LONDON, April 2.

Sir F. Burdett and J. Gale Jones.

Perhaps for the laſt century there has not occurred a more important ſubject than the one we are now about to diſcuſs; and which is to engage the attention of the Houſe of Commons on Thurſday. But the caſes of Sir Francis Burdett and John Gale Jones are in many reſpects different, ſo different that they ought to be carefully ſeparated. We ſhall diſcuſs them firſt as they bear upon each other, and ſecondly, as they bear upon Sir F. Burdett alone.

Nothing has excited ſuch ſurpriſe, as the adjournment of the diſcuſſion relative to Sir Francis Burdett.—Where was the neceſſity of adjourning it? Was it becauſe of any intricacy and difficulty in it, as far as it related to him? Was it more intricate than any of thoſe caſes of libel which come frequently under the cognizance of the Courts of Law, where a Jury, compoſed often of unlettered men, are obliged to decide without any adjournment, and in a few hours? It was not: yet here we have an Aſſembly, compoſed of men ſuppoſed to be deeply verſed in the Law and Conſtitution of the Realm, aſking time for that delay which is never granted to men leſs able from their habits and their ſtudies to form an accurate and deciſive opinion. Delay could not be demanded, becauſe they could not make up their minds immediately. It muſt have been demanded, in order that they might be able to conſider the whole queſtion, not only as it related to Sir F. Burdett, but to the right of committing John Gale Jones—And this we are the more anxious to impreſs becauſe of the manner in which the adjournment has been repreſented. It has been aſked, why was a different meaſure meted out to the Baronet from what was meted out to Gale Jones? Why was an adjournment deemed neceſſary in the one caſe, and why did not the Houſe, without loſing a moment, proceed upon a buſineſs ſo vitally intereſting to its character and exiſtence? In the caſe of Jones, who was no Member, delay or adjournment might have been allowed, he being an unprotected individual, and not ſheltered by thoſe forms and privileges which the Members poſſeſs—But no one ſeemed ſhocked at his caſe being inſtantly diſpoſed of, and himſelf ſent to priſon. The idea, however, of proceeding in the ſame manner againſt the Baronet was treated as harſh and revolting, and an outcry was raiſed againſt thoſe who thought the character of the Houſe demanded inſtant deciſion. The adjournment has alſo been repreſented as proceeding from a feeling of timidity which heſitates at attacking a man who is at the head of a party. How he ever came to be placed there will always excite our aſtoniſhment. For in all the great qualities of a leader, promptitude, deciſion and vigour of character, he is utterly deficient. Look at his conduct when Mr. Lethbridge made his motion, and the Speaker aſked him what he had to ſay upon the ſubject matter of complaint! Here was an opportunity for a man endowed with real vigour, with promptitude and talents, to have defended his conduct with energy, to have defied his accuſer, and to have challenged inquiry. What did Sir Francis do?—In a low tone of voice he ſaid, that "he had nothing to ſay upon the ſubject in the ſhape of defence." He ſeemed to be *ignorant* of what he was accuſed. Ignorant of what he was accuſed! when his letter and report of his Speech were diſtinctly ſtated, and when they muſt have been freſh in his memory.—But he was taken unprepared; he had not got his leſſon; he muſt go back and receive his inſtructions—he requires long preparation—he muſt be made up.

A more important queſtion than the queſtion relative to to the committal of John Gale Jones, has not been diſcuſſed for a century—This man has been committed to priſon by the Houſe of Commons, for a breach of privilege, conſiſting in the publication of a hand-bill, declared to be a libel—A libel is an offence cogniſable by our Laws, and in a Court of Law—but the Houſe of Commons, not permitting it, in this inſtance, to be tried by a Court of Law, has taken upon itſelf to accuſe, to try, to condemn, and to ſentence the perſon accuſed—Of courſe, then, he has not had the benefit of the forms or proviſions of any Law; he has not been permitted to produce evidence in his favour, or in mitigation of puniſhment—He can have no redreſs if wrongfully impriſoned, and if he ſues for his *Habeas Corpus*, the Courts of Law will not grant it—It is argued that this power is, of right, veſted in the Houſe of Commons, and that they have authority to commit for breach of privilege—They cite precedents, and to theſe we mean to allude ſhortly, and but ſhortly, intending to take our ſtand upon much higher and ſtronger ground—Precedents enough may be cited, but what are they if they are not ſanctioned by poſitive Law, and if they are violatory of the firſt principles of law?—We ſhall find precedents enough for every act, whether hurtful or beneficial to the ſubject, but are they to be the ſole rule and juſtification of our conduct.—In the examination of the Journals of Parliament, and the works of writers upon the Law and cuſtom of Parliament, there may be precedents of committals for breach of privilege.—The power has been exerciſed, and the right has not been queſtioned, but let us not admit that it is therefore not queſtionable. In Selden, in Rushworth, in Sir Simon D'Ewes, and in the able ſummary publiſhed under the title of *Lex Parliamentaria*, we find ſome inſtances (and but few) of perſons not Members, being committed for breaches of privileges. They are rare in the time of Elizabeth. In the 27th Elizabeth 1584, one John Bland, for making diſhonourable reflections on the Houſe of Commons, was brought to the Bar, but pardoned upon his ſubmiſſion.—In the 31ſt Elizabeth, Thomas Drury was committed to the cuſtody of the Serjeant, and brought to the Bar, for ſpeaking diſhonourably of the proceedings of the Houſe, but diſcharged, paying his fees.—In later times, it was not unuſual upon complaints of books being publiſhed, ſpeaking diſhonourably of the Commons or Lords, or both, for the Commons to lay their complaints before the Lords, and the proceedings againſt ſuch books, was a joint one of the two Houſes. This was the caſe in the 1ſt James I. 1603, upon the complaint of the Commons againſt Biſhop Burnet and Dr. Cowell, for publiſhing works diſhonourable to Parliament. In latter times, committals for breach of privilege by the Commons, particularly in thoſe times alluded to with ſuch ſeeming ſatisfaction by Sir Francis Burdett, were more frequent, and more arbitrary. But ſtill in none of theſe caſes, can we find any poſitive Law alluded to *ſtat pro ratione (lege) voluntas.* The Commons claimed the right, and no man was hardy enough to queſtion it. The precedents quoted by Mr. Perceval in the debate upon Mr. Lethbridge's motion laſt Wedneſday, were from the time of Elizabeth, in which we have ſhewn there were but few. In a ſolemn proceeding, he ſaid, in the year 1701, it was decided, 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 privilege. The proceeding here alluded to was upon the petition preſented from the County of Kent, by five Gentlemen. This petition was voted ſcandalous, inſolent, and libellous, and the five Gentlemen were committed to the Galeteuſe, where they remained till the prorogation. Here indeed we have the power of committal exerciſed; but the right and the law were queſtioned by the well-known Memorial written by Daniel De Foe, in which memorial the Commons were charged with illegal and unwarrantable practices in confining the Gentlemen alluded to. The Memorial concluded by declaring that "Engliſhmen are no more to be ſlaves to Parliaments than to Kings.—The Houſe did not chuſe to take notice of this Memorial.—Mr. Perceval alſo quoted the caſes of Crosby and Oliver, in which the Courts of Common Pleas and Exchequer refuſed writs of Habeas Corpus, on the ground that the Houſe had a right to commit for breach of privilege. But Crosby and Oliver were Members of the Houſe, and the right of the Houſe to impriſon its own Members is undeniable.—Sir Robert Atkins indeed, in his Power of Parliaments, has been ſaid to give the right of committal to the Houſe of Commons—but if it were not well known that he carried the power of Parliaments to an exceſſive length, we might ſay that the right he gives is to both Houſes jointly, though that in our view of the ſubject would make but little difference. We ſhall conclude with one authority, which is againſt the right claimed by the Commons—the authority of Rushworth, who declares, that the Houſe of Commons is a Houſe of information and preſentment, *but not a House of definitive judgment.* In the trials of the Regicides, the power of the Houſe with reſpect to individuals was aſſimilated to the power of a Grand Jury, "'tis a good *bella vera* they return." Now a Grand Jury, we need not remind our readers, ſends an accuſed perſon to be tried by another Court according to the forms and rules of Law. If this doctrine therefore, contended for in the trials of the Regicides, be correct, the Houſe of Commons, acting as a Grand Jury, and declaring a book to be a libel, ought to direct the Attorney-General to bring it before a Court of Law, where it might be tried according to the rules and forms of Law.

Upon precedents we have not dwelt much at length: though we do not think that it would be difficult to ſhew that none of them are ſo ſound and ſtrong as to be incapable of being attacked. But we have purpoſely refrained from entering much at length into them, becauſe we mean to contend that no precedents could they heap them as high as poſſible, "Pelion upon Oſſa," can juſtify the continuance of ſuch a practice. They are founded upon and drawn from privileges not defined, not known, not tangible: and well might the man againſt whom they are brought exclaim in the language of Lord Strafford upon his trial—"Precedents like theſe which are endeavoured to be eſta-"bliſhed againſt me, muſt draw along ſuch inconveniences "and miſeries, that in a few years, the kingdom will be in "the condition expreſſed in a ſtatute of Henry IV. *and* "*no man ſhall know by what rule to govern his words* "*and actions!*"

But the practice, however bolſtered up by precedents, is directly contrary to the great principles of the Conſtitution and of law—It is condemning a man without a trial—it is impriſoning him, *not by the virdict of his Peers, but of his accusers, who are at the same time his Judges*—it is depriving him of his writ of Habeas Corpus and of the Trial by Jury. Oh improvident anceſtors, who took ſuch pains to provide againſt the encroachments of the Crown, and yet left this door open to the moſt dreadful of all deſpotiſms, the being ſubject to arreſt and impriſonment for an offence undefined and not contemplated by the Law of the land—The Commons have the power of the purſe—they impoſe taxes—they originate laws—they impoſe regulations with reſpect to commerce; but if we, who are their conſtituents, and upon whom their meaſures are to attach, venture to comment upon their conduct, they may, by this law of privilege, drag us from our homes, ſend us to priſon and keep us there, not for an indefinite time, but long enough perhaps to work the ruin of our health, of our hopes, and of our fortune. John Gale Jones! not he alone! Upon the ſame law of privilege there is not a Proprietor nor Editor, Printer, Publiſher, no Servant, belonging to any Newſpaper, who might not all be dragged from their homes and committed to Newgate—We might be repoſing in our homes, in the boſom of our families, in the fancied ſecurity of the Law, in the confidence that we had violated no Law, in the complacency perhaps of the reflection that we had contributed to the maintenance of the Conſtitution—Frail reliance! ſlender prop! On a ſudden this nondeſcript, this unknown engine, drawn from the ſecret armoury of the Commons, is levelled againſt us. Law, Liberty, and the Conſtitution fall down before it, and we are ſentenced, without redreſs, to the miſeries of a jail—If Engliſhmen can be expoſed to ſuch a puniſhment without the poſſibility of redreſs, if we can, upon this principle of ambiguous, unknown, undefined privilege, be ſentenced, without trial by jury, to impriſonment, juſtly might we exclaim with Lord Strafford: "Better it were to "live under no Law at all, and by the maxims of cautious "prudence, to confirm ourſelves, the beſt we can, to the "arbitrary will of a maſter; than fancy we have a Law on "which we can rely, and find at leaſt, that this Law ſhall "inflict a puniſhment precedent to the promulgation, and try "us by maxims unheard of till the very moment of the proſecution—If I ſail on the Thames, and ſplit my veſſel on "an anchor, in caſe there be no buoy to give warning, the "party ſhall give me damages. But if the anchor be "marked out, then is the ſtriking on it at my own peril.—"Where is the mark ſet upon this crime? where the token "by which I ſhould diſcover it? It has been concealed "under water; and no human prudence, no human inno-"cence, could ſave me from the deſtruction with which I "am at preſent threatened."

☞ *The remainder will be inserted in our next.*

BOSTON, May 23.

☞ Our accounts *direct* from *Spain* are—as they generally are—later than thoſe in the Engliſh papers.—But we find in the laſt one of the boldeſt edicts ever promulgated by the Patriotick Councils of *Spain*, and iſſued on the 16th March, after the French were before *Cadiz*:—No leſs than a formal recognition of the Court of *Province*, [Louis XVIII.] as the legitimate ſovereign of *France*; and a denunciation of Napoleon Bonaparte, as an Uſurper, and his brother Joseph, as his tool; and offering as a reward, one of the firſt Commandaries of the Military Orders, *Santiago* and *Alcantara*, with the right of property to his heirs in perpetuity; to any Spaniard, or foreigner, who, in the ſervice of *Spain*, her liberty and monarchy, ſhall deliver up alive or dead, Napoleon Bonaparte, or the Pretender Joseph, his brother, as alſo an honorable ſtyle which ſhall denote in future the nobility of his family.

☞ OFFICIAL CORRESPONDENCE.

From the National Intelligencer, Extra.

Washington City, May 19.

Extract of a letter from Wm. Pinkney, Eſq. to R. Smith, Eſq. Secretary of State, dated London, March 21, 1810.

"On the 27th of November Mr. Brownell delivered to me your letters of the 11th, 14th and 23d of the preceding month, and on the Saturday following I had a conference with the Marquis Welleſley, in the courſe of which I explained to him fully the grounds upon which I was inſtructed to requeſt Mr. Jackſon's immediate recal, and upon which the official intercourſe between that Miniſter and the American government had been ſuſpended.

"Lord Welleſley's reception of what I ſaid to him was frank and friendly; and I left him with a perſuaſion that we ſhould have no cauſe to be diſſatisfied with the final courſe of his government on the ſubjects of our conference.

"We agreed in opinion that this interview could only be introductory to a more formal proceeding on my part; and it was accordingly ſettled between us that I ſhould preſent an official letter, to the effect of my verbal communication.

"Having prepared ſuch a letter, I carried it myſelf to Downing-Street a few days afterwards, and accompanied the delivery of it to Lord Welleſley with ſome explanatory obſervations, with which it is not I preſume neceſſary to trouble you. You will find a copy of this letter encloſed, and will be able to collect from it the ſubſtance of the greater part of the ſtatement and remarks which I thought it my duty to make in the converſation above mentioned. A copy of the anſwer, received on the day of its date, is encloſed."

(COPY.)

Great Cumberland Place, 2d January, 1810.

My Lord,

In the courſe of the official correſpondence, which has lately taken place between the Secretary of State of the United States and Mr. Jackſon, His Majeſty's Envoy extraordinary and Miniſter Plenipotentiary at Waſhington, it has unfortunately happened that Mr. Jackſon has made it neceſſary that I ſhould receive the commands of the Preſident to requeſt his recal, and that, in the mean time the intercourſe between that Miniſter and the American government ſhould be ſuſpended.

I am quite ſure, my Lord, that I ſhall beſt conſult your Lordſhip's wiſhes and the reſpect which I owe to His Majeſty's government, by executing my duty on this occaſion with perfect ſimplicity and frankneſs. My inſtructions, too, point to that courſe as required by the honor of the two governments, and as ſuited to the confidence which the Preſident entertains in the diſpoſition of His Majeſty's government to view in its true light the ſubject to which they relate. With ſuch inducements to exclude from this communication every thing which is not intimately connected with its purpoſe, and, on the other hand, to ſet forth with candor and explicitneſs the facts and conſiderations which really belong to the caſe, I ſhould be unpardonable if I fatigued your Lordſhip with unneceſſary details, or affected any reſerve.

It is known to your Lordſhip that Mr. Jackſon arrived in America, as the ſucceſſor of Mr. Erſkine, while the diſappointment produced by the diſavowal of the arrangement of the 19th of April, was yet recent, and while ſome other cauſes of diſſatisfaction, which had been made to aſſociate themſelves with that diſappointment, were in operation. But your Lordſhip alſo knows that his reception by the American government was marked by all that kindneſs and reſpect which were due to the repreſentative of a ſovereign with whom the United States were ſincerely deſirous of maintaining the moſt friendly relations.

Whatever were the hopes, which Mr. Jackſon's miſſion had inſpired, of ſatisfactory explanations and adjuſtments upon the prominent points of difference between the two countries, they certainly were not much encouraged by the conferences, in which, as far as he thought proper, he opened to Mr. Smith, ſoon after his arrival, the nature and extent of his powers and the views of his government. After an experiment, deemed by the government of the United States to be ſufficient, it appeared that theſe conferences, neceſſary liable to miſconception and want of preciſion, were not likely to lead to any practical concluſion.

Accordingly, on the 9th of October, Mr. Smith addreſſed a letter to Mr. Jackſon, in which, after ſtating the courſe of proceeding which the American government had ſuppoſed itſelf entitled to expect from him, with regard to the rejected arrangement and the matters embraced by it, and after recapitulating what Mr. Smith believed to have paſſed in their recent interviews relative to thoſe ſubjects, he intimated that it was thought expedient that their further diſcuſſions, on that particular occaſion, ſhould be in writing.

[☞ Here follows a minute review of the correſpondence between Mr. Jackſon and Mr. Smith, concluding with the following remarks on Mr. J's. circular appeal to the people.]

The other communications (of which the ſubſtance was ſoon afterwards publiſhed to the American people, in the form of a circular letter from Mr. Jackſon to the Britiſh Conſuls in the United States) ſeem to have been intended as a juſtification of his conduct in that part of his correſpondence, which had given umbrage to the American government. This paper (bearing date the 12th of Nov.) is not very explicit: but it would appear to be calculated to give rather a new form to the ſtatements,