge had refused them the benefit of the Habeas Corpus, although it was declared to be the right of every man, but this they had done on the ground, that these two persons had been committed for an infringement of the law of Parliament, which was unknown. In the case of Mr. Wilkes, the House had not ventured to commit, for he had resisted their authority. There were only two cases of the kind in which resistance had been made, and in both of these the commitment had been prevented. He noticed the case of Mr. Stowell in 1680, and that of Mr. Wilkes. After which his Lordship adverted to the case of the Kentish petitioners. He begged the House to recollect that the two cases decided by Chief Justice De Grey were determined on this ground, that the law of Parliament was unknown. Lord Shattisbury too, was refused to be released on similar grounds, but from this additional reason also, that he had been guilty of a breach of privilege in *facie curie*, so that his conduct might have amounted to an obstruction. Were the subjects of this country to be tried by a law which was not known? Were they even to become amenable to a Secret Tribunal? If the House had a right to call before them persons not Members of the House, to answer for their conduct, would not such persons in reality become subject to a secret Tribunal? Would they not be deprived of their fair trial by their Peers? become subject to a tribunal not bound down by the solemnity of an oath; and where the privilege of counsel would not be allowed them? The Noble Lord had stated what he conceived to be the law on this subject. He had done so to shew what would be the grievous oppression to which the public must be exposed, if persons, not Members of that House, were liable to be so called on. He hoped the House would recollect that they were called on to determine a question of the most grave consideration, and which was so doubtful in the opinion of a great majority of that House, that they adjourned the consideration of it for a week. The Worthy Baronet had not had the opportunity of hearing the observations against him, or of making any reply to them; he hoped, therefore, the House would come to the consideration of the question not with the feelings of advocates but of Judges. He felt, however, that the House was in a dilemma on the subject, and therefore should move that the other Orders of the Day be now read.

Sir JOHN ANSTRUTHER explained.

Lord BINNING opposed the Amendment, and observed that he could not agree with the Noble Lord in considering the

the point which the house was called on to decide as possessing so much difficulty as to have rendered an adjournment of a week necessary for coming to a decision upon it.

Sir S. ROMILLY observed, that when this question was before under consideration of the House, he felt it to be his duty to impress upon it the necessity of allowing time for the fullest deliberation of so important a subject. Since that period he had given it all the attention within his power; yet after all the consideration that he bestowed on it, he must say, that if it was true, as had been stated by Gentlemen opposite, that he was the only person who entertained doubts; of those doubts he was not ashamed (*bear, bear!*) He had now to congratulate the House upon the disposition that was manifested to meet the discussion with that temper and deliberation suited to its importance. He congratulated it upon the change which had taken place in its tone and feelings upon this question. They had not that night heard of carrying it with acclamation. There was, happily, a cessation to those warm, indignant, and intemperate emotions, under the influence of which many were disposed on the former occasion to precipitate the decision. The result of such a satisfactory change must be, that though the decision to which the House would now come, should be the same decision as it would have pronounced upon the former night, still it was impossible, but that the House must declare its determination, in a manner much more creditable to itself, as well as more calculated to acquire that respect from the people, which, upon every principle, was always to be desired. In taking into its consideration the nature of the publication complained of, the House had two questions to discuss: First, whether it was a libel, and next, whether it was expedient to acquiesce in the Resolutions proposed. For his own part he was free to admit, that he still entertained doubts; first, whether this publication was a libel; and next, that it entrenched upon the privileges of that House. In order fairly to consider the full bearing of the question, it was absolutely necessary to review it, from the very circumstance in which it originated, to the motions now proposed. Such a course was absolutely necessary before they could pronounce against the present publication. The Hon. Baronet who was the author of it had complained of a proceeding of that House against a subject of these realms as, in his opinion, highly illegal. Another Hon. Member of the House, indignant at such complaint, has submitted certain resolutions, declaring the conduct of the Hon. Baronet a gross and scandalous offence. The House, therefore, before it could
pronounce

pronounce upon the present paper, must be aware that it could not, without a strange departure from justice, do so, without considering the nature of the other case, namely, its right to commit Mr. Jones. Whatever impression, therefore, some expressions in the publication of the Hon. Baronet may probably make, if in the main view of the original question, that was, the imprisonment of Mr. Jones, he (Sir Francis) should turn out to be right, surely such a conclusion must have the effect of the mitigating the impropriety of any strong or offensive observations into which in arguing such a serious subject the Hon. Baronet may be led. Upon that original question, namely, the right of this House to commit for libels, reflecting upon its proceedings, he would proceed to state the doubts he entertained of the legality of its exercise. Whatever were its acts—whatever view it interpreted its privileges, he was convinced, that if even it proceeded in error, that error could alone be remedied in that House. The very extent of such a power should advise a scrupulous forbearance in carrying into practice privileges dependent upon dubious grounds for support. With respect to the right of committing for a libel, therefore, it would ill become him, knowing that the House so lately decided differently, to give his opinion without some diffidence. Had not that case been so prominently before him, he would at once say, that he thought the commitment for a libel reflecting upon the past proceedings of that House, was unjustifiable. When, therefore, such an opinion was entertained by any part of that House or of the Country, it was to be recollected that there was at present a person (Mr. Jones) suffering under the exercise of the disputed right, and therefore it became a duty particularly to review the merits of that individual's case. With respect to the head of offence, although he looked with the most inquisitive attention to the publication for which Mr. Jones was committed; he must contend, that in such paper there was not a single expression reflecting upon the conduct and character of that House. It made the conduct of two members of that House the subject of discussion in a debating society; but it could not be construed into a libel against the character of that House.

The *gravamen* of the complaint was for enforcing the Standing Order for exclusion. Such enforcement was the act of the individual and not of the House (*murmurs from the Ministerial Benches*). From the manner of the Gentlemen opposite, he perceived, that they did not concur in his inference. He, however, felt convinced that his observation was justified by the understood practice of that House. He

was fortified in that opinion by the authority of the Chair, when on a recent occasion (the discussion of the bye-law of Lincoln's Inn,) it was communicated to a Right Hon. Friend of his (Mr. Windham,) that the propriety of enforcing it could not become a question of debate. The only point in which the House gave its concurrence or was at all consulted was upon the first day of the Sessions, when it agreed to the Standing Order. But, the succeeding paragraph of the paper fully proved, that in the contemplation of the author, the censure expressed did by no means apply to the House but to the individual Member. That paragraph was as follows:

"Last Monday, after an interesting discussion, it was unanimously decided, that the enforcement of the Standing Orders by shutting out Strangers from the Gallery of the House of Commons, ought to be censured as an insidious and ill-timed attack upon the liberty of the press, as tending to aggravate the discontents of the people, and to render their Representatives objects of jealous suspicion."

Observe, then, how carefully, and in what a jealous manner the opinion which the sentence went to convey, is expressed (*Hear! hear! from the Ministerial Benches*). Why was it so guarded? only to prove that its censure went to affect the individual Members, and was not at all intended to apply to the character or conduct of that House. Moreover, it was evident, that the censure was not levelled at the Order of that House. No such intention could be supposed. The attack was made upon its enforcement at that most particular moment when the public mind was vigilantly directed to the proceedings of Parliament; and as that enforcement could only be the act of an individual, it was impossible to say that in the publication there was a single syllable affecting the character of the House, unless it was attempted to be held that its character was committed with the conduct and character of every individual Member. Though such was his sincere conviction upon that part of the case, he trusted that no person would consider him as in any degree justifying the nature of this attack upon these two Honourable Members (Messrs. Yorke and Windham). He would go further, and state his opinion, that such a publication amounted to a libel against the individuals mentioned, and inasmuch as it imputed by innuendo very improper motives to their conduct. But then, in reverting to the warrant under which Mr. Jones was confined, it would be found, that though one branch of his offence was stated to consist in libelling the conduct and character of particular Members,

Members, still it was not specified that it was for conduct pursued by them within that House. Next, with respect to the remedy which a person so committed possessed. Although it was true, as in the case of Alderman Crosby, that the Courts below would not interfere, upon the ground that they knew nothing about the privileges of Parliament; yet, if such was specified in the warrant of commitment, what those privileges were, and in what their alleged violation consisted, was it not reasonable to presume that the individual might be relieved by Habeas Corpus? Suppose, for instance, that a man was committed by the House for saying, that Bank notes had depreciated in value, and that they had chosen to declare it a breach of privilege. Would it be maintained that such a person would not be relieved by Habeas Corpus. Indeed, from every view which he was able to take of the question, he could not restrict himself to say, that he merely doubted, but must avow that he entertained very strong doubts of the power of that House to commit for libels affecting its past proceedings. He, at the same time, fully admitted that such a right was possessed by them, in order to punish all breaches of privilege which went to obstruct the performance of their many sacred and important duties. Such obstructions must not operate in an indirect way, they must at once tend to produce that with which they were charged. There were numerous cases where the authority of the House would be debarred, unless it had the power to prevent these direct impediments to the exercise of its duties. Such were the refusal of witnesses to attend, or answer interrogatories put to them. Such were all attempts to intimidate Members in the votes they should give. Unless the House had in such cases the power of proceeding by the summary way of commitment for contempt, there could be no unbiassed decision. The power of commitment for censuring was far different in its nature and consequences. It was in contradiction to the most sacred and important principles of positive law. It confounded in the same tribunal the discordant characters of party, accuser, and judge. It deprived the accused of that which every legal jurisdiction secured to him, the power of being heard in his own defence (*hear! hear!*). It went to decide upon the conduct of the accused without suffering him to state his own construction, and in his absence, the judges who were to decide, were each engaged in putting an aggravated interpretation upon his meaning. He who must best know what he himself meant, was refused to be heard, and the construction of those who were ignorant of his motives and

meaning was to be substituted. Was there, he would ask, one judge in the courts below who would deny to an individual thus situated the right of being heard in his own defence, or in the denial of such a right would venture to adopt his own construction of the conduct of the accused? Let the House pause, and reflect upon the course it was now adopting! Let it recollect that it was proceeding against the Honourable Baronet without having examined a single witness, without the power of examining upon oath, as Judges of the law and of the fact, and without that power of appeal being allowed, which the accused in all the ordinary Courts of Justice possess. [*Hear, hear!*] But even, allowing that in very extraordinary cases this power should be vested in the House of Commons, still he would contend that where the necessity ceased, there the privilege ceased also. In the case of Mr. Alderman Crosby, what was the language of Chief Justice De Grey? He argued that such a power was legal because it was necessary. Was it not then strictly justifiable in him to assume the converse of that proposition; namely, that when it is not necessary according to the interpretation of that Judge it was not legal? Where then was the necessity for putting into practice a disputed privilege for an alleged offence, cognizable by the Courts of Law? A Right Honourable Gentleman on the former night of this discussion, had stated that the powers of that House were not to be circumscribed by the exact and artificial rules of evidence, observed in Courts of subordinate jurisdiction. The rules upon which he (Sir Samuel) conceived that House were bound to regulate their decisions, were comprehended within no such definition. They were rules above them and all Courts whatsoever, by which from the fallibility of human nature all its tribunals should be governed.—The being that had the power to dispense with them was far above us, uninfluenced by the prejudices of human passions, or the wanderings of human reason.

It was often repeated by the Gentlemen opposite, that for the exercise of this privilege the precedents upon our Journals were innumerable. He would be glad to know where they were to be found, in order to ascertain the analogy. The first case in which this privilege of committing for libels upon past proceedings, and which the Chancellor of the Exchequer had cited as a precedent during the former debate, took place, in the year 1580, against Arthur Hall. It was indeed rather extraordinary to refer to such a period for precedents, and not less to fix upon that particular case. One should have thought, that the reigns of the Tudors were

were not the times best calculated to illustrate the sacred security in which our ancestors had held the privileges of Parliament, and the liberties of the people. (*Hear, hear!*) One should have supposed at least, that those, now so tenacious of the privileges of that House, would be slow in referring to the reign of a Monarch who told the House of Commons not to trouble itself with matters of State, and who upon another occasion dispatched a messenger to that House, commanding it not to proceed further in a public transaction, in which it was engaged. He reverted to the case of Hall, sentenced to an imprisonment for six months, fined 600 marks, and was to undergo a further undefined imprisonment, unless he should make such a retraction as suited the taste of his Majesty's Chancellor of the Exchequer, Comptroller of the Household, and the two Secretaries of State. If the existence of precedents was all that was wanted, he could refer them to many—to cases where the House of Commons had adjudged persons for a breach of its privileges to hard labour in jails, to imprisonment for life, and to the case of two men, who were placed upon the same horse, with their faces towards the tail, thus exhibited to the derision and contempt of the populace. Still there was no analogy in the breaches of privilege thus punished and in the case of libel. Indeed, there was the authority of Mr. Hatsell, that from the period of Hall until the time of the Long Parliament, an interval of sixty years, this privilege against libel was not called into practice. And it was most mistaken language to call these cases precedents, in the legal signification in which that term was understood. They were no such—they were the mere exercises of authority, and not the solemn decisions of a judicial tribunal, upon a case fully and temperately argued and decided upon. He knew very well that in the year 1659 in the struggles between that House and the House of Lords, Resolutions of a strong nature were adopted by the former; but surely it was not upon a Resolution of that House they would proceed to invade the liberty of the subject.

The Learned Gentleman next proceeded to the modern cases of Crosby and Flower. He contended, that they were no authorities for the present case. In the former there was no publication, and it of course decided nothing. In the case of the King versus Flower, for a libel on the Bishop of Llandaff, published in the *Cambridge Intelligencer*, where the House of Lords had committed Flower, the case was solemnly argued in the Court of King's Bench, when one of the most learned lawyers who graced the profession to which he

he had the honour to belong (Mr. Hargrave) expressed considerable doubt, whether the House of Lords had the power to commit in that case; and the judgement of the Court decided nothing. For these reasons he confessed he had very considerable doubt, whether the house had the power so exercised; and thought it would be very dangerous for that house to persevere in such a practice in cases where just censure might creep into libel; he was, therefore, much inclined to move the discharge of Mr. Gale Jones, without making that submission to the house which was customary, because he could not learn that by any proceedings in any Court of Justice, a man was compelled to recant opinions he had once adopted. Upon the same grounds, he expressed his doubt whether the letter of Sir F. Burdett could be construed into a libel upon this house; and if it was so, the house itself had set the example, for, in a remonstrance sent from this House to the Peers, upon their Lordships' committing some persons to prison, the Commons had used much stronger language in expressing their opinion. He, therefore, advised that the House should not be inclined to extend the exercise of this prerogative too far; every fresh commitment only made fresh disciples; and of all times, he thought the present a period when such a subject ought not to be too much discussed. He concluded by observing that he would vote for the Order of the Day.

Mr. STEPHEN listened with particular attention to the very eloquent speech of his Hon. and Learned Friend, in the hope that he would give him some information upon what was left in doubt by the Noble Lord (Folkestone), namely, what was the boundary of the privileges of that House; but this was left still where it was, and he had not received the information which he had expected. He also thought he should have heard from his Learned Friend a positive opinion whether this letter of the Hon. Baronet was a libel or not; but here also he was left in the dark, and had not heard any opinion, negatively or affirmatively, only that the House had gone too far in committing Mr. Jones. He should have hoped that his Learned Friend would have followed up his opinion with a motion for an address to his Majesty to discharge Mr. Jones, and even grant him a compensation for injury sustained from the improper and improvident act of that House in the exercise of its known rights and privileges. The argument of his Hon. and Learned Friend had left the present case exactly where it originally was, resting solely upon his own assertions, without any other authority; for upon all the cases cited by him, the question was not upon cases of libel, but

of contempt. Having cited the authorities of Lord Coke and Mr. Justice Blackstone in support of the privileges of the House of Commons, he insisted that, were the arguments of his Hon. and Learned Friend to prevail, they would lead to this conclusion, that it would leave the House open to be trampled upon by all those who should think proper to calumniate the House, or any of its members, without any other remedy than begging of a Court of Law to give them that redress which they were capable of providing for themselves. Mr. Stephen proceeded to observe, upon the unfair treatment which he thought the Hon. Gentleman who brought forward this business had met with from the Gentlemen opposite. It had first been laid to his charge, that he had been guilty of the offence of consulting with the Minister. When the Hon. Gentleman denied this, then the charge was turned upon the seconder; and when he too denied it, then the Hon. Gentleman was arraigned for not having consulted persons of experience before he brought a matter of such importance to the notice of the House. The affair, however, was now before them, and they must proceed upon it, however inconvenient that might be. They could not pass it over without exposing themselves to be trampled upon and despised altogether. Mr. Stephen then denied that Magna Charta was disregarded by those who contended for power in the House, because it did not apply to cases of contempt. The House, he asserted, was acting with lenity, because the publication had found its way into various newspapers, and was industriously circulated. He said, if the House should consent to pass over this affair to night, they might justly be considered as having renounced the whole power of commitment in future.

Mr. ADAM said, that it was by its privileges alone that the House of Commons, the guardians of the public liberty, had been able successfully to struggle against the assumptions and acts of tyranny of James the First, Charles the First, and Charles the Second. That House was armed with nothing but its privileges when it contended with Charles the First, and when, through blood and war, it resisted royal encroachments. Although Lord Chief Justice Holt was very singular in some of his opinions on this subject, yet he never had denied the right of the Commons to commit for contempt. The Hon. and Learned Member then referred to a letter of Mr. Fox, to shew, that though the House of Lords, like every other Court of Justice, had the power to protect its proceedings by commitment, yet the House of Commons had a right to commit for contempt. This authority he considered as
conclusive

conclusive as to the privilege of the House of Commons. He was disposed to pass over the case of Gale Jones, in this instance, without any observation; but he could not but contend, that if the House of Commons could be libelled collectively, it could not be libelled individually without injury. He should call Gentlemen to consider the whole of the case. Was it consistent with their privileges, that Sir Francis Burdett should state to the public, that they had no right to imprison persons not Members of the House? Another ground of complaint which he felt against the Hon. Baronet, was the doctrine which he maintained respecting the Speaker's warrant. Were they to be told, that, because it was not granted upon oath, nor with a seal annexed, the warrant of the Speaker was not founded upon any legitimate authority? The authority of the Speaker's warrant, he contended, was supported on the practice of the Constitution.

Mr. WILKES hoped for the attention of the House to a few observations, and was happy to bear his testimony to the legal and constitutional sentiments delivered by his Hon. and Learned Friend who had just sat down. But great as was his respect for that Hon. Gentleman, and unlimited as his reverence and love for the authority of Mr. Fox which he had quoted, he must still be allowed to say, that he had not been convinced by the arguments of his Hon. and Learned Friend. Had it ever been contended that the House was to abandon its privileges? No. Whatever might be the wish of any member as to the reform of these privileges, no man deemed them of more value than himself; no man thought more highly of them. He considered any breach of the just and legitimate privileges of that House, as a direct assault upon the liberties of the country; and consequently, he was not to be told, that in order to support the privileges of that House, they were called upon to condemn the letter of Sir Francis Burdett. His Hon. and Learned Friend had expressed some doubts as to the propriety of the commitment of Mr. Gale Jones, and thought that case ought to have been considered with some latitude. Whatever might be the weight attributed to Mr. Justice Blackstone's authority, no man could have higher claims to attention for constitutional doctrine than Mr. Hargrave. He must again repeat that their privileges had been given with a view to the benefit of the people, and should never be exercised but for the purpose of promoting that end. And here he felt bound to state the difficulty arising out of the case of Gale Jones. They might have proceeded against him in a far different way, though they had thought proper to commit him. The libel of Mr. Reeves, which had been alluded

alluded to by an Hon. Friend of his, had been voted by that House most libellous and slanderous, and though one Gentleman proposed he should be taken into custody, and another that his libel should be burned by the common hangman; yet whilst two of the ablest men that ever existed were present, the case was referred to the Attorney General to prosecute, and the consequence was, that the individual was acquitted. Nothing could induce him to vote that the paper under consideration was a libel. He begged of the House to consider the steps by which the business had proceeded. It had been said that he had not voted that Gale Jones was not guilty of a breach of Privileges, and he took shame to himself that he had not asserted on that occasion what he now felt to be right. In the paper under discussion, Sir Francis Burdett only exercised a right which belonged to him and others, to state his opinion upon a public subject. That he may have done so in intemperate language, he was not prepared to deny; but Mr. G. Jones had conducted himself at the bar respectfully and with decorum. He coincided with the Right Hon. Gentleman (the Master of the Rolls), and others who cautioned the House against getting into difficulties whence it could not easily extricate itself. Much stronger language had been used in the case of Mr. Wilkes, and by Mr. Burke. (*Here the Hon. Member read some extracts from Mr. Burke's Works, in proof of his assertion.*) In order to shew that the language of Sir Francis Burdett's paper was not libellous, he referred to a pamphlet published by Mr. Burke, in the time of Wilkes, called "Thoughts on the Discontents of the Nation." In that work it was broadly asserted, that the people should exercise a vigilant superintendance over the administration of public affairs; and that, in certain cases, there was no remedy for grievances to be expected but for the interference of the great body of the people. Had any thing so strong as that been stated by the Hon. Baronet?—No:—he only called upon the people to express by their voices what they felt upon the present situation of affairs.—Was there any thing in the production of the Hon. Baronet to be compared with what had been published by that great man, Mr. Burke? If they were but to look at both, they would be sensible how feeble that language which had been brought under the consideration of the House was, compared with that which had never been questioned any where. And here he must be allowed to observe, that he held in contempt all fears that would prevent him from doing his duty, and voting conscientiously. His only apprehension was, the degradation that might be brought upon the House of Commons. The paper,

G

he

he was of opinion ought not have been noticed, and though noticed was not such as to call for reprehension. He agreed with the Master of the Rolls, that it was a question of magnitude, but did not think that any harsh or hasty proceeding was to be taken upon it. Neither the Hon. Baronet who had spoken early in the debate, nor his Hon. and Learned Friend (Mr. Adam) had convinced him by their arguments that any serious or severe notice ought to be taken of this case. His Learned Friend (Sir S. Romilly) had never asserted that that House had not the power of removing nuisances, but that such power should never be used but upon a necessity. It would certainly be a most strange mode of arguing, to contend that the placards displayed in the streets, by Mr. Jones could have the effect of interrupting the proceedings in that House. But it might be said, that as they had committed Mr. Gale Jones to custody, they ought also to commit Sir Francis Burdett. This he denied. It was his opinion, that unless they should agree to the proposition of his Noble Friend, they should vote the adjournment of the discussion for some months, so as to get rid of it altogether. For his own part, upon the best consideration he could give the subject, he did not perceive the smallest matter that was libellous. As to the allusion to the means by which that House was assembled, he could see literally nothing improper in that: sure he was that it would puzzle the Hon. Baronet to point out how *the Member for Trealee* (Mr. Stephen) came to have a seat in that House. The true course of that House to pursue, was not to arrogate more privileges than it was entitled to, or by constant usage enjoyed.—Mr. Whitbread deprecated coming to a decision on the case at present, when men were heated by political fury, and, above all he protested against complying with any part of Sir F. Burdett's conduct with the paper on the table. The Hon. Baronet should be judged by that alone. He thought the best thing the House could do, under the embarrassment of this question, would be to postpone the consideration of it to a period when it could not become the subject of farther discussion; and that Mr. Gale Jones, who had already made atonement enough, should be liberated.

Mr. CANNING said the House had obtained all the advantages of delay in the discussion of the question before them. It had been said, that the offence of the worthy Baronet was a metaphor, but the House on former occasions had taken notice of such metaphors. He admitted Sir Francis Burdett to be a man of integrity, and of extraordinary talent, but he could not acquit him of blame in the publication of the libel before the House.

Mr.

Mr. PONSONBY thought it was impossible to conclude that the conduct of Sir Francis Burdett was entirely guiltless; he, however, thought there could not be animosity against the worthy Baronet, who had always proved himself to be a man of extraordinary talents, and on many occasions his efforts had been directed to the good of the country. He was impressed with a belief that the letter *was not a libel*. Some latitude ought to be allowed to a public statement of a political question, and he did not think the worthy Baronet had committed any offence to call for the severity of the House. He had heard a rumour that Sir Francis Burdett was to be committed to the Tower, and if such a motion was made he should oppose it with all the strength of argument he possessed. He thought that the House would lessen its dignity by severe proceedings.

Mr. PERCEVAL thought it due justice and to the dignity of the House, to punish one of the grossest attacks ever made upon its character and privileges.

Mr. GRATTAN spoke strongly against the Resolutions.

Lord JOCELYN supported the original motion.

Lord W. RUSSEL preferred a middle course between the Resolutions and so severe a punishment as would probably follow.

General MATTHEW declared, that he fully coincided not only with every expressions in the publication complained of, but in the whole political conduct of his Hon. Friend (Burdett). If there was any observation to which he gave concurrence with more sincerity than another, it was that that House had not a leg to stand upon.

Lord MILTON did not think the matter, but the manner of the paper libellous.

Mr. Bland, Mr. Hutchinson, Sir John Newport, Mr. Curwen, Lord George Grenville, Mr. Foley, Lord Porchester, and Mr. Lockhart, declared their intention of voting against the Resolutions.

Mr. SHERIDAN demanded to know who the man was in that House who would move for the ulterior measure of sending the Hon. Baronet to the Tower? He left it to the original Mover of these Resolutions to reconcile to the feelings of public spirit his conduct upon that occasion. He had leagued himself to the Treasury, and become a stepping-stone in this work of persecution against that respected character.

Sir ROBERT SALUSBURY said, that he was the man who would move the ulterior measure.

Mr. Wynne, Mr. Smith, Mr. Boyle, Captain Parker, the Attorney General, spoke in favour of the Resolutions.

Mr. W. WELLESLEY POLE stated, that if the House did

not correct him, it would appear that it was intimidated, by what was passing out of doors. He had himself been insulted in his progress to the House, by cries of "Burdett for ever."

Mr. WILBERFORCE spoke also in favour of the Resolutions.

A Division took place upon Lord Folkstone's Amendment, Ayes 80—Against it 271—Majority 191.—The two Resolutions proposed by Mr. Lethbridge were carried without a division.

Upon the motion, as we understand, of Sir R. Salusbury, that Sir F. Burdett should be committed to the Tower, a debate of some length took place, during which strangers were excluded. To this motion, an Amendment was proposed by Mr. Adam, that the Hon. Baronet should be reprimanded in his place.—The House having divided the numbers were—For the Amendment 152—For the Original Motion 189—Majority, for Sir Francis Burdett's Committal 37.

Adjourned at half past seven.

Monday, April 9.

The SPEAKER had to acquaint the House as to the matter of the commitment of Sir Francis Burdett. On Friday last, he (the Speaker) signed the warrant for his (Sir F. Burdett's) committal, at half past eight in the morning, which he gave to the Serjeant, ordering him not to defer the execution of it beyond 10 o'clock of the day. What followed, the Serjeant would report to the House; but before the Serjeant was called to the Bar to give his report, it was proper for him to inform them that late in the evening of Friday he had received a letter from Sir Francis Burdett, which the Hon. Baronet wished him to read to the House. This he would accordingly do, if it was pleasure that it should be read. ["Read! read!" from various quarters.]

Mr. FREEMANTLE thought, that the Speaker should state to the House the hour at which it had been received.

The SPEAKER said he had already stated that he had received it late in the evening of Friday. He had taken notes of the whole of the occurrence to which it related from hour to hour. The letter was left for him at ten o'clock on Friday night, by two Gentlemen, who said they waited an answer, to which he (the Speaker) replied there was no answer.

The letter was then read, by the Speaker, as follows.

Sir.—When I was returned, in due form by the Electors of Westminster, they imagined they had chosen me as their trustee in the House of Commons to maintain the laws and liberties of the land. Having accepted that trust, I never will betray it.

"I have

"I have also, as a dutiful subject, taken an oath of allegiance to the King to obey his laws, and I never will consent, by any act of mine, to obey any set of men, who, contrary to those laws, shall, under any pretence whatsoever, assume the power of the King.

"Power and Privilege are not the same thing, and ought not at any time to be confounded together. Privilege is an exemption from power, and was by law secured to the third branch of the legislature, in order to protect them that they might safely protect the people; not to give them power to destroy the people.

"Your warrant, Sir, I believe you know to be illegal. I know it to be so. To superior force I must submit. I will not and dare not incur the danger of continuing voluntarily to make one of any association or set of men who shall assume illegally the whole power of the realm, and who have no more right to take myself or any one of my constituents by force, than I or they possess to take any of those who are guilty of this usurpation, and I would condescend to accept of the meanest office that would vacate my seat, being more desirous of getting out of my present association than other men may be desirous of getting profitably into it.

"Sir, this is not a letter in answer to a Vote of Thanks; it is an answer to a Vote of a very different kind. I know not what to call it; but since you have begun this correspondence with me, I must beg you to read this my answer to those under whose orders you have commenced it. I remain, Sir,

Your most obedient humble Servant,
FRANCIS BURDETT.

Having finished the letter, the SPEAKER said, it remained for the House to decide whether or not it should lie on the table.

The CHANCELLOR of the EXCHEQUER thought it would not be well to pass by the letter, but it would not be proper to take it into consideration at that time, he therefore moved that the Debate on the subject should be adjourned till to-morrow.

The motion for an adjournment of the Debate was carried.

The SPEAKER conceived that to be a convenient time for receiving the report of the Serjeant at Arms.

The Serjeant was called to the Bar.

The SPEAKER—"Serjeant, you are directed to report to the House the circumstances attending the execution of the warrant for the commitment of Sir Francis Burdett to the Tower, delivered to you on Friday morning."

The SERJEANT then stated, that he had gone to Sir Francis Burdett's house on Friday morning with two messengers, when he was told by a servant, that Sir Francis Burdett was not at home; he then went to his own house and wrote a letter to Sir Francis Burdett, telling him, that he had called on him to apprehend him and convey him to the Tower

Tower

Tower in execution of a warrant from the Speaker of the House of Commons for that purpose. He stated to Sir Francis, at the same time, that he wished to consult his convenience as much as lay in his power. This he had sent by Mr. Clementson, the deputy-serjeant, desiring him again to ask if Sir Francis Burdett was at home. At four o'clock on Friday afternoon he was told at the House of Commons, that Sir F. Burdett had returned. He then went to Sir Francis Burdett's house, and saw Sir Francis, who told him that he would be ready to receive him at eleven o'clock to-morrow (Saturday) morning. He left him at that time with the impression that Sir Francis would go with him to the Tower peaceably at the time stated. He had assented to this delay, because he had the Speaker's directions to conduct himself to Sir Francis Burdett with that delicacy consistent with the due discharge of his duty, and because he himself wished to shew every possible respect to a Member of Parliament. Indeed, though he had attempted to execute the warrant that night, it would not have been in his power to succeed, as there was a large mob at the door, and he had not at that time the requisite assistance, conceiving that Sir Francis would have obeyed without any resistance.—From Sir Francis Burdett's house he went to the Speaker, and acquainted him with what passed, stating that it had been arranged that Sir Francis was to go with him at eleven the next day to the Tower. The Speaker advised him to execute his warrant immediately, and to apply at the Secretary of State's Office, where he was detained some time. He next called at Sir Francis Burdett's house, stated to him that he was under the necessity of executing his warrant at an earlier hour than that which had been mentioned, and shewed him the warrant, which he read. Sir Francis then said, that he disputed the legality of the warrant, and that nothing short of actual force would make him accompany the Serjeant, and that he was resolved to resist as far as was in his power. Sir Francis stated at the same time, that he had written to the Speaker on the illegality of the warrant. He (the Serjeant) then went to the Secretary of State's Office to make arrangements as to the force which would be required to enable him to execute the warrant. Considering, however, the lateness of the hour, it being then about nine o'clock, and no arrangement having been made with the Lord Mayor for a force to accompany him, when he should have entered the confines of the City, he determined to put off the execution of the warrant till half past six on the following morning (Saturday). In the mean time he applied himself to the arrangement of the necessary force at the Secretary of State's Office, and sent Mr. Clementson to the Lord Mayor for the same purpose. At

At half past six on Saturday morning, he went to Sir Francis Burdett's house, and was told at the door that he was not at home, and that the servant did not know when he would return.—Conceiving that Sir Francis had gone to Wimbledon, he set off for that place, leaving a Messenger in Sir Francis Burdett's hall. At Wimbledon he was told that Sir Francis was not there. He then went to his own house and staid there a short time. He was told in the course of the day that Sir Francis had been seen in the street. He proceeded to his house and found the door a little open, but with a chain across. A servant told him that he could not come in there, and immediately shut the door against him. On the morning of the following day, which was Sunday, about seven o'clock, he went again to the house with the Police-officers, knocked several times, but could gain no admittance, and withdrew. Mr. Clementson and himself, by turns, continued near during the rest of the day and night, leaving Messengers to watch the approaches to Sir Francis's house. On Saturday having some doubts how far he was warranted in making a forcible entry into the house, he sent to the Attorney General for his opinion on that point. On that opinion he had acted this morning. He had arranged with the Secretary of State that a civil and military force should attend him. He went to the house that morning at ten o'clock with the police-officers, and a detachment of cavalry and infantry. He forced an entrance into the house with the police-officers, and proceeded to the room where Sir Francis was. He told him that he must go with him immediately, and that resistance was quite useless. Sir Francis asked him to shew him his warrant, and he told him that he arrested him in virtue of the warrant which he had before seen and read. Sir Francis then got into the carriage which had been provided for the purpose, and he delivered him to the Lieutenant of the Tower. If it should appear that he had erred or had been remiss in the execution of his duty, he trusted the House would give him credit for having acted from the best motives. It would be considered that the case was wholly unprecedented, and that he had acted from that respect and delicacy which he thought it became him to feel for a Member of Parliament.—When Sir Francis told him that he would be ready to receive him at eleven o'clock on Saturday morning, he certainly understood that he intended to go with him without making any resistance.

Sir J. NEWPORT wished the opinion of the Attorney General to be laid before the House.

Mr. WATTS wished to ask the Serjeant a few questions.

The

The SPEAKER said the regular course would be to have the Report read by the short-hand writer, that deficiencies might be corrected.

The Report was then read.

Mr. Colman remarked, that he had omitted to state that Sir Francis had come into the house while the Messenger was in the hall, and that the Messenger served the warrant. The Messenger wished to remain in the house, but being told that he must go out, and not having any assistance near, he had departed.

Questions put to the Serjeant by Mr. WHITBREAD :

Q. At what hour on Friday evening did the Serjeant inform the Speaker that Sir F. Burdett intended to resist the warrant?—A. Six o'clock.

Q. Did he communicate personally with the Speaker or by letter?—A. Personally.

Q. Was the House then sitting?—A. Yes.

Q. Where?—A. At the Speaker's Chambers.

Q. When did he first go to the Secretary of State's Office?—A. About six o'clock.

Q. To whom did he apply in consequence of the Speaker's recommendation, to go to the Secretary of State's Office?—A. To Mr. Becket, and two Magistrates who were at the Office. He asked for a civil force, and likewise for an escort of cavalry to guard the carriage, with which the police officers on foot would not be able to keep up.

Q. What answer did Mr. Becket give?—A. He referred me to the Magistrates then present.

Q. Who were they?—A. Mr. Read and Mr. Graham.

Q. Did you see Mr. Ryder?—A. Yes; at the House on Friday.

Q. What passed then?—A. He told me that Mr. Becket was in the House, and referred me to him.

Q. Did you tell him that Sir F. Burdett intended to resist the warrant?—A. No; I had not seen Sir Francis a second time then.

Q. When the Speaker desired you to go to the Secretary of State's Office, did you state that Sir Francis intended to resist?—A. No; I only told him that eleven o'clock next morning was fixed upon as the time for conveying Sir Francis to the Tower.

The SPEAKER said, he had directed the Serjeant to serve the warrant before ten o'clock, and not to wait till mid-day hours. The next intercourse took place while he was sitting at that table (immediately before the House was formed on Friday), when he understood that the Serjeant was preparing to make a report that Sir Francis had been seized. He sent word to the Serjeant not to stop there to make his report, but to proceed to take him to the Tower immediately. He heard nothing further till five o'clock, when the House was sitting in a Committee. The Serjeant wished to speak with him, and he

he went to a private room for that purpose, and his first words were "Where is the receipt of the Lieutenant of the Tower?"

The Serjeant then stated, that he had arranged with Sir Francis that he should go to the Tower at eleven the next day. His answer was, "Possibly you may be sent to the Tower by that time; your business is to execute your warrant—and I would advise you to do it before the dark hours." The next time the Serjeant came to him was the first occasion when any intimation was given him of the intention to resist.

Q. When did the Serjeant go to the Secretary of State's Office?—A. About nine o'clock.

Q. Did he see Mr. Ryder at that time?—A. No.

Q. Who did he see there?—A. The Magistrates and Mr. Becket.

Q. State the substance of what passed?—A. I stated to them that some force would be necessary, in case resistance should be made. He said that it would be proper to have a military force. The answer was, that this would be furnished if it were stated on oath that it was necessary. I said it was necessary in order to attend the carriage.

Q. How long were you in conversation there?—A. Till very late.

Q. Up to what hour?—A. Till twelve o'clock.

Q. Did Mr. Ryder never appear during that time?—A. Never.

Q. Were any other persons present except those you have mentioned?—A. There might, perhaps, be some belonging to the Office.

Q. What passed between the Serjeant and Mr. Ryder at the House on Friday?—A. Nothing, except that Mr. Ryder referred me to Mr. Becket.

Q. Did the Serjeant go to the Office again?—A. I went on Saturday morning to procure an escort of cavalry.

Q. Whom did he see there?—A. Mr. Read.

Q. Did he see Mr. Ryder?—A. No.

Q. When were you summoned, and at what hour did you attend a Privy Council held last night?—A. I was summoned in the evening, and attended, I believe, about ten o'clock.

Q. Had you any conference with any of his Majesty's Ministers, from the time the warrant was given you for execution, up to the time the summons was sent you to attend the Privy Council?—A. I saw Mr. Perceval upon Saturday last.

Q. What conversation took place?—A. Mr. Perceval said—"Well, Mr. Colman, have you executed the warrant?" Witness answered that he had not, as he did not think it justified him in searching.

Q. Was that the substance of your conference?—A. Yes; with the addition that Mr. Perceval advised me to take the opinion of the Attorney General.

Q. Did you take the opinion of the Attorney General accordingly?—A. Yes;

(54)

—A. Yes; I laid the case before the Attorney General on Saturday, and received his answer on Sunday.

Q. Have you that case and opinion?—A. I have the opinion.

The ATTORNEY GENERAL said, that he stated on his first view of the warrant, that it was not of a nature to sanction the apprehension, but to deliver the body to the Lieutenant of the Tower; the amended copy of the warrant, he received late on Saturday night.

Mr. WHITBREAD inquired if it had been the first time the Learned Gentleman had been questioned with respect to the legality of a Warrant signed by the Speaker.

The ATTORNEY GENERAL said he had no objection to answer the question, but he believed it was not a proper one.

Mr. WHITBREAD observed, it was in the power of the House to determine on that subject.

After some observations from Mr. Perceval, it was agreed not to examine any collateral testimony, until the House had ceased the examination of the Serjeant.

The warrant to the Serjeant at Arms was then read, with the opinion of the Attorney General upon the legality of enforcing it. The opinion went to state, that in the case submitted, no instance was stated where the execution of such a warrant took place under the circumstance of the door of the individual's house being broken for the purpose of getting an entrance. He believed there was no such precedent. The case must therefore be considered upon the only principle which could be analogous, namely, the course of proceeding in the execution of warrants, where the King was a party. In such cases it was understood and sanctioned that the persons appointed to execute such warrants might force the outer door; the same privilege in the process was next allowed where subjects were the party. Reasoning upon that analogy, and in the absence of any direct case, he did not see why such a warrant as that directed to the Serjeant should not be executed in the same manner that a criminal process, where the King was the prosecutor, would be carried into effect. It was in that view the present case could only be considered, *there being no direct authority to support its exercise.* It was to be observed, that the fullest notice should be given to the individual whose person was to be seized, of the purport of their coming. He also was of opinion, that the proper Officer might call to his aid, military as well as civil.

The examination of the Serjeant resumed.

Mr. WHITBREAD.—Q. What Members of Administration were present at the Privy Council last night?—A. There were present, Lord Wellesley [*a murmur*], Mr. Perceval, Lords Bathurst, Westmoreland,

(55)

moreland, Harrowby, Liverpool, Camden, Mr. Dundas, Mr. Ryder, and the Attorney General.

Q. What were the nature of the questions put to you at the Council?—A. It was intimated to me that Government was anxious to ascertain what steps I was about to take to execute the warrant; I answered that I was anxious to have a military force sufficient in my opinion to enable me to execute it.

Q. What answer did the Privy Council return?—A. That I should have what I required.

Mr. PERCEVAL next commenced his examination of the Serjeant. Its main drift went to prove, that the Government were ready to afford every aid to execute the warrant, without at all giving any directions for the execution. When the Serjeant applied, as he was directed, to the Magistrates, they communicated to him their doubts of the legality of forcing the outer door. The Serjeant asked Mr. Perceval for his advice relative to the legality of breaking the outer door. Mr. Perceval would give no advice; but stated that whatever doubts might exist as to forcing the outer door, there could not, in his opinion, be any relative to all the interior doors in the house. The Chancellor of the Exchequer further stated, that he, the Serjeant, had the duty to exercise, and that if he had doubts upon the legality of enforcing the warrant, it was his best course to take the opinion of an eminent Lawyer. He recommended the Attorney General.

Sir JOHN ANSTRUTHER put some questions to the Serjeant, from which it appeared, that the first doubt entertained by the Serjeant of the legality of the execution of the Warrant, arose from a conversation at the Secretary of State's Office.

Lord OSSULSTONE.—Q. Suppose you had all the military means, furnished by the Secretary of State, did you not feel the whole responsibility of the execution rest upon yourself, so much, that if resistance had been made, and death, ensued, the Warrant being afterwards found illegal, would you not have considered yourself subject to an indictment for murder?—A. I did certainly conceive myself the responsible person.

In answer to a question from Mr. Adam, the Serjeant stated, that he had, on Sunday, even the Sheriffs of London and Middlesex in front of Sir Francis Burdett's house; and that, after he had shewn them the Warrant, they expressed their readiness to support him, upon the supposition that Sir Francis Burdett came out of his House.

Q. Were you not told at the Secretary of State's Office, on Friday, that through your negligence in the execution of your duty you must be considered as responsible for all the consequences?—A. I think I was told so, and I felt the justice of the observation. I think I said so, or something to that effect.

H 2

Examined

Examined by Mr. STEPHEN.

Q. When you first saw Sir Francis Burdett, had you any reason to suppose that he had any intention to resist the execution of the warrant?—A. No.

Q. Did he then make any objection to the legality of the warrant?—A. His only observations to me were, as as I before stated, that he would write to the Speaker that evening, and that he would be ready to receive me about twelve o'clock upon Saturday.

Q. Did you understand that to be an appointment for going with him to the Tower, and that he so meant it?—A. Yes.

Q. Did you understand that to be the meaning of his answer to your letter also?—A. No doubt.

Q. Did you apprehend any resistance at that time in the execution of your warrant?—A. No, not from Sir Francis Burdett; but from the multitude about I did apprehend resistance.

Q. Was not your expectation of Sir Francis Burdett's compliance with the warrant your reason for not taking him into custody at the time you saw him on Friday?—A. I certainly did expect that he would go with me.

Examined by Sir PETER MURRAY.

Q. Do you recollect the terms of the letter you addressed to Sir Francis Burdett?—A. I believe I do—I can repeat it I think—I have a copy of it at home—It was something to this effect—I apprised Sir Francis Burdett that I had received a warrant from the Speaker for his committal to the Tower, which it being my duty as Serjeant at Arms to execute, I requested to know at what hour I should wait upon him in order to accompany him there.

Q. Have you now the answer in your possession?—A. No; but after thanking me, for what he described as my polite letter; he stated, that he would write to the Speaker that evening, and would be ready to receive me about 12 o'clock upon Saturday.

Q. What precise amount of military force did you conceive necessary, or require to enable you to execute your warrant?—A. My opinion upon this subject at any time must depend upon the state of the town, and the appearance of a disposition to resist me.

Q. What precise number of military did you require at any time, when and to whom did you apply?—A. My first application for military assistance was on Friday afternoon at the Secretary of State's Office.

Q. Did you make any other application for the same purpose, when, and to what amount?—A. Yes; last night I required 300 infantry and 500 cavalry.

Examined by Mr. PERCEVAL.

Q. When you on Friday applied at the Secretary of State's Office, did not Mr. Read tell you that you ought to make arrangements with the Lord Mayor as to an escort through the city?—A. I believe it was upon Friday, and I answered before that I had not then made such an arrangement.

Q. Did not Mr. Read then state to you that without a city Magistrate to attend the military you could not go into the city—that without

without a Magistrate the military would probably refuse to go on, and that therefore a city Magistrate should be provided to act in that character?—A. No; I understood that the objection respecting the military going through the city proceeded from the Lord Mayor.

Q. Did not Mr. Read say, that neither he, or any of the Magistrates connected with him, could attend you into the city?—A. No doubt.

Examined by Sir CHARLES BURRELL.

Q. Did the Sheriffs shew any disposition to impede or to refuse you any assistance in the execution of the warrant?—A. No; they were very civil.

Q. Did you perceive any difference in the conduct of the two Sheriffs—was there any distinction between them as to the offer of assistance, or was any one more ready than the other to assist you?—A. There was a conversation between them as to the manner of executing the warrant—they were at dinner when I saw them. As to any aid for carrying the warrant to effect, there was no difference in their disposition. Indeed, I asked nothing particular of them.

Examined by Sir GEORGE HILL.

Q. I ask you, whether from the conduct of Sir Francis Burdett when you saw him on Friday, coupled with his answer to your note, you did not expect that he would on Saturday go to the Tower with you without any resistance?—A. I thought so certainly.

Here the Serjeant was ordered to withdraw.

Mr. WHITBREAD wished to ask the Attorney General, whether any communication had been had with him? whether he had been consulted upon the subject of the Speaker's warrant, at any time, and by whom, before the case was submitted to him on the part of the Serjeant at Arms?

The ATTORNEY GENERAL said, that he had no objection whatever to answer, if the House desired it. He was, as Attorney General, ordered to attend and consulted by his Majesty's Council, upon Saturday evening, and his advice and his answers to the questions put to him were such as he thought it his duty to give.

Mr. WHITBREAD could see no ground for declining to answer his question as to the nature of the Learned Gentleman's advice.

The SPEAKER observed, that the Learned Gentleman having declined to answer, and deferred to the judgement of the House it would be for the House to decide.

Mr. WHITBREAD thought the question important, therefore pressed it.

The CHANCELLOR of the EXCHEQUER doubted whether the House ought to press this question.

Mr. WHITBREAD observed, that there were numerous precedents for the examination of Privy Counsellors by that House; and he maintained that the interrogatory under discussion

cussion related to a point of such importance as demanded the fullest explanation, particularly respecting the Warrant. When it was recollected that Westminster had been for so many days in a state of tumult and commotion—when some of the King's subjects had been actually slain—and when this was alleged to result in a great measure from Ministers not having done their duty, could it be pretended that such a case did not call for inquiry in every quarter in which information could be had?

Mr. PERCEVAL denied that Ministers put any question to his Learned Friend as to the validity of the Warrant.

Mr. WHITBREAD said, that in mentioning the value of the Warrant, he meant the extent to which it could go—that is, the power of executing it on its boasted omnipotence.

Mr. R. DUNDAS expressed his astonishment at hearing, and from the quarter opposite, that his Majesty's Government should be chargeable with any blame for not interposing their authority, a mandate to direct or controul the conduct of an Officer of that House.

After a few more observations from Mr. Whitbread and the Chancellor of the Exchequer, the latter withdrew his objection to the examination of the Attorney General—and the Learned Gentleman stated in reply to Mr. Whitbread's question, that on Friday morning—on recollection he begged to say, Saturday, he attended the Cabinet Council, and being called upon for his opinion as to the legality of breaking open the outer door of Sir Francis Burdett's house, in order to execute the Speaker's warrant, he requested time to consider it. He felt it to be quite a new question, and being unacquainted with any case to which such a difficulty arose in the mode of executing such a warrant, he had no precedent to refer to, but reasoning from analogy as to other warrants, the tendency of his opinion was, the door ought to be broke open for the purpose of executing this warrant. This impression was the result of the best consideration which he could give to the case, and there he told the Serjeant at Arms that he would be justified in breaking open the door. But at the same time, he stated that he could give no decided opinion; as far, however, as his opinion went, which was grounded not upon authority, but reasoning, he thought the door might be broke open.

Mr. WHITBREAD.—Q. Have you stated all that passed at the Council upon the subject of this warrant?—A. I also stated to the Serjeant at Arms the consequences of so executing the warrant if not justified in law. If a conflict were to ensue from which any death should follow, I observed, that the Serjeant would or would not be justified according as the mode I have described of executing the warrant should be deemed legal or illegal; and I think I also stated,

stated, that if any thing should happen to the Serjeant himself, it must depend upon the legality or illegality of the mode of executing the warrant, whether any person should be criminally responsible for the consequences.

Mr. WHITBREAD observed, that if the House were now in possession of all the information desired upon this subject, he would move to have the Minutes of the Evidence printed.

An Hon. Member moved, that the Messenger who accompanied the Serjeant at Arms to Sir F. Burdett's house on Friday night, should be called in and examined.

Mr. JACOB took occasion to observe, that the inquiry should take a wider range than Gentlemen appeared to have in contemplation. The object of all the interrogatories seemed to be to criminate the Serjeant at Arms, the Ministers, or the Prisoner, and for this purpose only one witness was examined. Nothing had as yet been gone into to affect the criminality of the prisoner, or to expose any of his secret advisers, whether Members of that House or not. (*A loud cry of name, name.*)

Mr. WHITBREAD begged to submit a few observations upon the insinuation of the Hon. Gentleman, which was certainly by no means dark or difficult to be understood. The Hon. Gentleman concluded, he must say, not very liberally, that any private advice given to Sir F. Burdett, on his late proceedings, was bad. Now he happened to have his own name set down in the newspaper, not as among the advisers, but as among the visitors of Sir F. Burdett; and he hoped it would not be deemed less honourable in him to avow, that he was one of the visitors of the Hon. Baronet, than it was in his Learned Friend near him, (Sir S. Romily,) to correct the erroneous mention of his name. On Saturday evening last he visited the Hon. Baronet, in company with another Member of that House, who was better acquainted with the Hon. Baronet, and he did state such considerations to the Hon. Baronet as he thought would have an influence upon his mind. He mentioned what he himself would have done under similar circumstances. He felt he had done his duty in calling upon the Hon. Baronet, and offering the advice he did. In making that call he acted in compliance with the solicitations of a friend, and he felt that far from doing evil, he was likely to promote what he conceived a desirable good.

Mr. JACOB disclaimed any personal allusion. His observation being confined to an *if*.

Mr. PONSONBY said, that whatever were the professions of the Hon. Gentlemen, there could be little doubt, that the manner and deportment of that Hon. Gentleman in the course of his speech was most unfortunate, if they were meant to

second

second the construction which that Gentleman wished to have put upon his words. He (Mr. Ponsonby) would confidently appeal to the House, and ask, if there was one more within its walls, who would take upon him to declare, upon his honour, that he did not believe that the Hon. Gentleman wished to affix a charge of giving secret and bad advice to Sir F. Burdett, upon some Member of that House. (Hear, hear!) And what could have been meant by such an imputation? He did not hesitate to say, that it was an imputation that could not be too speedily retracted. (Hear, hear!)

Mr. Secretary RYDER stated, (that he rose to vindicate his Majesty's Ministers from the attack that had been made upon them, and to vindicate the privileges of that House, which had been so grossly trampled upon. The Serjeant at Arms had been described as the agent of Ministers. How did that appear? Not surely in the obedience of that Officer to the suggestions of the Ministers. Much had been said of what the Government had omitted to do; but he would contend, that had the Government not done what it had done, the mischief might have been greater. (Hear!) As far as the Executive power was concerned in assisting in carrying into effect a legal warrant, so far the aid of the Executive Power was not wanting. The Civil and Military Power had been called forth, and where, he would ask, was the object in visiting upon Ministers undefined and ill supported accusations of not maintaining the public peace? What effect had such charges? Had not some of the speeches they had heard a tendency to excite popular irritation, and give rise to disaffection. (Order, Order!) He concluded by expressing his earnest wish that all the proceedings of Government on this momentous business were in detail before the House.

Sir JOHN ANSTUTHER asked if there was a man who doubted that this business had been brought upon the House by Ministers, and if their influence had not been the means of procuring the decision that had been ultimately determined on (Order!) He was not out of order—he spoke of their influence in that House as men of talents and responsibility. He censured the sort of advice given to the Serjeant by the Ministers, it amounted to this—"Go and execute your warrant, you shall have all possible aid both civil and military—but then we cannot say how far you may lawfully go—never mind, however, do your duty, and it is no matter whether in the event you are hanged or not for the attempt." (A laugh.)

Mr. DUNDAS expressed his sincere regret for the violence done to Sir John Anstruther's house, but he denied that Ministers had any reason to anticipate, and to provide against the unexpected resistance on the part of Sir F. Burdett.

Mr.

Mr. W. WYNNE contended, that Ministers were bound to provide against all consequences resulting from a measure which they had taken such pains to prevail upon the House to adopt.

The ATTORNEY GENERAL vindicated the conduct of Ministers against the charge of remissness.

Mr. C. W. WYNNE argued that Ministers should have been aware of the validity of the warrant, and of the mode of executing it; before they proposed that such a measure should be adopted by the House.

Sir M. WOOD defended the conduct of Ministers.

Mr. SHARPE, from the observations which he himself had been enabled to make, was of opinion that all the consequences resulting from the measure which had been adopted were imputable to Ministers.

The motion for calling in the Messenger was then withdrawn.

Mr. WHITBREAD moved that the papers and evidence before the House be printed.

The SOLICITOR GENERAL for Scotland wished that a letter from the Serjeant to Sir F. Burdett, and his answer thereto, not at present before the House, should be presented, and printed along with the evidence now adduced.—Ordered.

Tuesday, April 10.

Mr. CURWEN rose for the purpose of moving the order of the Day.

The SPEAKER observed, that the Hon. Gent. who moved the adjournment of the debate last night (Mr. W. Wynne) was not present; it was usual to wait to know whether he would resume the subject or not.

Sir JOHN NEWPORT said, his Hon. Friend moved the adjournment the House to look at the letter, and he believed, if he were present, it was not his intention to make any motion on the subject.

The Order of the Day having been called for, the Speaker read the Order, that the debate be now resumed, and informed the House that the question was, "That the letter of Sir Francis Burdett should be laid on the table."

Mr. CURWEN entertained the same principles with those who maintained the authority and supported the privileges of the House. Ever since he had a seat in Parliament there was no man more steady than he was in supporting a moderate Parliamentary Reform, the necessity of which he at all periods supported; but he was persuaded that it was not Reform that the Hon. Baronet wished, but something else. No man

I

man

man who did not shut his eyes but must see the *motive* for which the letter was written; for the Hon. Baronet had, by his conduct, now opened the eyes of the public.—The House, in his opinion, would raise itself in the esteem of the country, by not noticing the letter. Concluded by moving,

“ That the further consideration of the Letter be adjourned to this day six months.”

Mr. DAVIES GIBBY seconded the motion.

Mr. ADAM was of opinion, that such a mode of treating the letter was as advisable as any other. He thought the conduct of his Majesty's Ministers exceedingly culpable. The scene which took place, in the metropolis for the last four days was of a most afflicting nature, and for which, in his opinion, his Majesty's Ministers were answerable. [*A cry of No, no!*] They had, with respect to the Hon. Baronet, full a fortnight to look into all the laws of the country for the purpose of proceeding according to the pure principle of the law, and search for precedents. What was the consequence? Ministers, until a late hour on Saturday night, doubted the efficacy of the warrant, or whether it ought to be carried into effect or not. There were doubts and difficulties in the minds of Ministers as to the nature and extent of the warrant, and to their imbecility and indecision he attributed all the mischief.

Sir JOHN ANSTRUTHER said, he never entertained a doubt as to the privileges of the House for issuing a warrant, nor did he think any doubt remained as to the mode of executing it. He thought, however, the conduct of Government blamable on that occasion, and conceived the power which they possessed lodged in unfit hands. Sir John concluded by saying, that he thought silent contempt was the more suitable way to treat the letter.

The CHANCELLOR of the EXCHEQUER said he could not abstain from adverting to what he conceived a most unjust and impolitic view which had been taken by some Gentlemen of the proceedings which, for the last four days, disturbed the metropolis. Could any foresight, any preparations, any precautions, any measures be adopted by which an armed force should be ready in every street of this vast metropolis, to prevent the breaking of windows, or even the conflagration of houses or the assassination of individuals? [*Hear, hear!*]—No! no such interference could take place without exposing its authors to the charge of oppression, military tyranny, and a design to trample on the liberties of the people. [*Hear, hear!*] He contended that the Letter was an aggravation and repetition of the offence for which punishment was already inflicted. With these views of the matter he would have to propose

propose a Resolution, as an amendment to the present motion, to this effect:

“ That the Letter of Sir Francis Burdett, addressed to the Speaker, was a high aggravation of his former offence against the privileges of the House of Commons. But as from the return made by the Serjeant at Arms to the Speaker's Warrant, it appeared that the warrant had been executed, and the Party committed to the Tower, the House would not proceed further upon this Letter, at this time.”

Sir JOHN ANSTRUTHER, explained.

Mr. WHITEHEAD could not upon principle assent to the Right Hon. Gentleman's motion, who now, he observed, professed to be influenced by expediency. He and his friends were disposed to consider consequences; that they were come to their senses, and felt that they ought to have foreseen and provided against resistance to the Speaker's Warrant. [*A cry of no, no, upon the Ministerial Benches.*] He thought, at the beginning the Right Hon. Gentleman ought to have seen reason to apprehend that the execution of the warrant would have been resisted. It would be recollected, that when the Hon. Baronet actually resisted the warrant, the case was referred to the consideration of the Right Hon. Gentleman, and his answer was, that he knew not what advice to give, as there was no precedent whatever in which this warrant had been resisted. After adverting to the conduct of Ministers concerning the putting the Speaker's warrant into execution, and to the affair of the riots in 1780, the Hon. Gentleman hoped, that recent experience would teach the House the propriety of cautiously abstaining from passionate decisions—that it would not allow itself to be provoked into rage by such a miserable production as that of Gale Jones, which led to so much evil—that it would not enable such a man to occasion trouble, by putting a sword into the weak hands of an angry Minister—that it would not be forward to notice frivolous libels, and thus bring those privileges into question among the people for whose benefit alone they did or ought to exist. As to the consequences which arose out of the recent disturbances, he hoped and trusted they would be inquired into, and the result reported to that House.

The SPEAKER conceived that it was meant to impute to him a neglect of duty. It was stated that while the House was sitting upon Friday night, he was informed of Sir Francis Burdett's intention to resist the execution of his warrant, and that he ought to have notified that circumstance to the House. The Hon. Member who made the observation explained.

Lord TEMPLE complained of the impotent vacillation evinced

evinced in the whole conduct of Ministers throughout this business. The Serjeant at Arms had applied to the Secretary of State for the Home Department, and by him had been referred to his deputy, Mr. Becket; Mr. Becket refers him to the Secretary of State, and the Secretary of State refers him back to Mr. Becket. Assistance was not to say promised, but proffered by Ministers—assistance both civil and military, and yet the assistance that was declared to be necessary in the first instance, was not granted till the fourth day after the issuing of the warrant—till Monday morning. Such had been the hesitating imbecility of Ministers, that they could not bring themselves to act with resolution, even in prosecution of their own measures. The Serjeant was referred to Mr. Becket, who referred him to Mr. Reid, who referred him to Mr. Becket. Was this a line of conduct, characteristic either of wisdom or of energy? He should vote for the Amendment.

The ATTORNEY GENERAL said, that if the occasion should again occur he would give the same vote he had already given. He contended, that the Secretary for the Home Department, so far from being culpable in having referred the Serjeant to the Civil Magistrate for advice and aid, that he would have been culpable if he had not done so.

Sir JOHN SEBRIGHT said, if that he could have formed any conception that the Hon. Baronet could have been capable of proceeding so far, he would have been the last man in that House to have compromised its authority, by acceding to the adoption of any other than the most rigorous proceedings. If ever there had been conduct more disgraceful than any other that had yet come under the cognizance of the House, it was that of the Hon. Baronet.

Sir SAMUEL ROMILY thought that the conduct of Government throughout had been highly culpable.

Captain PARKER could not help expressing his wish, that the House would adopt the proper course at once, and expel Sir Francis Burdett.

Sir SAMUEL ROMILY and Captain PARKER mutually explained.

Lord PORCHESTER, suggested the propriety of omitting the word "aggravation" in the resolution proposed. The conduct of Ministers, he thought had been most reprehensible. To their fluctuation, rashness, improvidence, and indecision, were to be traced all the evils that had occurred throughout that degrading and unfortunate contest.

Mr. STEPHEN conceived, that Ministers were hardly dealt with, in having their conduct so strongly animadverted upon in a question to which they were not parties. He said, that in

in the Courts of Law the right of breaking into the house on warrants for contempt had been greatly questioned, and it had been held, that if of a criminal nature, the breaking was lawful; if not, that it was illegal.

Lord TEMPLE and Sir S. ROMILLY explained.

Mr. C. W. WYNNE said, Ministers had allowed Piccadilly to be in the possession of the mob for two days, and the houses of several gentlemen to be destroyed; and it was not till an attack was made on Downing Street, than any resistance was thought of. He contended, that it was the duty of Gentlemen opposite to have instructed the Serjeant as to the mode of executing the warrant, with whom, he thought, the measure of commitment had originated.

Mr. J. C. BRESFORD was convinced the Hon. Baronet had published his letter, in furtherance of a long settled purpose, he had entertained, to set the country at variance, and to produce a revolution.

Lord MILTON agreed that the letter to the Speaker was a great aggravation of the offence of the Hon. Baronet.

Mr. LITTLETON was surprised at the speech of the Hon. and Learned Gentleman opposite (Stephen), and was decidedly of opinion, that much of the blame arising from the late sanguinary proceedings must fall upon Ministers. There was a circumstance which he could not reconcile in the conduct of the Hon. Baronet, and it was this, that the Hon. Baronet had been attended from the first to the last of his unconstitutional proceedings by the brother of a notorious traitor (bear, bear!). He did not mean to say that the treason of one brother was to be inferred from the treason of another. He did not wish to be understood to say, that Roger O'Connor was a traitor. But this he would say, that it was unbecoming a person in the situation of the Hon. Baronet to chuse and select as his bosom friend, the brother of Arthur O'Connor. He declared, that he did disclaim the Hon. Baronet from the bottom of his heart, and that he would oppose him on every occasion.

Colonel HUTCHINSON said he could not acquiesce in either of the motions now proposed to be founded upon the letter of the Hon. Baronet. He thought the House chargeable with hardship against Mr. G. Jones, and he acquiesced in the correctness of the arguments of the Hon. Baronet, therefore should not support the motion.

Mr. CURWEN briefly replied to some observations of the preceding speaker, and said, he had no objection to withdraw his proposition, as his only wish was to get an unanimous decision of the House upon the letter of the Hon. Baronet.

Mr.

Mr. WHITBREAD could not assent to have that motion withdrawn, as it was the only Amendment to which he could conscientiously give his assent.

Mr. GOOCH expressed his utmost abhorrence of the conduct of the Hon. Baronet, and thought the misguided populace would soon see his conduct in the same light.

Lord COCHRANE felt conscious that he could not be charged with any desire to throw the country into a state of intestine commotion, however he might feel it his duty to disapprove of some part of the conduct of that House. He was free to state, that in his judgement, the House of Commons was not warranted in committing Mr. G. Jones for an offence cognizable by the laws of the country, or that its officer in the execution of a warrant issued by its order was justified in breaking into the House of any of his Majesty's subjects. He did not think it legal in that House to employ a military force for the execution of its warrant—a measure adopted in the case of the Hon. Baronet.

Sir C. BURREL vindicated the conduct of the military, as most exemplary in their forbearance under the infamous insults of a rascally mob, amongst whom, he was proud to say, a single decent individual was not to be seen. Some were assassins, who had, even in the vicinity of that House, on last night, fired at an Officer of the Guard, through whose hat the ball had actually passed. He reprobated the conduct of the Hon. Baronet from first to last, and declared that he would have surrendered himself to be put in irons, rather than be the cause of one drop of blood being shed.

The question was loudly called for, and strangers were excluded. In the mean time a conversation took place relative to the manner in which the motion should be worded, and it being at length understood that the Amendments moved should not appear on the Journals, the Speaker said he would give directions accordingly, and the question was put as an original motion: "That the said Letter is a high and flagrant breach of the Privileges of this House; but it appearing by the Report of the Serjeant, that the Warrant for the commitment of Sir Francis Burdett to the Tower has been executed, this House does not think it necessary to proceed further in the business."

This motion was agreed to *nemine contradicente*.

NARRATIVE OF THE PROCEEDINGS

IN THE ARREST OF

SIR FRANCIS BURDETT, BART.

From the passing of the Vote for his Commitment, to his Entrance into the Tower, and other Particulars.

ON Friday morning, the 6th of April, 1810, at half past seven o'clock, as soon as the division was known, Mr. Jones Burdett, accompanied by Mr. Roger O'Connor, who had remained all night at the House of Commons, set off in a post-chaise to Wimbledon, and informed Sir F. Burdett, of the result. Sir Francis mounted his horse, and rode to town, the other two returned in the chaise. Sir Francis found a letter from Mr. Colman, the Serjeant at Arms, acquainting him that he had received a Warrant signed by the Right Hon. the Speaker of the House of Commons, to arrest and convey him to the Tower, and he begged to know when he might wait on him; that it was his wish to shew him the utmost respect, and therefore, if he preferred to take his horse and ride to the Tower, he would meet him there.—To this letter, Sir F. Burdett wrote an answer to the following effect:

"Sir,

"On my return from Wimbledon, I found your polite letter, and shall be happy to receive you here at twelve o'clock to-morrow.—I remain, Sir, your obedient humble servant,

F. J. Colman, Esq. " FRANCIS BURDETT."

Piccadilly, April 6, 1810.

Before this letter could be delivered, Mr. Colman came himself to Sir Francis's house, and told him he had a warrant to arrest him. Sir Francis said he had received his letter, and had written an answer, in which he told him, that he would be ready to receive him the next day at 12 o'clock, upon which Mr. Colman politely bowed and withdrew.

About seven o'clock in the evening his friend, Mr. O'Connor, went to the Tower to see that preparation should be made to receive him, as Sir Francis entertained no doubt but that the next day the Serjeant at Arms would come with a force to compel him to surrender. Mr. O'Connor saw Colonel Smith, who told him that every preparation had been made for his reception; that the house next to his own had been well aired; and that from a sense of duty as well as of respect

respect, he might depend every attention should be paid to Sir Francis.

About eight o'clock the same evening, Mr. Colman and a Messenger came back to Sir Francis's house, and the Serjeant told him he had received a severe reprimand from the Speaker for not executing the warrant in the morning, and remaining with Sir Francis; and he hoped that he would now submit to be his prisoner.

Sir Francis answered, that he was sure the Speaker would not, upon consideration, think him to blame; for that it would not have been in his power to remain with him; as, without any personal offence to him, he (Sir Francis) would not have permitted him to remain.

The Serjeant at Arms said, "I shall be obliged, Sir, to resort to force, as it is my duty to execute the warrant."

Sir Francis answered, "If you bring an over-whelming force, I must submit; but I dare not, from my allegiance to the King, and my respect for his laws, yield a voluntary submission to such a warrant—it is illegal."

The Serjeant again urged him to permit him to remain with him.

Sir Francis said, "You must leave my house; but I have written a letter to the Speaker, which, if you please, you may take with you, and deliver it—it contains my resolution as to your warrant."

The Serjeant begged leave to decline taking charge of any such letter: he said he had already incurred blame by not executing the warrant, and he should be considered as more criminal if he carried any letter in contradiction to it; and he withdrew.

Sir Francis then sent the letter by his own son, Robert Burdett, a youth of 14, and his brother, Mr. Jones Burdett, to the Speaker; and it was accordingly delivered at 10 o'clock at night.

[For that letter see above, p. 48.]

In the course of this night, much tumultuary indignation was expressed by the people—windows were broken belonging to the houses of several gentlemen, and a very general disposition to riot and excess was manifested.

On Saturday morning Sir Francis took a ride in the Park, accompanied only by his groom; and, on his return, he found in his room a number of his friends waiting for him, and he was told of the Messenger in waiting. He desired him to be shewn up.

"Well, my good friend (said Sir Francis), what is your business!"

Mess.—

Mess.—"Sir, I am desired to shew you the order of the House of Commons, upon which the warrant is issued—to serve that warrant upon you, and to remain with you."

He delivered the warrant to Sir Francis, which he read, and put in his pocket. It is as follows:

"Veneris, 6^o die Aprilis, 1810.

"Whereas the House of Commons hath this day adjudged, That Sir Francis Burdett, Baronet, who has admitted that a Letter, signed Francis Burdett, and a further part of a Paper intituled, 'Argument,' in COBBETT'S WEEKLY REGISTER of March 24, 1810, was printed by his authority (which Letter and Argument the said House has resolved to be a libellous and scandalous Paper, reflecting on the just Rights and Privileges of the said House), has been thereby guilty of a Breach of the said Privileges of the said House:

"And whereas, the House of Commons hath thereupon ordered, That the said Francis Burdett be, for his said Offence, committed to his Majesty's Tower of London:

"These are therefore to require you to take into your custody the Body of the said Sir Francis Burdett, and then forthwith to deliver him over into the custody of the Lieutenant of his Majesty's Tower of London:

"And all Mayors, Bailiffs, Sheriffs, Under-Sheriffs, Constables, and Headboroughs, and every other person or persons, are hereby required to be aiding and assisting to you in the execution hereof;

"For which this shall be your sufficient Warrant.

"Given under my hand, the sixth day of April, 1810.

"CHAS. ABBOTT, Speaker."

"To the Serjeant at Arms attending the House of Commons, or his Deputy."

Sir Francis. "My friend, this is not a sufficient warrant. You may return and inform the Speaker that I will not obey it."

Messenger. "Sir, it is my orders to remain with you, and I must obey, unless I am forced to withdraw."

Sir Francis. "You must instantly withdraw."

He was accordingly shewn down stairs by Mr. O'Connor. The person wished force to be used. Mr. O'Connor said, "There is the door open for you; you must go; but it is not my practice to be so uncivil as to lay violent hands on any one, and I hope you will not make it necessary now."—The Messenger bowed and retired.

Between twelve and one o'clock a troop of the Life Guards arrived, and were drawn up before Sir Francis's House, and their horses were made to prance about on the foot pavement as well as in the street for the purpose of dispersing the people. There was much hissing.

In about a quarter of an hour, Mr. Reid, the Magistrate, arrived.

K

(70)

arrived. He mounted a dragoon horse and read the Riot Act, and warned all people peaceably to depart. The Guards were then planted across Piccadilly from Dover Street on the one side, to Bolton Row on the other, so as to block up the thoroughfare. Mr. Jones Burdett was not suffered to pass through the line to his dinner until he procured a constable. During all this time Sir Francis was at home with his family. His colleague, Lord Cochrane, Mr. O'Connor, and Mr. Jones Burdett dined with him.

In consequence of this appearance of military force, he wrote the requisition to the Sheriff of Middlesex which was delivered into the hands of Mr. Sheriff Wood in the street.

The following is a copy of the letter:

" Gentlemen,

" In furtherance of an attempt to deprive me of my liberty, under the authority of an instrument which I know to be illegal, viz. a Warrant by the SPEAKER of the House of Commons, my house is, at this moment, beset by a Military Force.

" As I am determined never to yield a voluntary obedience to an act contrary to the Laws, I am resolved to resist the execution of a Warrant by all legal means in my power; and as you are the Constitutional Officers appointed to protect the Inhabitants of your Bailiwick from violence and oppression, from whatever quarter they may come, I make this requisition to you, Gentlemen, to furnish me with your aid with which the Laws have provided you, either by calling out the *Posse Comitatus*, or such other as the case and circumstances may require.

" It is for you to consider, how far you may be liable, should I, by an unlawful force, acting under an unlawful authority, be taken from my house.

" I have the honour to be, Gentlemen,

" Your very obedient humble Servant,

(Signed)

" FRANCIS BURDETT."

" Piccadilly, April 7, 1810.

" To Matthew Wood and John Atkins, Esqrs.

" Sheriff of Middlesex."

We understand that Mr. Sheriff Wood made personal application to the Speaker, as he wished for instruction as to the constitutional line of his duty.—The Speaker declined giving him advice. The Sheriff went in the evening to Sir Francis—promised that he would forthwith see his Colleague, and return to him; and in the mean time he stationed a number of Peace Officers at Sir Francis's house, and made the military remove to a distance on both hands.

A tumultary disposition was shewn by the populace; but no great mischief was done. The multitude called for lights—with this the inhabitants complied to save their windows.—

The

(71)

The military ordered them to put out their lights. With this too they complied. The mob then made their rounds and broke the windows of those who had removed their lights. This practice went on all night; several persons were severely wounded, but none mortally.

About one o'clock on Sunday morning, the two Sheriffs, Mr. Wood and Mr. Atkins, waited on Sir F. Burdett. Mr. Sheriff Wood declared, that he had no doubts as to the illegality of the Warrant, nor as to the course which it would be his duty to pursue. Mr. Atkins had very considerable doubts on his mind. It was a subject too lofty for his comprehension. But they both declared, that no attempt would be made to execute the writ before Monday, and Monday morning Mr. Sheriff Wood said he would attend with his Officers.

Sir Francis wished the Sheriff to remain in the house to keep the peace, and said he had one spare bed; but Mr. Wood said he thought it was not necessary, and they both retired.

During this time the Cabinet and Privy Council had met. The opinion of the Law Officers of the Crown had been taken; and orders had been transmitted from the War Office, in every direction, for every regiment within 100 miles of London to march to the metropolis forthwith.

Sunday passed without annoyance. The troops were stationed as before; a space before Sir Francis's house was left unoccupied; and in this the multitude continued all day, forcing all passengers on horseback and in carriages to pull off their hats, and pelting those who resisted with mud.

During this day; and on Saturday, Sir Francis was visited by Earl Thanet, Lord Folkstone, Lord Cochrane, Mr. Whitbread, Mr. Coke of Norfolk, Mr. Hanbury Tracey, Mr. Curran, the Master of the Rolls in Ireland, Mr. Wardle, Mr. Madocks, Mr. Cuthbert, Major Cartwright, Colonel Riddle, Mr. Bosville, &c. &c.

On Monday morning he breakfasted in his drawing-room on the first floor, with Lady Burdett, the Countess of Guilford, and Lady Maria, Lady Jane, Lady Georgina North, Mrs. Coutts, his son, Robert Burdett, his brother, and Mr. O'Connor. Mr. Coutts had just retired. Breakfast was finished, and Sir Francis was employed in hearing his son (who had just come from Eton School) read and translate *Magna Charta*, when Mr. O'Connor observed a man's face at one of the windows; he had mounted by a ladder, had already thrown up the sash, and was in the act of entering, in the attempt to do which he broke two panes of glass. Mr. O'Connor ran up to him. Sir Francis Burdett called out not to hurt the man, as it would have been easy at that moment by the mere shifting

K 2

of

of the ladder, to have precipitated the person into the area, a height of at least 20 feet. Sir Francis, his son, and brother shut down all the other windows—while they saw an immense body of troops drawn up in the front of the house. During this moment, so alarming to the delicacy of the sex, and to the affection of a wife and mother, seeing her husband and only son exposed to the possible discharge of artillery and musquetry, yet both she and all the Ladies maintained the most perfect constancy of mind; and both in this moment, and in the scene that ensued, displayed a courage that did honour to their understandings and their hearts.

Mr. O'Connor run down stairs to see if all was safe below. He met about twenty men with constables staves in their hands. They had descended the area, and had burst open a window, sashes, frame and all, by which they entered through a small servant's room. This was effected by Oddy and J. Townshend, two of the patrol belonging to Bow Street, who forced the entrance with an iron crow. He asked them what they wanted? They answered—Sir F. Burdett; was he at home? He replied, that Sir Francis was at home; what did they want with him?—They rushed up to the drawing room, where Sir Francis and his family, with the ladies, still was. At this time there were constables only; the Serjeant at Arms did not shew himself, nor was there any Magistrate; but the Serjeant at Arms, Mr. Colman, followed the posse of constables up stairs, and said,

Serjeant. "Sir Francis; you are my prisoner."

Sir Francis. "By what authority do you act, Mr. Serjeant? By what power, Sir, have you broken into my house in violation of the laws of the land?"

Serjeant. "Sir Francis, I am authorized by the warrant of Mr. Speaker of the House of Commons."

Sir Francis. "I contest the authority of such a warrant. Exhibit to me the legal warrant upon which you have dared to violate my house. Where is the Sheriff? Where is the Magistrate?"

At this time there was no Magistrate, but he afterwards appeared.

Serjeant. "Sir Francis, my authority is in my hand—I will read it to you; it is the warrant of the Right Hon. the Speaker of the House of Commons."

Here Mr. Colman attempted to read the Warrant, which he did with some trepidation.

Sir Francis. "I repeat to you, that is no sufficient warrant. No—not to arrest my person in the open street—much less to break open my house, in violation of all law. If you have a warrant

a warrant from his Majesty, or from a proper Officer of the King, I will pay instant obedience to it; but I will not yield to an illegal order."

Serjeant. "Sir Francis, I demand you to yield in the name of the Commons House of Parliament, and I trust you will not compel me to use force. I entreat you to believe that I wish to shew you every respect."

Sir Francis. "I tell you distinctly, that I will not voluntarily submit to an unlawful order; and I demand in the King's name, and in the name of the laws, that you forthwith retire from my house."

Serjeant. "Then, Sir I must call in assistance, and force you to yield."

Upon which the constables laid hold of Sir Francis. Mr. Jones Burdett and Mr. O'Connor immediately stepped up and each took him under an arm. The constables closed in on all three, and drew them down stairs.

Sir Francis then said, "I protest in the King's name against this violation of my person and of my house. It is superior force only that hurries me out of it, and you do it at your peril."

The ladies were still present, and betrayed no symptom of alarm, no doubt from the confidence which they had in Sir Francis's temper, and in their persuasion that no outrage beyond the actual arrest, would be committed.

In descending the stairs, Sir Francis hoped that his brother and his friend might be allowed to accompany him, which Mr. Colman promised.

A coach was drawn up at the door. It was instantly surrounded by cavalry. The Baronet stepped in first, followed by the Serjeant and a Constable. Mr. Jones Burdett, and Mr. O'Connor also got in; but the latter was taken out, notwithstanding Mr. Coleman's promise to the contrary, and the cavalcade instantly set off at a rapid pace.

The procession moved from Sir Francis Burdett's house in the following order:—two squadrons of the 15th Light Dragoons, two troops of Life Guards with Mr. Reid the magistrate, at their head—the coach with Sir Francis, two more troops of Life Guards, a troop of the 15th Light Dragoons; two battalions of Foot Guards, marching in open order; and a party of the 15th Light Dragoons forming the rear. In this order they proceeded to Albemarle Street, where they halted, and then turned up that street, with the exception of two battalions of Foot Guards, who marched forward through Piccadilly, the Haymarket, and Strand, to the Tower.

The

(74)

The escort proceeded along Albermarle street, Bond-street, Conduit-street, across Hanover-square into Oxford-street, along John-street, Great Portland-street, Portland-road, the New-road, Mary-le-bone, by Pentonville, across Islington, along the City-road to Moor-fields, from thence by Sun-street into Aldgate High-street, and along the Minorities to the Tower.

The windows of the coach which contained Sir Francis were all down; he sat forward on the right, behind, and was well seen. As he passed there was much huzzaing, the Guards flourished their swords to intimidate the by-standers. On the arrival of the carriage at the gate, Sir Francis alighted, and was received with the usual formalities; the gate was immediately shut. Sir Francis was admitted about one o'clock.

During the whole of this period the populace did not commit much violence; they chiefly vented their rage in hissing and hooting the troops, and contented themselves on the other hand, with huzzaing Sir Francis.—Upon the return of the troops, however, several acts of outrage were resorted to by a few ill-disposed persons. When opposite the Trinity House the soldiers charged the multitude sword in hand. The firing of the carbines and horse-pistols became now pretty general, and several people fell. The contest continued all the way up Fenchurch-street, where a shot entered the shop of Mr. Goodeve a boot-maker, and dangerously wounded Thomas Ebrall, while standing in Mr. Goodeve's shop. Thomas Ebrall, Citizen and Musician, is a young man about twenty-four years of age, who in August last, volunteered his services to assist in landing his Majesty's forces on the Island of Walcheren. He was at the reduction of Flushing acting in the most gallant manner; and, on his return, obtained as a reward an appointment in the Corn-meter's Office. To add to the excruciating pain of a ball not yet extracted from the breast of this loyal citizen, by various reports it has been attempted to deprive him of character, which, coming to his knowledge, and feeling conscious of his innocence he expressed great desire to his mother, as well as others, that he may while yet alive, be allowed to make an affidavit of his innocence.

St. Thomas's Hospital, Abraham's Ward.

I, Thomas Ebrall, of the Parish of St. Dunstan, in the City of London, do make oath, that on Monday last, the 9th day of April, about the hour of one o'clock, I was wounded in the breast by a pistol or carbine shot, while standing in the shop of Mr. Goodeve, corner of Mincing Lane, in Fenchurch Street.

And

(75)

And I do further make oath, that I did not molest nor provoke the military, either by throwing bricks, stones, dirt, &c. or by hooting and hissing at them, or by any other means whatever, nor did I give encouragement to others to do so.

Sworn before me, one of his Majesty's Justices of the Peace for the County of Surrey, this 14th day of April, 1810.

The Mark of THOS. EBRALL.

JOHN PINHORN.

X
Witnesses JOHN TAYLOR.
GEO. GOODEVE.
THOS. WILTSHIRE.

Several persons were wounded, amongst them were a poor old bricklayer, in the service of Mr. Thomas, shot through the neck, who expired as he was conveying to the hospital; one person shot in the groin dangerously; Willis, of John Street, Blackfriars, through the foot; another in the arm, carried to Mr. Davis, a surgeon on Tower Hill; and many with sabre wounds. A sailor, in Rood Lane, received a shot on the back of the head; a corn-meter in the Minorities wounded; several shots entered the windows on the first floors. It being market-day in Mark Lane, the place was crowded with persons about their ordinary business; the balls whistled about their heads.

The name of the poor old bricklayer, mentioned above, was Thomas Bryant, on whose body an inquest was held, on Tuesday, the 10th of April, at a public house adjoining the London Hospital, before John Wright Unwin, Esquire. The body of the unfortunate man was brought to the hospital by some Jews, who said he had been shot by the soldiers that were escorting Sir F. Burdett to the Tower; but that they, the Jews, did not see him shot, but were informed so. The first witness that was called was Mr. Martindale, a pupil in the hospital, who deposed, that the deceased was brought to the London Hospital on Monday afternoon in a dying state; that he did not survive more than three minutes.

Mary Bryant said, she lived in Three Crown Court, and was wife to the deceased's nephew; that yesterday, in going up Crutched Friars she heard that Thomas Bryant had been shot; that on her getting to the corner of Seething Lane, she saw blood on the street, and observed marks of shot on the window shutters.

The next witness was the unfortunate man's wife, who said she lived at No. 3, Brace's Buildings; that her husband was 60 years of age, and was a bricklayer's labourer; that he left her to go to work, at six o'clock, on Monday morning, and that she heard he was shot with his pipe in his

THE ATTORNEY GENERAL'S OPINION
UPON

SIR FRANCIS BURDETT'S ARREST,

(mentioned above, p. 54.)

Query.

The Serjeant at Arms attending the House of Commons having in the execution of this Warrant been resisted, and turned out of Sir FRANCIS BURDETT'S private dwelling house by force,

Your opinion is desired, whether in the execution of this Warrant he will be justified in breaking open the outer or any inner door of the private dwelling house of Sir FRANCIS BURDETT, or of any other person in which there is reasonable cause to suspect he is concealed, for the purpose of apprehending him. And whether he may take to his assistance a sufficient civil or military force for that purpose, such force acting under the direction of a Civil Magistrate. And whether such proceedings will be justifiable during the night as well as in the day-time?

Opinion.

No instance is stated to me, and I presume that none is to be found, in which the outer door of a house has been broken open under the Speaker's Warrant for the purpose of apprehending the person against whom such Warrant issued then being therein. I must, therefore, form my opinion altogether upon cases which have arisen upon the execution of Writs or Warrants issuing from other Courts, and which seem to fall within the same principle.

I find it laid down in Semayne's case, 5 Co. 91. that where the King is a party, the Sheriff may break open the Defendant's house, either to arrest him or to do other execution of the King's process; if otherwise he cannot enter. So if the Defendant be in the house of another man, the Sheriff may do the same; but he cannot break into the house of the Defendant, in the execution of any process at the suit of an individual. This distinction proceeds, as I apprehend, upon the greater importance of enforcing the process of the Crown for the public benefit, than that of individuals for the support of their private rights. Reasoning from hence, I should think that the Speaker's Warrant, which had issued to apprehend a man under sentence of commitment for a Breach of the Privileges of the House of Commons, might be executed in the same manner with criminal process in the name of the King, inasmuch as those Privileges were given to the House of Commons for the benefit of the public only; and the public are interested in the due support of them. If the act had been done, and I were asked whether it could be defended, I should say that it could; but where it is previously known that the execution of the Warrant will be resisted by force, and if death should ensue in such a conflict, the Officer who executes the Warrant would stand justified, or not, as the breaking of the house may be held lawful or unlawful. I feel myself obliged to bring this under his notice, leaving him to judge for himself whether he will act upon my opinion, which has no direct authority in point to support it, but rests upon reasoning from other cases, which appear to me to fall within the same principle. Should the Officer resolve

resolve to break into the house, if it be found necessary, he must be careful, first to signify the cause of his coming, and make request to open the doors, and not use any force until it appears that those within will not comply; and he should be assured that the party whom he seeks to apprehend is within the house. For the purpose of executing the warrant, he may take with him a sufficient force of such description as the nature of the case renders necessary. If he has reason to apprehend a degree of resistance, which could only be repelled by a military force, he may take such force with him; but in this case it will be prudent to take with him also a Civil Magistrate.

"I do not think it advisable to execute the Warrant in the night. The Officer should understand, that when Sir FRANCIS BURDETT has once been arrested, if he afterwards effects his escape, or is rescued, his own house, or the house of any other person, into which he retreats, may be broken for the purpose of re-taking him."

"Lincoln's Inn, April 8. V. GIBBS."

On Saturday, April 14, a Coroner's Inquest was held at the King's Head, James Street, Westminster, on the body of James Pledge, who died in the Westminster Hospital on Friday, in consequence of a wound he received from a pistol, on Saturday night, April 7, shot off by a soldier of the Life Guards. The companion of the deceased stated, that about half past ten he and the deceased were standing at the top of Church Court, leading into Jermyn Street, the street at this time having been nearly cleared of the people, as far as the top of the Haymarket. Two Gentlemen ran out of Piccadilly, and said, "The Soldiers are coming;" they ran to the bottom of the court; a soldier rode by the top of the court, but turning round, on seeing the people there, he levelled his pistol at them, and shot his companion. At the time the pistol was fired there was not the least disturbance in the court. Mr. White, surgeon, of Parliament Street, stated, that in passing up York Street, St. James's Square, on Saturday night, he was met by some women, exclaiming that a man was shot in Jermyn Street. Mr. White saw people assisting to carry off the man, who was taken to an apothecary's house in the street: that he enquired concerning the accident, and offered his assistance; that he found a bullet had entered the left side, and he discovered it lying near the spine, from whence he extracted it. Mr. White sent the man to the Westminster Hospital, where the patient expired on Friday afternoon. Mr. White farther stated, that on inspecting the body after death, he discovered that the ball had penetrated the chest and wounded the diaphragm, the spleen was also wounded, and that a great quantity of blood was found in the abdomen, with an excessive inflammation of the whole cavity, which was the cause of his death. The deceased was 31 years of age, the son of a Bricklayer, residing in York Street. The Jury returned a verdict of *Wilful Murder*, against a Life Guardsman, unknown.

WESTMINSTER MEETING,

PALACE YARD.

A VAST number of the Frecholders of Westminster met in Palace Yard, on Tuesday, the 17th of April, for the purpose of determining how to act, in consequence of being deprived of their Representative, Sir F. Burdett. At one o'clock, there being about 20,000 persons (many of whom had a placard in their hats, on which was inscribed, "The King, the Laws, and Burdett,") assembled, the High Bailiff, attended by Lord Cochrane, Col. Wardle, Mr. Jennings, Mr. Sturch, Mr. Wishart, and a number of other Gentlemen, appeared upon the Hustings. They were hailed respectively with the loudest applauses, by the numerous and anxious meeting.

The HIGH BAILIFF having read the Requisition, informed them, that some of the Gentlemen who had signed it, would state more at large the object for which they were called together.

Mr. STURCH then came forward, amidst the acclamations of the assembly. He said, that the Requisition which had been just read to them, by the High Bailiff, and which had been published in almost all the newspapers in town, had stated the occasion upon which the meeting was called. It was known to them all, that, by a Resolution of the House of Commons, they had been deprived of the services of one of their Representatives. (*Applauses.*) Into the causes of this privation, it was necessary that they should inquire; the probable effects of it, it was necessary that they should investigate and provide against. It was a proof of the anxious feeling with which the subject had impressed them, that the Requisition had been signed by nearly two thousand people, almost in the space of one day. (*Applauses.*) Those who had undertaken the management of the business, had thought it expedient not to appoint too early a period for the meeting, lest the ferment of the public mind should prevent that coolness of deliberation, which it was necessary that they should exercise. The present moment was selected as proper and judicious; for the ferment had now subsided, and the feeling, though not subdued, was tempered and controuled, under the guidance of the understanding. He found that many of the Gentlemen, who had signed the Requisition, had considered much upon the subject, and had prepared some matter, which was to be submitted to them, and part of which he should have the honour of reading. It was such as he supposed would meet with their approbation, being, in its tendency and expression, mild, correct, and unobjectionable. It was not necessary for him, he was convinced, to make many preliminary observations upon this occasion. He had no doubt that they were masters of the subject themselves, and had come down prepared to exercise their judgements upon the whole case. The simple fact was, that they were deprived of their Representative, who was taken from his family and from them, without legal authority, by military force, and committed for an indefinite period to imprisonment in the Tower. They were deprived of a Representative who had always maintained their rights and liberties against the machinations of their enemies, who had upon all occasions

(81)

sions manifested a zeal in their cause, and than whom one more able, upright, and indefatigable, had never stood forth in the defence of his country.—This Representative they had in effect lost for the present; he had been taken and conveyed to prison, there to remain, during the pleasure of those persons who had said that he offended against them. Their Representative asserted, and asserted truly, that he was guilty of no crime, that he had undergone no trial, and consequently that he should suffer no punishment. His imprisonment was unjust. The crime for which the House of Commons had thought proper to visit him with such rigour, was that of endeavouring to protect a helpless individual from an undue exercise of power upon their part—(*Applauses, and cries of success to him, success to him.*) In the course which he had taken, it was a gratification to know that he was supported by some of the first law authorities in the kingdom. He (Mr. Sturch) was persuaded, that, even if Sir F. Burdett stood alone, in a just cause, his firmness of mind would never forsake him; and he would stand alone against the host of oppression and persecution, by which he was assailed.—But he was certain they would all agree with him, that now, when their Representative was attacked upon every side, because he was their friend, and the friend of the Constitution—when he was deprived of his personal freedom for their sake, they should express their affection and gratitude towards him; and acknowledge with what sincerity they felt the faithful and manly conduct adopted by him under all circumstances.—There was one observation which he was desirous of making, and for which he knew they would not be offended with him. What he wished to say was, that when the arm of power was stretched out with unusual violence, then was the time for them to demean themselves with moderation; then was the time for them to shew that they were influenced by no motives, and seeking for no objects, but such as were legal, constitutional, and honourable. He was sure the Electors of Westminster would not give any person room to say, that their conduct was reprehensible; but that they would conduct themselves upon this, and upon every occasion, as the friends of legal authority and social order—that they would pursue, by legitimate object—a fair, full, and free representation of the people, in Parliament. This they desired upon two accounts; first, because they thought it was their right; and secondly, because it was their only security, that the law should be duly administered, and the money of the people constitutionally taken and wisely applied. He then read the Resolutions, which were as follow:

“ At a Meeting of the Inhabitant Householdors, Electors of the City and Liberties of Westminster, assembled in New Palace Yard, the 17th day of April, 1810.

ARTHUR MORRIS, Esq. High Bailiff, in the Chair,

It was Resolved, That we most highly approve of Sir Francis Burdett's Letter to us his Constituents, the subject being of the utmost importance, and the argument incontrovertible.

That Sir Francis Burdett's conduct in calling upon the Civil Power

Power for the protection of his house against a military force, was dictated by prudence, knowledge of, and confidence in the Laws of his Country.

That the House of Commons be called upon, to restore to us our beloved Representative; and to co-operate immediately with him, in his endeavours to procure a fair representation of the people in Parliament.

That the Petition now read, be adopted; that it be signed by the High Bailiff, and Twenty-five Electors, and delivered to our remaining Representative, the Right Hon. Lord Cochrane, to be by him presented to the House of Commons.

That a letter be addressed to Sir Francis Burdett, expressing our full and entire approbation of the whole and every part of his conduct as a Member of Parliament.

That the letter now read, be adopted:—that it be signed by . . . Electors in the name of this Meeting; and that the High Bailiff be requested to present the same to Sir Francis Burdett.

That the Thanks of this Meeting be given to our worthy Representative, the Right Hon. Lord Cochrane, for his support of Sir Francis Burdett, during the present arduous struggle.

That the Thanks of this Meeting be given to those Independent Members of the House of Commons, who have supported the Rights of the People.

That the Thanks of this Meeting be given to Arthur Morris, Esq. High Bailiff, for his ready compliance with the Requisition of the Electors, and for his able and impartial conduct in the Chair.

Mr. WISMART seconded the motion. He said, that, according to the Constitution, the King and the Parliament had their privileges, and the people their rights; those privileges and rights were necessary to the perfection of our form of Government; and the utmost care should be taken, that no encroachment was made upon either.—The rights of the people, in particular, should be guarded, as they were most exposed; and he trusted, that whenever they were attacked by a despotic Minister, the people would be ready to assert, and to defend them. If the late proceedings in the House of Commons were not an attack on those rights, he knew nothing of the Constitution. This was not the first time that they had assumed privileges inconsistent with justice. In the beginning of the last century, they had claimed certain privileges in the Courts, which were happily denied them. Lord Chief Justice Holt, in reply to the demand of the Speaker, had said, that he sat there to administer justice, and that if the Speaker had the whole House of Commons in his belly, he would still adhere to that justice, in contradiction to his demands. It became the Electors to adopt similar sentiments, as the only means of protecting their liberties. The House of Commons he allowed, possessed great privileges, and it was right that it should—they formed a security against power. It had a right to commit for offences against itself, and he was sure that no one regretted the late instance, in which it was exercised upon a County Member, for outrages committed within the walls.

Such

Such were the occasions upon which it might commit, without infringing the Constitution of the country. In the case of Mr. Reeve, they did not proceed to commit upon their own authority, but addressed His Majesty to direct the King's Attorney-General to prosecute him according to law. Why then should they deviate from that course in the present case? Why should they constitute themselves accusers, judges, and jurors, by committing their Representative, not for the letter he had written, but for the upright conduct he had pursued? It was for this conduct, and for the possession of those talents, which must have succeeded in exposing their corruptions, and perhaps finally, in bringing over a large number of converts to his sentiments, they had sent Sir F. Burdett to the Tower. Nothing could prove, more strongly, the necessity of Parliamentary Reform, than two instances, which they must recollect; one was that of a person who had attempted to purchase a seat in Parliament, for which he was prosecuted and imprisoned; the other was that of two Members of the House, who had trafficked in seats—(*Cries of Perceval and Castlereagh!*)—upon which occasion the House resolved that it would not inquire, and defended the practice upon the ground of notoriety.—(*Applauses.*)—It was a circumstance, he said, much to be wished, that the health of their Sovereign would permit the people to present their petitions to him in person, instead of being obliged to trust them into the hands of those against whom their complaints were directed.—(*Loud applauses.*)

The Resolutions were then severally put by the High Bailiff, and agreed to unanimously, amidst loud acclamations.

Mr. POLLER then read the following petition to the House of Commons, which was agreed to unanimously:

“ TO THE HONOURABLE THE COMMONS OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND, IN PARLIAMENT ASSEMBLED.

The Petition and Remonstrance of the Inhabitant Household-ers, Electors of the City and Liberties of Westminster, assembled, in New Palace Yard, the 17th day of April, 1810, by the appointment of Arthur Morris, Esq. the High Bailiff, in pursuance of a Requisition for that purpose.

“ We, the Inhabitant Householders, Electors of the City and Liberties of Westminster, feel most sensibly the indignity offered to this City, in the person of our beloved Representative, whose Letter to us has fallen under the censure of your Honourable House, but which, so far from deserving that censure, ought, in our opinion, to have led your Honourable House to reconsider the subject, which he had so ably, legally, and constitutionally discussed.

“ We are convinced that no one ought to be Prosecutor and Juror, Judge and Executioner, in his own cause, much less to assume, accumulate, and exercise all those offices, in his own person.

“ We

(84)

"We are also convinced that the refusal of your Honourable House to inquire into the conduct of Lord Castlereagh and Mr. Perceval, (then two of His Majesty's Ministers) when distinctly charged with the sale of a seat in your Honourable House, evidence of which was offered at the Bar, by a Member of your Honourable House; and the avowal in your Honourable House, "that such practices were as notorious as the sun at noon day;" practices at the bare mention of which the Speaker of your Honourable House declared "that our ancestors would have started with indignation," and the committal of Sir Francis Burdett to prison, enforced by military power; are circumstances which render evident the imperious necessity of an immediate Reform in the Representation of the People.

"We, therefore, most earnestly call upon your Honourable House to restore to us our Representative, and, according to the notice he has given, to take the state of the Representation of the People into your serious consideration; a Reform in which, is, in our opinion, the only means of preserving the country from military despotism*."

Mr. FULLER then read the following letter:—

"SIR—We nominated you to be our Representative without your knowledge, and we elected you without your interference. We were confident, that you would perform the duties of a Representative in Parliament, with ability and fidelity; in every respect, you have not only fulfilled, but exceeded our expectation; we derive satisfaction, from having pointed out to the Nation, the way to be fairly represented, had it been possible, that our example would have been followed, and a proper representation of the people thereby produced, the scenes we have lately witnessed would not have disgraced our country. We understood the nobleness of your mind, and were confident that you would not descend to barter your trust for a place under Government, nor be the partisan or leader of those who support or reject measures, just as they happen to be proposed, on this or on that side of the House. We feel the indignity that has been offered to you, but we are not surprised to find, that when every excuse is made for public delinquents, that the utmost rigour is exercised against him who pleads for the ancient and constitutional rights of the people. You nobly stepped forward in defence of a fellow subject unjustly imprisoned, and you questioned, with great ability and knowledge of the laws, the war-

* In the evening Lord Cochrane presented the above Petition to the House of Commons; and after the Petition had been read by the Clerk, his Lordship moved "that the Petition be laid upon the table:" which after some conversation was agreed to.—Immediately after the Westminster Petition was disposed of by the House, the Speaker said, that he had received another notice of action for Trespass and False Imprisonment from Sir Francis Burdett, couched in nearly the same terms as the former. (see above, p. 77.) The Speaker then read the notice, which, on the motion of Mr. Perceval, was ordered to lie on the table.

rant

(85)

rant issued upon that occasion—the House of Commons have answered your argument by breaking into your house with a military force, seizing your person, and conveying you, by a large body of troops, to the Tower. Your distinction between privilege and power remain unaltered; the privileges of the House of Commons are for the protection, not for the destruction of the people. We have resolved to remonstrate with the House of Commons on the outrages committed under their order, and to call upon them to restore you to your seat in Parliament, which the present state of the country renders more than ever necessary, for the furtherance of your and our object, a Reform of the Representation in that House. While so many Members are collected together, by means "which it is not necessary for us to describe," we cannot but entertain the greatest apprehensions for the remainder of our liberties; and the employment of a military force against one of their own body; is but a sad presage of what may be expected by those who might, like you, have the courage to stand forward in defence of the rights of the people. When we reflect on your generous exertions to destroy the horrors of *secret and solitary confinement*; to mitigate the *severity of punishment in the army*, to prevent the cashiering of its *Officers*, without cause assigned; to restore, for the *comfort of the worn out soldier*, the public property conveyed by a job to a private individual; to prevent the extension of the barrack system, the obvious effect of which is to separate the soldier from the citizen, to prevent the introduction of foreign troops—to bring to light an atrocious act of tyranny, by which a British sailor was left to perish on a *barren rock*; and, above all, your unremitting exertions to obtain a full, fair, and free representation of the people in Parliament; when we reflect on the firmness, the unshaken constancy which you have invariably shewn "in evil report and good report," we are eager to express the sentiments of gratitude and attachment to you with which we are impressed; and we are convinced, that those sentiments are not only felt by the inhabitants of this city, but by every person throughout the land, who is not interested in the continuance of public abuses.

Signed at the request, and in the name of the Meeting,

A. M. H. B.

The letter was loudly applauded, and unanimously agreed to, and the High Bailiff ordered to present it to Sir Francis Burdett.

Mr. WISHART proposed the thanks of the meeting to Lord Cochrane, their worthy Representative. It was carried unanimously.

Lord COCHRANE then came forward and addressed the meeting as follows:

"Electors of Westminster, I offer myself to your notice at this most important moment, although not embarrassed in the sentiment, yet struggling with feelings, in the expression of which I almost find myself overpowered. I can, and do most freely sympathize with you in reflecting upon the serious subject which has this day convened us together. In reflecting how by the iron hand of power, stretched to its utmost bound, a fellow subject has

been

been dragged from the bosom of his family, and subjected to undefined imprisonment, in the absence not alone of the substantial process of that which constitutes a fair trial, but even without the ordinary forms of the law of the land (*hear! hear!*). Such a hardship inflicted upon any subject, must under any circumstances be a question for serious alarm, but how much more aggravated in its consequences—how much more to be regretted by the people of this great City, when we consider it has been inflicted upon him who so deservedly stands high in our estimation? Upon that man, of whom it may be truly spoken, that he dares to be honest in the worst of times (*Hear! hear! hear!*). I have to hope that the constitutional protest of the people of this empire against such a stretch of power, will prevent its being considered as a precedent for future application by any succeeding Parliament. I trust it will not be deemed unreasonable in me to advert to a circumstance, upon which I was unintentionally misrepresented. It did appear from the report of some observations of mine upon the letter and arguments of Sir F. Burdett, that I ventured to condemn some of them as irrelevant and unnecessary, and I of course was concluded to have reprobated it, so far as such terms applied to a particular part of those documents. What I did say, I now repeat. I did think that some of these expressions would be not only unapplicable, but ill deserved; if they were directed to the proceeding of a House of Commons, which had more consulted the conscientious discharge of its duties, than the idle affectation of supporting dignity by the exercise of a severe control against the people. But how was it possible that I could think there existed in the present instance the regard which such an assembly should feel for its character? Was it possible for any unprejudiced man to think thus of that House, which upon the decision of the late Inquiry into the Expedition to Walcheren, could bring itself to vote that the policy of such expedition was proper, and that the retention of it after the destruction of so many thousands of gallant men, was not alone wholly free from blame, but was actually justifiable (*hear! hear!*)? When I reviewed such a decision, and was engaged in considering its exercise of privilege in the present case, did I not think justly, when I stated that the House of Commons would best consult its dignity by conscientiously discharging its duties to the country, rather than by an attempt to restrain by strong acts of assumed privilege the popular communication upon its actions. There are privileges which that House most necessarily ought to possess, for the full and free performance of its trust; amongst these the power of commitment ought in some cases to be allowed, but such power should of all others be limited and defined. I do think it right that that House should be vested with an authority of committing for offences affecting its privileges, where such offences are not punishable by the law of the land. But where the law can take cognizance of such offences I do hold it as unconstitutional that the trial and punishment of them should be taken from those courts of competent jurisdiction, where the process is calculated to correct guilt and to protect innocence (*hear! hear!*), by the mere stretch of arbitrary power. I hold it that it is impossible for any tribunal to decide justly upon the presumed criminality of the accused,

ed, where the party who accuses has a power to pronounce judgment, where there is no oath administered either to the court or witnesses, and where to the individual arraigned, the power and opportunity of being heard in his defence is denied (*loud cries of hear! hear!*). Such a stretch of power was not only in defiance of the positive enactments of our law, but was hostile to those fundamental principles which are the basis of all contracts by which communities are bound. But in the present case there was a most unconstitutional aggravation. I allude to the calling out a military force to support the Serjeant at Arms in breaking into the house of Sir Francis Burdett. Why were the military so unnecessarily paraded through the streets? Why was the house of my Honourable Colleague so beset? It could be for no other purpose, but intimidation. As for any violence that could justify such a proceeding. I having been an eye witness, can positively state there was not any improper conduct, more than must be expected from a crowd of people upon any ordinary occasion (*hear! hear!*). But I most particularly object to the manner in which that warrant was executed. Such execution in my belief was a violation of the rights of the individual, and of the dignity of the House of Commons. It forced the house of the Honourable Baronet in a manner the most extraordinary, and called to the exercise of its own authority the assistance of a military force. It had been stated by the systematic opposers of Ministers in Parliament, that they were culpable in not calling in the military force for the execution of that warrant at a much earlier period. That remissness constitutes in my opinion, as far as it goes, the claim of Ministers to our thanks. Be it then their praise, that for two days they respected the constitutional rights of the people, while it must be in the recollection of the country for ever, that their opposers, the champions of public freedom, would not, if they had power, respected them even for an hour (*hear! hear! hear!*). The condemnation of Ministers upon this point is, that they had not persevered in their original resolution, that upon the third day they resorted to that which was most truly illegal. After some other observations upon the duty which the people owed themselves, the Noble Lord proceeded to state the peculiar state of danger to which the country by the progress of the undue and unconstitutional system was so likely to be reduced. It had to struggle with a system of taxation, which in its pressure weighed down upon the very necessary wants of the people—a taxation carried to this almost insupportable extreme by the continuance of an unnecessary War Expenditure. Such taxation must have its limits, and the misfortune was, that the security of the country in place of being advanced, was rendered much more precarious notwithstanding all the public exactions. I in my conscience (said the Noble Lord) believe, that this country can not rely for its security upon the Navy from the circumstances in which that branch of our defence is now from many causes placed. The fact was, the country now was without the means of repairing—that, at this moment, there were not for the repairs of our present shipping six weeks material in Plymouth

Dock; that near half the artificers had been discharged, and that we were absolutely without the means of building the one half of a 74 gun ship. The Meeting was aware that these difficulties were likely to continue. We were cut off from all communication with the Continent, unless by a contraband trade, at least all beneficial intercourse with the Continent was interrupted. Besides, by the last Returns made to the House of Commons, it was evident that whilst the number of British Sailors engaged in foreign trade amounted to 16,000, that of foreigners engaged in the same pursuit exceeded 29,000. The same comparative decrease was observable our shipping; the number of British ships engaged thus was 2000, while that of foreigners amounted to 4000. It was true, that this country received naval materials from Canada and Nova Scotia, but the Meeting must see that the continuance of such a supply depended upon the precarious tenure of the wisdom of our Public Counsellors. The Noble Lord concluded with expressing his most ardent hopes that the friends to that Parliamentary Reform, which must be attained at last, and without which there was neither security or hope, would see the necessity of preserving that decorum which would illustrate the purity of their motives, and give the best refutation to the calumnies of their enemies. He had only to thank them for the grateful manner in which they voted him their thanks.

The loudest approbation followed this speech, and cries of Burdett and Cochrane, resounded through the whole assembly.

The vote of Thanks to the independent Members of the House Commons having been carried unanimously—

Colonel WARDLE addressed the meeting as follows: "The Noble Baronet on whose account the meeting has been called, I am happy to call my friend, and I trust that the conduct of my life will make him mine; that is, that his sentiments and mine may always act in unison—(Loud applause).—I hold the letter directed to his constituents to be perfectly lawful; it was only a fair copy of his indisputable arguments in the House of Commons; it was a mere discussion of that, and could not be considered as a libel. It must be remembered that it was on individuals being committed to prison. I say there was but one paragraph in that letter which the House of Commons, with all their minuteness, could find fault with, and that was where the Hon. Baronet called the Speaker's warrant a thing, *sui generis*. I will call upon you, Gentlemen, to watch the progress of this thing—I mean the Speaker's warrant—which the Hon. Baronet has been committed to the Tower, for descanting on.—(Loud applauses:)—The Serjeant at Arms could make nothing of it. He returned to the Speaker of the House of Commons, and shewed this thing to him, which he looked over, and seemed as much puzzled as the Serjeant at Arms. (Loud applauses.) The Speaker then directed the Serjeant to go to the Magistrates of Bow Street, who knew of no other warrants than they themselves issued, which were according to the law of the land; which made them nearly as much puzzled as the Speaker. (Loud applauses.) This unfortunate piece of paper, or thing, as properly called by the Honourable Baronet,

was

was then laid before His Majesty's Council, an assemblage of all the wise men of the country, with the Lord Chancellor at their head; still they were as much puzzled as the Speaker; although they had the advice of all the Law Officers, they were not able to stamp its validity.—(Loud applauses.) The First Lord of the Treasury, the Chancellor of the Exchequer, and a lawyer too, was puzzled.—(Loud applauses.) He advised the Serjeant to make out a case, and present it to the Attorney General, which the Serjeant accordingly did; but the Learned Gentleman appeared to be more puzzled than even the Speaker himself; I say there is but one more tribunal to be puzzled, which is a British Jury.—(Loud applauses.) It appears to be a thing which nobody can understand. When the case of Mr. Gale Jones came before the House, the great argument was, that the privileges of the House were so high, that the Judges of the Land dare not look at them; but when the same authority was brought in question, as to the committal of Sir Francis Burdett, they had to apply to the Magistrates of Bow Street for their advice how they should support those great privileges.—(Loud applauses.) I say, Gentlemen, and I will contend for it, that no subject has a right to be sent to prison for a libel, before he has been tried by an impartial Jury. I will contend that this is the law of the land, and those that attempt to act otherwise usurp its power.—(Loud applauses.) Not any thing that I could say in support of this grand part of our Constitution, could be so forcible as the words of the great Lord Lyttleton—"That so long as privileges were consistent with the law, they were an advantage to the subject, but the moment they went beyond that, by whatever power they were claimed, they were nothing else but despotism." (Loud applauses.) I do not wish to allude to what is called party, in the House of Commons, for I never have been a party man; but I must allude to those who were called the Whigs, the Talents, and the Outs; call them which you please; but when the business of Sir Francis Burdett came before the House, they said they would rally round the Government, which they had so much vilified, and declared incapable of conducting His Majesty's Government; yes, they would overlook every thing to get rid of that kind of nuisance. I mean the Hon. Baronet, who, by his virtues and talents was in himself a host, and able to support and stand up against the whole of them. (Loud applauses, and cries of Burdett for ever!) The day is our own; if you will only be true to yourselves, and you must have a reform in the House of Parliament. (Loud applauses, and cries of we will, we will.) They brought the Hon. Baronet to the Tower, they thought to have dragged him from your hearts, but he will overcome them all; he has a mind that soars so much above the littleness of theirs, that makes him regardless of his fate, if he can only serve his country and fellow subjects." (Loud huzzas, and Burdett for ever!) He concluded with recommending to them to retire to their homes, and to give no handle to any persons to represent them as acting illegally, and violating the peace and tranquillity which they were bound to support.

Mr.

(90)

Mr. STURCH then moved the Thanks of the Meeting to the High Bailiff, which were carried unanimously.

The HIGH BAILIFF returned his acknowledgements for the honour conferred on him; after which, the High Bailiff, attended by Lord Cochrane, Col. Wardle, Mr. Sturch, and Mr. Wishart, retired from the hustings.

After which, a loud cry took place for Mr. Jennings to come forward, who with some reluctance, obeyed the order.

Mr. JENNINGS assured the meeting it was not his intention to have addressed them that day, nor would he have come forward, if he had not been called for in such flattering terms. He would, therefore occupy their attention but for a few moments. When he had the honour to appear before them as one of the Committee at the last Westminster Election, he did not see any thing in the conduct of the Electors on that occasion, which could have entitled the calling out of a military force, on the late occasion.—(Loud applause.)—Sir Francis Burdett had a right to commit to paper the arguments he had made use of in the House of Commons, to give his constituents knowledge of his conduct. He was confident that the Electors of Westminster would never allow the unwarranted step, which had been taken against their Representative, to be made a precedent.—(Loud cries of, we will not, we will not; attended by loud applause.)

The meeting then dispersed in the most peaceable manner.

The entrances to both Houses of Parliament were closed during the day; not even a Member was allowed to pass, or the Select Committee permitted to sit. The Speaker's Garden was filled with military and constables. At one o'clock the corps of Westminster Volunteers, commanded by Major Jones, were called out, and made a strong muster; they were stationed in Cotton Garden, where they were entertained by Mr. Leigh, the Master of the Works to the House of Commons.

THE END.