

Great-Britain.

MR. O'CONNELL.

HOUSE OF COMMONS,
FRIDAY, MAY 15.

In consequence of the general expectation that Mr. O'Connell would this day present himself at the table of the House, to be sworn in a Member for the County of Clare, the gallery was opened at three o'clock, and was very soon afterwards completely filled. The Speaker entered the House at the usual hour, by which time nearly three hundred members were assembled, and, before he had taken the chair two minutes, the body of the House, and also the side galleries, were as fully crowded as on any night during the discussion of the great question of Catholic Emancipation.

MR. O'CONNELL.—The Speaker having twice or thrice called order, before the extreme anxiety and confusion which prevailed in the House subsided, said—"Members to be sworn will be pleased to come to the table."

Mr. O'Connell, with Lord Duncannon on his right, and Lord Ebrington on his left hand, to introduce him in the customary form, forthwith passed the bar of the House, and proceeded towards the table.

Mr. Ley, the Chief Clerk of the House, then left his seat, and proceeded to the lower end of the table, and there met Mr. O'Connell. Mr. O'Connell handed in the certificate from the Commissioners of the Lord High Steward, his return, and his qualification.

The Clerk, having examined these documents, and found that they were all perfectly correct, immediately opened the large box, in which are kept various official forms, &c. and took out the old oaths affixed to pasteboards, and handed them to Mr. O'Connell, together with the New Testament, on which to swear him. Mr. O'Connell took the Testament, but on the oaths being presented to him, he said, in effect, to Mr. Ley, the Clerk, (the conversation was not addressed to the Speaker or the House, and, of course, it was not heard in the gallery.) "I apply to take my seat under the new Act. I am ready to take the oath directed to be taken by Roman Catholic Members. I do not feel that I am bound to take those oaths (passing his hand over the oaths of Supremacy, &c., to point out which he meant.) Perhaps, Sir, you will state the fact to the Speaker for me—that I do not consider I ought to be called on to take, other than the oath named in the new Act.

Mr. Ley, the Clerk, then went to the Speaker, and made the required communication, taking the old oaths with him, and pointing out the exceptions made by Mr. O'Connell.

The Speaker said—"It is my duty to state, if I have been correctly informed, that the course which the Hon. Member has proposed to take is a course which, until overruled by stronger authority, I do not conceive it my duty to acquiesce in. I understand that he proposes to take the oath prescribed to be taken by Roman Catholics, as it is to be found in an Act of Parliament recently passed. As I read that Act of Parliament, it is my impression—and on that impression it is my duty to act—that it involves two points relative to the course to be pursued in taking seats in this House. The first point is that of repealing the declaration against transubstantiation;—the other, that of appointing an oath to be taken by such members of this House as profess the Roman Catholic Creed; but with this condition, that those members should be returned subsequent to the passing of the Act. Now, the hon. member was returned, as the House is well aware, long before the passing of this Act; I have, therefore, only to refer to the law affecting all the Members of this House until the late Act passed; and, with the single exception of repealing the declaration against transubstantiation, I have to state, that the construction which has been uniformly put on the law of the land, and which has been repeatedly sanctioned and confirmed by Act of Parliament, is that every member, before taking his seat, shall take the oath of abjuration at the table of this House. This is the course which by law the dignity and the privileges of this House require. I state this the rather, because it is well known that this House is open to an appeal by petition, or it may be brought forward by any member in this House. In that case, the House will be better able to judge, and to state its opinion of the propriety of the conduct which it appeared to me to be my duty to pursue. (Hear, hear.) I therefore state to the hon. gentlemen that be must withdraw."

Mr. Brougham rose.—He was sure—

The Speaker—Order, order! The Hon. Gentleman at the table must withdraw.

Mr. O'Connell then withdrew amid much confusion, but without, we believe, attempting to make a single observation.

Mr. Brougham again rose, and, in the tumult which prevailed, endeavoured to make himself heard. He said, no one was more disposed than himself to bow with submission to the opinion of the Chair, but on this occasion he could not help thinking that the opinion delivered by the Speaker was erroneous, and that the Hon. Gentleman who had just left the table had a right to be heard in defence of his claim.—(Hear, hear.)

The disorder at this moment was so great, that the Speaker was compelled imperatively to direct the Members below the bar to take their places. As soon as order was restored,

Mr. Brougham repeated his belief that the Speaker had misconstrued the Act, when he came to the conclusion that the Hon. Member for Clare had not, according to the usages of Parliament, a right to address the House. The first difficulty which presented itself in this case arose from the Hon. Member for the County of Clare being ordered to withdraw; and while he was attempting to gain a hearing the Speaker called him to order, and the Hon. Member withdrew, and was thus precluded from speaking on the question. Now if it were at all doubtful whether the Hon. Member had a right to be heard in his own behalf, he thought that question might have been disposed of before the Hon. Member was compelled to leave the House; but now that he had withdrawn, he (Mr. Brougham) would state his opinion of the matter as it now stood, which was, that, acting on principle, and according to the usages of Parliament, he was of opinion that the question ought to be so far discussed as to satisfy the House that they were now following a correct course. He thought also that the Hon. Gentlemen ought to be allowed to state his objections to the taking of the oaths. With profound respect to the Chair, he must beg to deny his authority in determining this question. It was a question of the greatest importance, and the opinion of no single individual, either in or out of the Chair, ought to bind the House. The opinion of the whole House ought to be taken. According to the construction which was now put on the law, the Hon. Member from Clare was precluded from addressing the House on a subject which affected his personal rights. He contended that he (Mr. O'Connell) had a right to be heard at the table, without taking the oaths, for the purpose of stating his objections to those oaths; and for this he could produce two or three precedents. The proposition he had to submit to the House was, that a member was eligible to speak at the table before he took the oath and his seat. The first case he had to refer to was that of Henry Monson, who was returned in 1689. The second was that of Mr. Archdale. Sir Henry Monson was asked what objections he had to take the Oath of Supremacy? and he replied, that his objections were personal to himself, and had not the least tendency to disturb the Government of the country. Now it appeared by the imperfect records which had come down to us, and by Parliamentary history, that he was permitted to speak a few sentences, in explanation of his objections to subscribe to the oaths. The House, however, was not satisfied with the reasons he assigned, and he was directed to withdraw, and a new writ was ordered. But what he wished to call the attention of the House to was that which took place before the new writ was issued—namely, that Sir Henry Monson was heard at the table of the House. In the case of Mr. Archdale also, it appeared he was permitted to state his reasons for refusing to take the oaths. In a third case (he alluded to that of Lord Fanshawe, which was also the case of a refusal to take the oaths) the proceedings were not distinctly given, but he apprehended, in that instance, his Lordship was likewise heard at the table previous to being ordered to withdraw. If, adopting the course of these precedents, the House should be of opinion that the Hon. Member for Clare ought to be heard, then the House would order him to be recalled, and having heard his objections, he would be ordered to withdraw, and the House would then deal with the question as it should think proper. The question was one of the first importance, and each step that was taken in it ought to be taken only after the fullest deliberation. The Hon. Member concluded, by moving that the Hon. Member for Clare be called back, and heard in his own behalf at the table of the House.

Mr. Secretary Peel said he had need scarcely remind the House that the question now proposed came before them in their strict judicial capacity, and must be decided according to the laws of Parliament, and the strict letter of the statute.

Upon the question itself he did not entertain a doubt that the learned gentleman could not address the House before the oaths were taken, because, if he did, every other member who might feel so disposed, would have an equal right to raise objections to the oaths, to the prescribed oaths of the House. The law was positive in directing that every member should take the oaths before he took his seat, and, before taking the oaths, it was quite clear that before he had so qualified himself he could have no right to be heard in the House. As to the precedents which had been referred to, there had been no time to examine into them; and as it was extremely important that the question should be maturely considered, he trusted the House would not come to a premature decision, but would take time for consideration. With respect to the motion of the honorable member for Winchelsea, he wished to observe that it would be desirable to avoid agitating this important question till the preliminary point was disposed of; and he would only now state that the impression on his mind was decidedly different from that of the honorable gentleman opposite, (Mr. Brougham.) As to the other question at issue, he would, as he had before observed, give no opinion, but it was impossible that the House could, consistently with its dignity, proceed with the discussion without taking mature time for deliberation. He, therefore, proposed, that the further discussion be postponed till Monday.

The Speaker said, that, before he proceeded to put the question to the House, he trusted he should not be thought unreasonable if he put the House in possession of the consideration which determined him in taking the course he had. However difficult or important the question might be, he had not time to deliberate—the speaker in the chair was compelled to decide on the instant. The course he had taken was such as occurred on the instant to be correct, and he decided with the less reluctance, knowing the House would correct him if he were wrong. With respect to hearing an honorable member at the table, he knew of no precedent of its being done under any circumstances short of the honorable gentleman being a complete member of the House. It was not the statute of Elizabeth but that of Charles the Second, which directed certain oaths to be taken by members previous to their admission into this House, before the Lord High Steward, and his Commissioners; and without a certificate from the Lord High Steward or his Deputies, it would be impossible for the House to know whether or not the usual oaths had been conform'd to, and in the absence of any evidence to the contrary it is presumed the proper oaths had been taken.

Mr. Tierney said, it appeared to him to be very singular, that after a Committee of the House had decided on the validity of the Hon. Member's election, that this House should say when the Hon. Member came to take his seat, "We do not know what to say nor what to do." It seemed truly singular, that after the Honorable Member had been declared duly elected, that the House of Commons should say, "We don't know what to make of this, but we will adjourn for a day or two, and then we shall come prepared with better information on the subject." He thought it would be much better if the Hon. Member was called in and allowed to address the House, and then the House would know on what it was to decide.

Sir Francis Burdett said, he thought it was a very important question to be inquired into, and if the House was not then prepared for the discussion, it ought to be postponed. Whether the Hon. Member for Clare was heard at the table or at the bar, he considered unimportant, and thought the House was certainly ripe for the decision; it was not so for the discussion.

Sir Joseph Yorke said, that in the case of Lord Fanshawe, that Nobleman refused to take the oaths, and was sent for by the Speaker to state the grounds for that refusal.

Mr. Brougham said, he had not himself sufficiently considered the subject to give a competent reason for supporting the motion. At the present moment he did not perceive how the cases of Lord Fanshawe, Sir Henry Monson, or Mr. Archdale, the Quaker, differed from the case of the Hon. Member for Clare. In two of those cases, he meant those of Lord Fanshawe and Sir Henry Monson, those individuals had been Members of the Conventional Parliament; and that Parliament, strictly speaking, was not legally convened, and the oaths were afterwards introduced to which those Gentlemen objected. The other case was that of Mr. Archdale's. There the Member was sent for by the Speaker, and that certainly might make some difference. He agreed to the adjournment, in order that there might be a more regular and formal discussion, and to afford time for looking into the cases. As to the possibility of the House coming to the third conclusion, that Mr. O'Connell was not to be