

imprisoned before trial. They might just as well object to the canonical law, because it was not in Magna Charta.—The same authority also went on to say, that he could not find the origin for this power of attachment by the Courts, but that he found that usage immemorial. He found the usage stand on as strong a ground as the trial by Jury.—so that it appeared Parliament had as good a right to support their Privileges as the Judges of the land. It might be said, "What, allow the Judge to be both party, and judge, and executioner!" It was so even in those times, and Parliament allowed it. He was indeed persuaded that the power of attachment for contempt by the Judges could not be relinquished with safety to the people. Chief Justice Wilmut was a friend to the establishment and existence of Juries; but he thought that Trial by Jury and the authority of the Judges must be buried in the same grave.—(Hear, hear.) He (Chief Justice Wilmut) asked, what would be the situation of Judges if they had not this power of committal? Were they, when their character or their authority were attacked, to stand at the door of a Grand Jury-room for the finding of a Bill, or to consign themselves afterwards into the hands of men liable to be influenced by any popular cry? Were they, perhaps, to wait for the clearance of their character for a period of six or twelve, or it might be eighteen months? If such was the case, in what respect would the Presidents over the Courts of Justice in the nation be held? (Hear, hear.) Having thus upon this important point stated the opinion of the oldest Judges, he now came to that of Sir W. Blackstone, an authority which seemed to be insisted on by some of those on the opposite side of the question. In the case of Oliver, when the privileges of Parliament were held in dispute, he ordered the man who had been committed back to prison, from whence he came.

Now, after these authorities, he came to the main question, what course was to be adopted on the present occasion? He begged leave to decline giving any advice or judgment of his own to the House; he only meant to give an humble opinion, and so far only to be bound. The House had no right to have any advice from him, as any he had ever given had been constantly disregarded. The Right Honourable Gentleman opposite had controverted, and the House regularly over-ruled him.—His opinion was then that the House ought to go as near as possible to the ancient course of proceeding. He would go farther and say, no matter what odium it might attach to him, that had he been on the Committee, he would have advised the commitment of the Attorney who served the process. He knew he was making a very unpopular declaration, but he stood fearlessly and disinterestedly upon the broad ground of public duty. If in future times his name was found upon the page of the present day, and conceived worthy of notice, no person should point to it and say, "Here is the man who betrayed the privileges of the Commons House of England, and contributed to the ruin of his country."—(Hear, hear.) He declared then, that he would without hesitation have committed the Attorney, and he would do so even though it might not stop the action. If the Chancellor served an injunction on a person in the Courts of Law to stop an action, and that he thought proper to resist, the Chancellor would of course commit him, even though it might not put an end to the action. Having thus stated his opinion on this point, the next question was, what was the conduct to be pursued by the Speaker? It struck some as novel and extraordinary, that the Speaker of that House should go down into a Court of Law, to vindicate the Privileges of the House of Commons. No doubt it was a very novel proceeding, but still, in his opinion, the Speaker ought to appear in the Court, and plead to the action; and he hoped to be able to shew that this was not so dangerous a precedent as it appeared to some. This was not inconsistent at all with the advice which he had given before, with respect to the commitment of the Attorney. When he had the honor to hold the seals in Ireland, if, in a case of action any Attorney had served him with a process, he should instantly have committed the Attorney, but still he should have pleaded to the action. The Courts below must have jurisdiction to inform themselves why an action was brought. With respect to the idea of issuing a prohibition to the Courts below, that was an idea which he had never heard suggested before, nor never read of in the course of his studies. He could not recommend the adoption of that course, nor could he support the idea of the Speaker's writing to the Court. If he was acting as Judge, and that any such letter was brought to him, he should consider it his duty totally to disregard it, and inform himself by plea of the cause of the action. It would be the height of injustice to blame the Court for interfering with the privileges of the House, before it had any means of being informed what those privileges were. He thought then that the Speaker ought to appear in Court, and inform the Court that he was Speaker of the House of Commons, and had been Speaker when the warrant was issued; that he had issued the warrant by that authority, and under the order of the House of Commons, and that he warned the Court that it had no right to relieve the plaintiff, or to examine into the plea. If after this notice the Court thought proper to examine into the plea, he had no hesitation in saying the Court would exceed its jurisdiction.—(Hear, hear.) He did not think, however, that there was one Judge in the land who would, he would not say venture, but even entertain a wish to commit so gross a violation of his duty.—(Hear, hear.) He had now given very fully his opinion on this important subject—he had given it, he hoped, in a manner to preclude any accusation of concealment from fear of unpopularity.—(Hear.) And he now thought it his duty to say, that if the people of this country were misled into a desire to undermine or diminish the privileges of the House of Commons, they would lie under a most fatal delusion.—(Hear, hear.) The interests of the people were inseparably interwoven with the privileges of that House; and they ought not to adopt any hasty animosity against it, because its decision on particular subjects might not accord with their sentiments. They ought coolly to consider that they did not merely hurt this House of Commons by abridging its privileges, but that they radically hurt themselves by proportionably depressing every future House of Commons.—(Hear, hear.) Their ances-

tors, in times the most perilous and conflicts the most trying, had invariably maintained those privileges now sought to be disputed. They had done so in the very height of their spirit, and asserted them at hazard, now (thank God!) not necessary. On those privileges depended not any particular individual authority, but the liberties of the people themselves. It was absurd and monstrous to talk of making the King the repository of the rights of the people. He was as firm a friend as any man to the reigning Sovereign, but still he would say there never reigned a Monarch who loved either the House or the People. Those who expected that the King would naturally protect the liberties of the people might as well expect a prodigy. It was a physical impossibility—no man could love the power by which he was controlled. The House of Brunswick, would, he hoped, to the end, defend the principles by which they were placed on the throne; but then it was idle to expect any reigning family would naturally be the guardians of the freedom of the people. What was, during the whole history of this country, the nature of the political conflicts by which England has been agitated? Did it not exhibit one continued struggle between the King and the people? For what reason was the House of Stuart dethroned? Where was the man who could promise that we might not hereafter have some degenerate descendant even of the House of Brunswick, who might prove equally ambitious? It was one of the grossest errors of modern delusion to think of making the people, under any circumstances, look up to the Throne for the safety of their privileges. He hoped no transient passion, or momentary quarrel between the House of Commons and the people, would induce the latter so wildly and utterly to relinquish their liberties. He would ask what was to be the limit of the privileges of that House, if they once became undefined or doubtful? Was it to be the King's Bench? A man might in that case deny the power of the House even to call him before them at all, and the Bench would be obliged even of this plea to take notice.—Was the limit to be public opinion? That could never be definite; one man would say, "I will give the House so much latitude." Another anxious for popularity, cries out, "No, no, I will not consent to so much;" and thus at this auction of popularity the privileges of the House and the liberties of the people would fall together.—(Hear, hear, hear.) The immediate consequence would be a democracy of factions—then a proscription—then an extinction—and, last of all, the fatal, inevitable consequence, the despotism of an individual.—(Hear, hear, hear.) Let the country beware of this; let them remember how near to this catastrophe England was once—let them remember the time when all those honest and good men, who sought what they imagined a proper limit, and at last the unfortunate Monarch who agreed to it, was deluded and destroyed—destroyed by men who vaunted patriotism and loved themselves—who talked liberty, and meant despotism, who sought law, and found a crown.—(Hear, hear.) If with this example before their eyes—in with the immediate view of every degraded State in modern Europe existing in their sight—if against all experience and all reason—they deserted the House of Commons, and sought for protection of their privileges in the Crown, they would inevitably fall, and they would fall unpitied, unregretted, unrelieved!—(Hear, hear, hear.)

After some further debate, the Motion was agreed to. Mr. GIDDY then moved, That the Attorney General be directed to defend the Speaker and the Serjeant—which was also agreed to.

#### POLITICAL REVIEW.

There can be no stronger proof of the soundness of those principles upon which our Constitution is built than the various revolutions in political opinion which frequently take place among us. The current of popular sentiment does not invariably set the same way; and it is essential to the preservation of our form of Government that it should not. If the people for any length of time were to continue to throw the whole weight of their influence and prejudices into the scale of any one branch, such would of necessity preponderate; the equipoise would be destroyed, and the whole machine put so out of order, as to be inadequate to the purposes for which it was designed. In such a case, there would be no alternative but to knock it to pieces, and trull to some rash and confident artizan to put it together again, or to set about framing a new one upon different and untried principles. No one who understands and loves the Constitution can wish for the occurrence of such dilemma. Such indeed appears to be the conviction of the people of England, who, in the conflicts that arise among the different estates of their Government, generally declare against that branch which it considers as arrogating powers not vested in it by the Constitution. Hence they have been seen to occasionally support the Crown against the Commons, and the Commons against the Crown; to receive one day with acclamation a Resolution of their Representatives, "that the power of the Crown had increased, was increasing, and ought to be diminished; and on another to be ready to tear these very Representatives piecemeal, because they sanctioned a measure whose object was the reduction of that power. Witness the famous vote carried during the American war, and the fate of the Bill for the Government of India soon after.

The question raised by the commitment of Sir FRANCIS BURDETT and Mr. GALE JONES, or rather of the former, (for the sufferings and destitute state of Mr. JONES are hardly thought of,) has, as might be expected, produced a great ferment among a people, who are trembling alive to whatever regards the liberty of the subject. The right of commitment claimed and exercised by the Commons, is considered as nothing short of a tyrannical violation of this liberty, and a total subversion of the first principles of the Constitution. There is no doubt that it would, if it were arbitrarily exercised, and in cases not arising out of the proceedings of the House. But when it is employed for the maintenance of its own dignity, to protect itself against systematic endeavours to bring it into contempt, to degrade it in the eyes of the people, and to prepare the way for its overthrow, no one, who has not made up his mind to the horrors and chances of a revolution, can wish to see the powers and privileges of the House of Commons abridged;

for they are practically the powers and privileges of the people. We are not to forget that that Assembly, however imperfectly constituted, is the Representative of the nation, as to all constitutional purposes, and that, as has been well said, its powers and privileges, however extensive, do but add to the weight of the people in their Government. These privileges are as necessary to shield it against the open or indirect attacks of the Crown as against the more dangerous inroads of popular delusion. Whether usurped or legally acquired, they are essential to its existence. Is there any one who would withhold from a House of Commons, fairly and constitutionally elected, the power of committing to prison for gross and violent abuse of its proceedings, or refuse to it the same means of maintaining its authority that the Courts of Law or even a Magistrate, in the exercise of his office, possesses? But it is said this privilege ought not to extend to cases of libel for there a legal remedy is provided, though it should in cases of obstruction or contempt. What, are the Commons of this United Kingdom to hear their proceedings daily vilified, and the conduct of particular Members canvassed and censured in the *strolling Parliaments*, called Debating Societies, which abound in this city, without being able to vindicate their authority, otherwise than by an address to the Crown to order its Attorney General to prosecute by information? Suppose a bold and bad Administration, intending to bring Parliament into disrepute, should refuse to institute such a prosecution? But even if they should order it, would that effect the immediate suppression of the nuisance? If the vindication of the authority of Parliament is to be delayed during the whole of a long law vacation, from June to November, the most virtuous and upright House of Commons might either be completely run down, or become great losers in public opinion in the interval.

It is therefore absolutely necessary that in all cases relating to its proceedings, the Commons should possess this power of committing to prison, in order to defend themselves against wicked Ministers and daring demagogues, and their respective agents and adherents. The right to commit is nothing without the right to enforce it. All privileges held for the benefit of the public, as those of the House of Commons are presumed to be, must be enforced and supported with the whole power of the State. If a lock or a bolt is made to give way before the Officer of the SOVEREIGN, in the execution of the slightest criminal process, there is no good reason why they should be respected in cases that affect the Sovereignty of the People. What, is the Serjeant at Arms, in executing process of the Representation of the people of this kingdom, to lurk in a beer house, or at the corner of a street (like a bailiff's follower who is on the watch to arrest a beggarly spendthrift for a tailor's bill of ten pounds) until a favourable opportunity offers for him "to snap his man?" If this were to, the Session might pass away before the House could assert its privileges.—The offender, secured by the sanctity of his castle, might laugh from its windows at the Officer of the Commons, and continue the same course of defamation against that House which provoked its futile indignation. If the doctrine laid down by COKE, and confirmed by BLACKSTONE, be correct, that "whatever matters arise, concerning either House of Parliament, ought to be examined, discussed, and adjudged, in that House to which it relates, and not elsewhere," it follows that the Commons in this instance is the only proper tribunal to judge of any offence committed against itself; and that the Parliamentary conduct of its members is not cognizable by a debating society.

#### SAINT JOHN, July 9, 1810.

GREAT NEWS!—Arrived here on Wednesday evening, brig Henry, Jefferson, 3 weeks from St. John's, Newfoundland.—Capt. J. informs that previous to his sailing, several vessels had arrived there from Lisbon, bringing accounts of a General Engagement having taken place between the Combined British and Portuguese Armies and that of the French under Marshal Massena, in which the latter are stated to have been completely routed!

#### HORSES.

TO be Sold by Auction, at the Coffee-House, on Wednesday next, at 12 o'Clock:—A well-bred BAY MARE, and a strong BAY GELDING, SADDLES, BRIDLES, &c. JULY 9, 1810.

#### NEW GOODS.

#### P. FRASER,

Has Received by the Ship WILLIAM and CHARLOTTE from LIVERPOOL, and BRIG BRITISH UNION from LONDON,

#### A VERY EXTENSIVE ASSORTMENT OF BRITISH GOODS,

Which will be Sold on the most reasonable terms for CASH or BILLS of EXCHANGE.

Frederickton, 20th June, 1810.

#### FOR SALE,

At the Subscriber's, on the most reasonable terms,  
A Case of very superior 4-4 Irish Shirting Linens;  
10 Tons British Iron, assorted;  
2 Dozen Men's Saddles; 2 few dozen Bridles;  
5 Packages of Hardware, assorted; 2 few casks Nails;  
10 Bales Superfine, Second and Coarse Cloths;  
6 Cases fine and medium price Men's Hats;  
1 Ditto Ladies' fashionable ditto;  
10 Packages Cotton Goods, consisting of Mullins, Shirting Cottons, Handkerchiefs, &c. &c.  
2 Bales Blankets, 7-4 and 8-4; 1 Bale Canvas;  
10 Casks Bottled Porter; 50 Barrels Ship Bread;  
A few Silver Watches, good quality;  
1 Hhd. Loaf Sugar;  
50 Boxes Window Glass 10-12, 8-10 and 7-9;  
50 Groce Bottles; 50 Boxes Soap;  
30 Puncheons Windward Island Rum,  
A variety of piece Goods, &c. &c.  
ANDREW CROOKSHANK,