

THE EXAMINER.

No. 165. SUNDAY, FEB. 24, 1811.

THE POLITICAL EXAMINER.

Party is the madness of many for the gain of a few. SWIFT.

No. 161.

REMARKS ON THE CASE OF MR. FINNERTY, (CONTINUED FROM LAST WEEK).

THE immediate cause of Mr. FINNERTY's present misfortune is well known to the public. He had accompanied the Expedition to Walcheren, at the request of Sir HOME POPEHAM, in order to write an account of it for publication; but was forced to return home by an order to that effect obtained by Lord CASTLEREAGH, the then Secretary of the War Department. Finding himself deeply injured in profit, reputation, and health, by a proceeding so directly calculated to put him to loss and expense, to degrade his character, and to prey upon his mind, he thought, on his return, of bringing an action against his Lordship, but was dissuaded from it as of no use; and therefore he vented his feelings in a Letter to Lord CASTLEREAGH, which was published in the *Morning Chronicle*, and in which he plainly accused the Viscount of an intention to harass and destroy him,—reminding his Lordship at the same time of the tyrannous and horrible cruelties practised upon the people of Ireland during the Noble Lord's administration in that country. In consequence of this letter, the ATTORNEY-GENERAL was directed to file an information for libel against Mr. FINNERTY; and the result, as every body knows, has been the imprisonment of that gentleman; a heavy expense in addition to his past losses; and a prospect of total ruin in his removal to a distant gaol, far from the scenes and occupations in which his pen had hitherto enabled him to procure a subsistence.

But these later facts disclose little. It is naturally asked, why the Secretary of State, who suffered and even encouraged other persons to accompany the Expedition, should demand back Mr. FINNERTY alone?—The Ministerialists easily satisfy themselves on the occasion by saying, "his Lordship must have had excellent reasons;" and the *Morning Post*, that epitome of all that is accomplished and interesting, in order to settle the matter for ever, informed the public that Mr. FINNERTY was a suspicious person with a very treasonable cast of mind. As the Ministers and their friends however have been long discovered not to abound in "excellent reasons" for any thing; and as decent people, who look to facts and events, are accustomed to believe the reverse of what the said *Post* advances, the public waited to hear what Mr. FINNERTY himself should produce on his trial in explanation, and they were not surprised at discovering that a long antipathy, common between my Lord CASTLEREAGH and his countrymen, had

subsisted ever since the year 1798 between his Lordship and Mr. FINNERTY, in consequence of the view which each took of the other's character,—the former regarding his opponent as a bad subject,—the latter considering his Lordship as an execrable Minister. Here then the parties are at issue; the dispute resolves itself into a question of political character; and by looking a little at their past actions,—by observing which of the two has most offended honest people, and consequently which of the two is most desirous of concealing the wrong he has done,—we shall quickly see to which of the two the general support belongs, and to which the universal contempt.

To begin with Mr. FINNERTY, who is the person first accused. This Gentleman, it must be confessed in the outset, has one deadly sin in the eyes of a number of persons;—he is an Irishman,—a native of that country, where to feel for the people about you, is to be accused of blood-thirstiness; and to differ with the propriety of cheating them, is to show that you are not fit to be trusted. What will at once determine the persons aforesaid to conclude him guilty beyond question is, that he long ago expressed these feelings warmly, and has been in the habit of so doing whenever an opportunity offered. It was in this way, like the rest of his countrymen, that he acquired the particular notice of Lord CASTLEREAGH. In 1798, Mr. FINNERTY, at that time twenty years of age, was following his business as a printer in Dublin, where he was concerned in a paper called the *Press*. This and another print, called the *Northern Star*, were the only newspapers, it seems, which ventured to notice the house-burnings, the scourgings, the pickettings, the half-hangings, and other dreadful inflictions then practised against suspected people,—atrocities, which in proportion to their iniquity, it was the natural wish of the perpetrators to keep from the knowledge of the people of England. The destruction of the latter paper was effected; and the *Press* alone remained to repeat the groans of the country, and to waft them over to the ears of this nation;—but not long. If to speak the truth is accounted a punishable offence even in England, where it may be spoken without shaking every body's conscience, what must it have been accounted in Ireland, where every scourge was reeking, and every dungeon ochoed, with the crimes of the rulers?—Mr. FINNERTY was soon convicted of libel; and the customary miscarriage was not wanting to bring forward an accusation of treasonable connection. Another informer, whom the fellow knows by the appellation of Major SIMS (Town Major) had been encouraging to make the same charge; congratulated himself, as he afterwards declared in print, on being "relieved from the necessity of adding another to the list of innocent men imprisoned through his means." Mr. FINNERTY, after suffering a public punishment which is inflicted on the lowest

and vilest of our species,—the pillory,—was committed to gaol, where he had been but a short time, when the superintendant Magistrate of Dublin, with a summary mode of proceeding perfectly astounding to all of us who are accustomed to regard our property as secure, took a party of soldiers to the *Press Office*, and “destroyed,” says the affidavit, “not only the papers ready for publication, but the types and other printing materials, amounting in value to about five hundred pounds.” This man was a creature of Lord CASTLEREAGH, who had been understood for some time to hold the Secretaryship under the Lord Lieutenant as *locum tenens* for Mr. PELHAM, from which circumstance and his predominant influence in affairs, the ostensible administration was usually called Lord CASTLEREAGH’S government. Be that as it may, his Lordship openly succeeded to office during Mr. FINNERTY’S imprisonment; and the latter, who was confined in a gaol-room sixteen feet by nine with fourteen other persons, some of them convicted of capital offences, and who was otherwise subjected to those attendant circumstances of degradation and disgust, which render imprisonment trebly painful to decent minds, wrote twice to his Lordship on the subject, stating the sickness and pain of mind which he suffered in consequence of such treatment; but no notice was taken of the applications. Upon his liberation, finding that he was in no way of procuring a subsistence, Mr. FINNERTY waited upon the Noble Lord to request a passport for leaving the country, but this too he was refused, not without harshness and insult; and, at last, he found himself under the necessity of escaping to England in the disguise of a sailor. Here, where printing-presses are not to be got up by a magistrate, and where fifteen people are not confined at a time in rooms sixteen feet by nine, Mr. FINNERTY concluded himself safe from persecution; and for some time past, his pen had enabled him to live comfortably in the metropolis: but he formed a strange estimate of the magnanimity or conscious virtue of his enemies, if he thought that the decided part which he continued to manifest against their proceedings, would induce them to be regardless of his. To write warmly in newspapers, to speak warmly at public meetings, and to prepare the statements of aggrieved officers for the public eye, were so many stimulants that kept alive their memory and their dislike; and the first time Mr. FINNERTY subjected himself to the arm of power, he felt it in all its weight. In addition to the vexation of being obliged to return from Walcheren, he had the mortification of seeing his character become an object of the lowest suspicion in consequence of the suddenness and apparent alarm of the order for that purpose; and people, whose subserviency or whose temper inclines them to believe any thing on these occasions, were not slow, as usual, to give the worst colour to what they thought. Some of them however went beyond their policy in so doing. A certain nobleman connected with Lord CASTLEREAGH was heard to say at a tavern in Middleburgh, in the presence of several officers—“I wish

some one would shoot that fellow out of the way at once.” Without pushing this speech to its extremity, and insisting as an Attorney-General might insist, that the said Nobleman, being a malicious and murderous person, and manifestly intending, compassing, and devising the death of the said PETER FINNERTY, did hope to stir up some person or persons to take a loaded musket, and discharge said musket in the face of said PETER—it may be fairly asserted that such an ebullition of impatience argued a malicious feeling against him, and shewed that the person who uttered it was prepared to chagrin and annoy him, in order to gratify those who wished his injury. And what could have dictated the order for his return, but his personal obnoxiousness to men in office? So confident were those, who invited him to Walcheren, of the harmlessness of their object in so doing, that they even proposed to him to inform the Commander of the Expedition before-hand, of his intention to write a mere military account of it for the Public,—a proposition which he very properly rejected as humiliating and servile. What then could it be? His friend, Sir HOME POPHAM, was in the confidence of the Ministers:—they would not willingly let us suppose that they were conscious of defects in the military system not altogether fitted for the inspection of a shrewd observer;—and if the Expedition terminated in deadly disgrace, it is hardly to be supposed that they anticipated such termination;—it is, on the contrary, certain that they anticipated a signal triumph; that they expected the Dutch, on being put to fire and sword, to fall affectionately into their arms; and that my Lord CHATHAM intended to cover himself with glory with as much ease and leisurely gaping as he would put on his night-cap.—But, says the *Post*, Mr. FINNERTY had been suspected in Ireland of treasonable connection. Then, says common sense, why was not the business investigated, when he himself repeatedly requested an investigation of this very Lord CASTLEREAGH in consequence of the language held by his Lordship against him? But no: the truth is, that he had annoyed the Irish government,—in other words, he had been a libeller,—a character, which when regarded with reference to the definition lately given of libel, and to the times and the country in which he wrote,—the first impulse of honest men is, I verily believe, to look upon with respect. Had he written in liquor of a different colour from ink,—had he practised the scourge against which he exclaimed,—his usage might have been very different: for the public will not easily forget that the same Government, which recalled from an expedition a man who had proved himself the foe of cruelty and oppression, sent out with an expedition, in a situation of enrolment and honour, a man who had been convicted, upon trial, of both,—no less a man,—no less a man, did I say? no less a monster, than Governor PICTOX! The reader ought to remember, that in consequence of the anxieties which Mr. FINNERTY underwent on this occasion, he was seized with a severe illness which affected his

mind: he ought to be told also, that when the defendant applied to the Prosecutor's Attorney to be allowed a postponement of the trial on account of the absence and distance of several persons whose *evidence* he thought necessary on the occasion, he received a peremptory refusal; and in fine, that no littleness and pertinacity of annoyance might be wanting to the last stage of the business, he ought to be informed, that when another dangerous illness had seized Mr. FINNERTY, and the trial was compelled to be postponed, a person, who is understood to be a confidential friend of Lord CASTLEREAGH, called upon the Defendant's Attorney, and impatient, it should seem, at the delay, loaded the sick man with opprobrium.

Of the Noble Lord, who has the honour of being better known than his antagonists, the reader may not desire to hear much further. But it is right that he should call to mind what Mr. FINNERTY wished to produce against his Lordship in evidence of *the truth*; for let some judges contradict *others* as much as they please in defining libel, no generous and just people will ever endure to confound truth with falsehood in any way, much less in determining between the merits of two parties, one of whom is anxious to *prove*, and the other to *punish* only. With his Lordship's private character, as far as it is distinguished, or can be, from his public one, we have nothing to do. I know that people differ with respect to the indissolubility of the two; and whatever I may think myself on the matter, as far at least as regards principle, I cannot but remember that Sir ROBERT WALPOLE was an affectionate husband, and that King CHARLES I. was as good a master to his household as he was a bad one to his country. Considering, therefore, the character of his Lordship in a light altogether public, it is impossible to help a feeling of the ludicrous, in hearing him complain of an intention to bring it into contempt—"public hatred and contempt" is the phrase;—probably the indictment would have been more correct, had it said "hatred in Ireland" and "contempt in England." What makes the thing still more singular, is, that he should think such prosecutions as these a likely mode of diminishing either. To look at England alone;—has his Lordship forgotten two simple facts that are quite sufficient for all reasonable detestation of his public conduct? 1st, His attempt to barter and trick away a seat in the House of Commons, in flagrant violation of his oaths and public faith; and 2d, His concern in planning and prosecuting the infamous expedition above-mentioned,—an expedition, which wanted no extreme of negligence, folly, and misfortune, to render it useless to our friends, ridiculous to our enemies, and agonizing to ourselves!—Yet these are nothing to the offences of which he is accused in Ireland. Mr. FINNERTY would have produced in Court, had he been suffered, above fifty affidavits charging his Lordship with the knowledge and sanction of the tortures notoriously inflicted upon Irishmen. One of them, as the public have seen, stated, that in the year 1792, foggings, half-hangings, &c. were pract-

tised in Dublin, close to the Castle-gate, where the Secretary of State's Office was, and that Lord CASTLEREAGH must have heard the cries;—another, that in the same year a Mr. DIXON saw three peasants whipped and tortured without a trial;—a third, from a Mr. HUGHES, that he was seen by Lord CASTLEREAGH after suffering the torture, which had rendered his back raw and his shirt a mass of gore;—and a fourth, that under his Lordship's government, a father and son had been tortured side by side.—Had these four affidavits been allowed a hearing, there would still have remained above six and forty; so that we have no alternative but to believe, either that Lord CASTLEREAGH was the wicked minister he is described to have been, or that upwards of fifty persons have voluntarily come forward to perjure themselves in a Court of Justice, and subject themselves to the most degrading penalties, for the mere sake of obliging Mr. FINNERTY: It is true, we are ignorant of the characters of these persons, but then we are not ignorant of my Lord CASTLEREAGH'S. If he could prove them guilty of perjury, why, as Mr. FINNERTY asked, did he not come forward and do so, instead of choosing a mode of trial which stopped the mouth of proof? "If he had proceeded against me by information," said Mr. FINNERTY, "he might have sworn my statement was false; if he had proceeded by action, I might have sworn it was true; but no; he chuses to proceed criminally, where neither can take place; and this he calls a vindication of his character." In fact, setting aside Mr. FINNERTY'S case altogether, and all the affidavits that might rise up against his Lordship from Londonderry to Cork, it is quite manifest, that, till Lord CASTLEREAGH can disprove the fact of his having undertaken to market for a seat in Parliament, he has no particular character to lose; and it is as ridiculous for him to bluster on the subject, as it would be for a wooden leg to complain of a pig. He may have something he chuses to call a character, and may truly be afraid of having it touched; in like manner, a person with a false nose may affect to sneeze at taking snuff, and will be equally alarmed at the approach of a fist;—not for fear that the thing itself should be hurt, but that the disguise should be pulled off.

Convinced however as every humane and independent mind must be of the ill-treatment Mr. FINNERTY has undergone, and of the brightness of contrast with which he comes from the side of Lord CASTLEREAGH, it does not appear, that in his latter appearance in Court, he had to complain of the interruptions from the Bench. There seem to be two distinct features in his case, the one general, arising from the ground upon which his letter was declared libel,—the other relative, arising from contingencies which, in fact, he created against himself. The former, which declares that truth is libel and even aggravated libel, meets with the unqualified and hearty indignation of all Englishmen who value freedom of speech and of person; but more of this hereafter:—the latter, while it

excites their regret, does not allow them wholly to exculpate Mr. FINNERTY when *rigidly* judged; I allude to the hope under which he was induced, in the first instance, to let judgment go by default, thereby acknowledging in word, if not in deed, that he had committed an offence worthy of punishment. I know, as he afterwards declared, that such was not his real opinion; and I believe, that he thought he was justified in availing himself of what he imagined would diminish the punishment; but on both these very accounts, the proceeding was unworthy of him. He felt that he had spoken the truth, and he should have felt also, that it could do no honour and no good to that truth to submit even to the smallest approaches towards a double dealing, fit only for his and truth's opposers. There are times, places, and classes of people, in which these approaches are considered as nothing, particularly if the end of them, as they say, is good and patriotic; but there are other persons equally patriotic in their objects, who consider them as worse than useless, and are inclined on that account, and on no other, either of pride or affectation, to hold themselves aloof from those who practise them. Mr. FINNERTY has tried both; and his spirit in rising above the little clogs and puddles of expediency, and proving itself equal to the most elevated sentiments, has gratified beyond measure the truest friends to Reform.

Scarce vanish'd out of sight,
He buoys up instant and returns to light.

The original cause for which this gentleman has exposed himself to imprisonment and poverty, must ever awaken but one feeling in the minds of freemen; and it rejoices us to see, that the spirit he has evinced has awakened as much sympathy in Englishmen, as his long suffering has endeared him to the Irish, and his display of talent has raised him in the estimation of every body.

[To be Continued.]

* Much of the apparent vacillation of Mr. FINNERTY's political conduct between Whig and Reformist may and ought in justice to be attributed to the regard he must feel towards all those who have evinced an interest in behalf of his country. Ardent persons even hope that the time is not far distant when these two appellations shall come to mean the same thing. But Mr. FINNERTY was rather too hard upon our good humour in confounding "WHITBREAD, Sheridan, and BURDETT," as men equally possessing "the confidence of the nation."

FOREIGN INTELLIGENCE.

FRANCE.

REPORT OF THE SITUATION OF THE FRENCH ARMY OF PORTUGAL, JAN. 20, 1811.

The French Army in Portugal, after passing more than a month in the position of Sobral, under the English entrenchments, has been under the necessity of drawing nearer the country whence it procured its supplies, and of proceeding to occupy a few leagues in the rear, a line, the left of which rests upon Santarem, where the second corps of the army is, and the right upon Trenchos and Alcanede, where the troops of the 8th corps

are. The advanced posts are masters of the Rio-Major and the bridges of Celorico, Calheris, and Asseca. Ourem, Leyria, Thomar, and Pombal, are occupied by the 6th and 9th corps, and by the reserve of cavalry, which pushes its detachments towards Coimbra and the sea. The head-quarters of the army are at Torres Novas. Loison's division is posted on the Zezere, upon which there are bridges of boats at Punhete and Martinehel, defended by substantial *tetes-du-pont*.

The artillery, the sappers, and the 44th battalion of seamen, have completed the materials for two bridges, of 80 boats each, for the conveyance of our troops to the left bank of the Tagus. The country furnished no resources for these immense undertakings. The cordage, and even the implements requisite for cutting down the trees for timber, were entirely the production of the industry of our workmen.

The army is very well off, and has undergone no privation whatever. The soldier, up to this period, has been abundantly supplied with bread, maize, meat, and almost always with wine. The different regiments have immense herds of bullocks and sheep, a thirty days stock of biscuit, and a large quantity of maize wheat, and garden vegetables. The plains of Golzao, which had subsisted the army for three months, were beginning to be exhausted; our detachments went in search of corn as far as the banks of the Mondego.

The army has few sick; their number is about 1200. There is not a single deserter; all that the English publish on this subject is completely false. On the contrary, two or three English deserters arrive every day in our camp; we do not include the Portuguese and German deserters. The soldiers are animated with an excellent spirit. They burn with anxiety to combat the English, and to merit the approbation of his Imperial and Royal Majesty.

The cavalry has not in the least suffered: the horses are fed upon maize, and are in pretty good condition. The artillery has 3600 horses in good condition.

It was on the 26th of December that Count D'Erlon joined the army of Portugal, with his second division. The division of Clarapede was on the Douro, at Lamego. It had attacked and destroyed the corps under Silveira and Traut. Foi's division was in front of Almeida.

The English army have their advanced posts upon the Rio-Major; their troops are placed in echelon, on the space between that river and the entrenchments which cover Lisbon.— Their head-quarters are at Cartaxo. The enemy have entrenched their positions, and mined the bridges that form the communication with our line. They have thrown upon the left bank of the Tagus a division of between 12 and 15,000 men, who occupy Almeiria and Chamusca. This corps has raised some redoubts opposite the mouth of the Zezere, to render the passage of the Tagus at that point more difficult. The English have no bridge upon that river; they pass by boats.

Abrantes is occupied by two Portuguese regiments of the line, and three regiments of militia, commanded by an English officer. The garrison feels a scarcity of provisions, which occasions desertion to a very considerable degree.

The English lines in front of Lisbon are covered with redoubts, to which the enemy have added some new works. These fortifications, and particularly the nature of the ground, render this a strong position.

The population of Lisbon, considerably augmented by the peasants, whom the English compelled to abandon their habitations on the approach of the French troops, are a prey to the most dreadful scarcity. The Portuguese are disheartened in the extreme. The position of the English becomes more critical every day. They make immense sacrifices to maintain themselves in Portugal. All their provisions come from England; the very forage for their cavalry is brought in transport vessels.

The English have formed in the interior of the country companies of Ordonanzas, to intercept our communications; but the peasants that compose them are badly armed, and fly at the sight of our weakest detachments.

The Duke of Abrantes received a musket-ball in the cheek, whilst reconnoitring the enemy's advanced posts. The wound is but slight, and excites no uneasiness.

PROVINCIAL INTELLIGENCE.

At the Leicester Sessions a man was sentenced to be transported for seven years, for having two wives, and his wife at the same time was sentenced to be imprisoned for one year, for having two husbands; and at the Kent Sessions a man was sentenced to be imprisoned two years, for having three wives.

Discovery of a Murder committed in 1730!—A man of the name of John Oughton, formerly a resident at Kenilworth, but who has for about the last 15 or 16 years been employed in a brewery at Coventry, was examined on Tuesday, and committed for re-examination, charged, upon his own confession, with having wilfully murdered, at Kenilworth, one Richard Whitton, on the 20th of October, 1730. Charles Lee, late a resident of Kenilworth, and who was sentenced to fourteen years transportation at the last Assizes for having forged Bank of England Bills, first made a disclosure of this transaction.

IMPERIAL PARLIAMENT.

HOUSE OF LORDS.

Monday, Feb. 18.

PROCEEDINGS IN IRELAND.

Lord MOIRA, alluding to the measures recently adopted by the Government against the Catholic Committee, moved for a Copy of the Circular Letter sent by Mr. Pole to the different Magistrates. His Lordship also said, that he was quite certain that Ministers had not the sanction of the Prince Regent for these proceedings.

Lord LIVERPOOL said, that the Ministers of the Prince Regent were wholly ignorant, until Thursday night, that such measures had been resorted to. From the information however transmitted from Ireland, although not complete, he was satisfied that the Government of Ireland were fully justified in the steps they had taken, it appearing there was a deliberate and systematic plan for the violation of the law. He had no objection to the motion of the Noble Lord.

The motion, after some remarks from Lord HOLLAND and the Earl of ROSSE, was agreed to. The latter Nobleman said, that as long as the Catholic Committee was confined to a few individuals, the Government had not interfered; but when it was proposed that a deputation of ten from every county in Ireland should meet in a sort of Convention, thus forming a Representative Body of 358 Members,—it was necessary to prevent the meeting of this new Parliament.

LAW OF DEBTOR AND CREDITOR.

Lord REDESDALE called to the recollection of the House, that in the last Session he had introduced three separate Bills, the object of which was to relieve the prisons from their present crowded state, and ameliorate the situation of the unfortunate insolvent debtor. The object of the first Bill was to extend the amount of the sums on which persons could be arrested on mesne process; the second Bill was for the relief of insolvent debtors confined in prison; and the third was for providing some cheaper mode of recovering small debts by the verdict of a Jury. Only the first of these Bills had passed that House; but owing to the late period of the Session, it could not be taken into consideration by the Commons. That Bill he now held in his hand, and should offer it again to the consideration of the House.—He had made some alterations in the second Bill, and its object was, that the Crown should appoint a Commissioner for the purpose of granting further relief to confined debtors, on the principle of the *cessio bonorum* which was acted upon in the law of Scotland; and that to this Commissioner should be entrusted the whole of the administration of the law on that subject, which Parliament had, from time to time, endeavoured to provide for by Insolvent Acts. He had also to propose a Court of Appeal from his jurisdiction, consisting of one Judge from each of the Courts below, who might be renewed every Term. These were the principal objects of the measure which he proposed for the relief of insolvent debtors; and he should

now move the first reading of the Bill for extending the sums for which persons may be arrested on mesne process.

Lords MOIRA and HOLLAND returned their hearty thanks to the Noble and Learned Lord for the attention and labour which he had devoted to this most important subject. They had to congratulate the country, that it was now taken up in a way that was likely to be attended with the most beneficial consequences.

The Bills were then read and ordered to be printed.—Adjourned.

[Nothing of moment occurred in the House on Tuesday or Wednesday, on which day their Lordships adjourned till Friday.]

Friday, Feb. 22.

Some conversation took place respecting the conduct of the Irish Government to the Catholics, which was reprobated by the Marquis of LANSDOWNE, Lords HOLLAND, DONOUGHMORE, GROSVENOR, and GRENVILLE, and further papers were called for.—The Earls of ROSSE and LIVERPOOL, on the other side, contended that the Irish Government had acted with great propriety, as they had prevented certain intemperate individuals from forming a convention, which might have been followed by the most fatal consequences.—The papers called for were refused.—Adjourned till Monday.

HOUSE OF COMMONS.

Monday, Feb. 18.

COURTS MARTIAL.

Mr. WARDLE gave notice, that to-morrow midnight he would submit to the House a motion respecting a Court Martial at Little Hampton, in June last; and also a motion respecting a Court Martial held at Brighton, on the 6th of July last, on Robert Curtis, late a Corporal in the Oxfordshire Militia, and respecting some circumstances consequent on that trial.

INFORMATIONS FOR LIBEL.

Lord FOLKSTONE gave notice, that on an early day it was his intention to make a motion on the number of informations which had, within a recent period, been filed *ex officio* by the Attorney-General, for Libels.

PROCEEDINGS IN IRELAND.

Mr. FOXSONBY wished to learn whether the pleasure of the Prince Regent had been taken on the subject of the recent proceedings in Ireland?

Mr. PERCEVAL replied, that Ministers themselves knew nothing of the measure till Thursday, though they were satisfied that the Irish Government had exercised a wise discretion. Of course the pleasure of his Royal Highness could not have been taken; but the information received had since been communicated to him.—Adjourned.

Tuesday, Feb. 19.

There was nothing of great importance before the House this day.

Wednesday, Feb. 20.

COMMITTEE OF SUPPLY.

Mr. YORKE rose for the purpose of moving what were usually termed the Wear and Tear Estimates for the Navy.—As those estimates were the same as last year, he should not enter into any detail. The number of Seamen voted last year amounted to 145,000, including 30,000 Marines. The same number would be requisite now, though from our successes in the Indian Seas some diminution might be expected. This was, however, overbalanced by the preparations of the enemy in the North of Europe and the ports of Holland. An alteration had been made last year in the mode of the estimate, by which the Victualling Department was kept separate. He should propose a similar principle now. He then moved for the grant of 145,000 Seamen, including 31,000 Marines; and stated, that the seamen of last year actually exceeded the estimate.

Mr. WHITEHEAD said, that last year the establishment for the navy had been considered too extended, and that it was considered one of the points on which a retrenchment was

cessary. He could not help remarking the statement now made by the First Lord of the Admiralty with respect to the increase of our enemies' naval force in the ports of Holland. It was another proof of the waste of blood and treasure in the Scheldt expedition.

Mr. YORKE said, that the number of our seamen could not now, in his opinion, be safely reduced. With respect to the Scheldt expedition, he confessed that it had not completely succeeded; but still it had been of much service to us.

Mr. R. WARD and Mr. WHITBREAD each said a few words; after which the Chairman put the question on the several following Votes, which were respectively agreed to, viz. :—
£3,345,075 for the Wages of Seamen and Marines.—
£4,453,000 for Victualling.—£3,675,000 for Wear and Tear.—£659,756 for Ordnance for the Sea Service.

Lord PALMERSTON (Secretary at War) then moved the following Sums on Account of the Army, which were severally agreed to, viz. :—£3,000,000 for the Land Forces.—
£3,000,000 for the Militia.

SALE OF GUINEAS.

Lord FOLKSTONE said, that seeing the ATTORNEY-GENERAL in his place, he would beg to ask him, whether it was his intention, in the case of De Younge, for the illegal sale of guineas, to proceed against the defendant?

The ATTORNEY-GENERAL said he believed the case stood for argument in the same way as other matters of a similar nature did.

Lord FOLKSTONE wished the Hon. and Learned Gentleman to say whether he meant to bring it on.

The ATTORNEY-GENERAL said, the matter remained with the Judges; and whenever they should signify their pleasure to have it brought on, his Majesty's law officers would be ready to argue it immediately. He thought it necessary to mention, that there was another case of a similar description which also stood for argument; and he supposed those who had giving the Noble Lord information as to the case to which he had alluded, could also tell him how that stood likewise.—Adjourned.

Thursday, Feb. 21.

THE REGENT'S HOUSEHOLD.

Mr. PERCEVAL observed, that the Regent's Ministers having submitted to his Royal Highness a plan respecting his Household, his Royal Highness referred them to his Learned Friend opposite (Mr. ADAM) to whom he had expressed his opinion upon the subject. On reference to that Learned Gentleman, he stated that his Royal Highness still retained the opinions he had expressed in 1789,—that those opinions were unalterable,—and that he would not, for his own personal magnificence, add another burthen to those already imposed upon the people.—Mr. PERCEVAL was of opinion that such a determination was highly creditable to the Regent's motives, and would throw around him more real splendour, in the minds of the thinking, than any regal establishment whatever.

Mr. ADAM corroborated the statement of Mr. Perceval. He added, that his Royal Highness had desired him (Mr. Adam) in case any proposition for an establishment, or any grant from the Privy Purse, was proposed for his Royal Highness, to inform the House that he declined it,—and that, during a temporary Regency, he would not accept that which ought to belong to the Crown. Such was the communication which he was empowered to make; but of course, if the Regency became permanent, the question would require reconsideration.

PORTUGUESE PRISONER.

On the motion of Mr. PERCEVAL, a Select Committee was appointed to ascertain the circumstances attending the arrest and confinement of the Portuguese Officer now in Cold Bath-fields Prison.—Sir F. Burdett, who brought forward the circumstance, was among those named.

LATE DISTURBANCES IN INDIA.

Mr. CREEVEY moved for various papers relative to the late disturbances in the Madras army, as well as others respecting the conduct of Sir George Barlow. Mr. Creevey stated, that an Asiatic, named Reddy Row, had been convicted of

the forgery of a bond to a very large amount, by a Jury of Englishmen of character. Sir George, in the course of this business, had identified himself with the culprit, and had written a letter to three Gentlemen high in the Council, saying, that if they took any part against Reddy Row, they would incur the severest censure of the Governor!—On the conviction of Reddy Row, Sir George removed Mr. Roebuck, an old and infirm man, from his situation at Madras, to a distant and most unwholesome place, where he died in consequence. He next removed the Magistrate who committed the culprit; and a third Gentleman he sent to Europe without any notice.—Through the representations of Sir Thomas Strange, the Chief Justice of Madras, Reddy Row had obtained a pardon in England; but before its arrival in India, Reddy Row had saved his friends all farther trouble on his behalf, by taking a dose of poison in prison!—If these things should be proved by the papers he had moved for, he should afterwards move for the recall of Sir George Barlow.

Mr. C. GRANT justified the conduct of Sir George Barlow. He was convinced it would appear that Sir George had acted for the furtherance of justice alone, in all he had done in this affair. Reddy Row had long been a faithful servant of Government, but, through the intrigue and knavery of one Copich Branilly, (who had been prosecuted for a forgery), a counter-prosecution had been brought against Reddy Row. To protect the latter, Sir George had ordered the measures now complained of.

Lord FOLKSTONE made some strong remarks upon the conduct of Sir George Barlow and Sir Thomas Strange. Though Reddy Row had been found guilty, by three successive Juries, of conspiracy, forgery, and perjury, yet he could still find protectors in men of rank.

After some further conversation, the papers moved for, and others, were ordered.

CAPITAL PUNISHMENTS.

Sir S. ROMILLY, after some prefatory matter, in which he observed that the great severity of capital punishments prevented men from prosecuting, and juries from convicting, in cases which appeared not to deserve such punishment,—moved for leave to bring in a bill to repeal so much of the Act of 10th and 11th of Wm. III. as takes away the benefit of clergy from persons privately stealing from ships, ware-houses, coach-houses, or stables.—Leave given.—Adjourned.

Friday, Feb. 22.

Mr. WARD moved for various papers on the subject of the Irish Committee. He contended that Ministers were proceeding on the most mischievous principles; and that before harsh measures were resorted to, conciliation should be tried.—Mr. GRATTAN, Mr. PARNELL, Mr. PONSONBY, Mr. WHITBREAD, Mr. HUTCHISSON, and Sir J. NEWPORT, followed on the same side.—Mr. YORKE, Gen. LOFTUS, and Mr. PERCEVAL, insisted that the Irish Government had only done their duty in preventing the meeting of a Catholic Convention in Dublin.—Mr. PERCEVAL distinctly stated, that, in his opinion, to allow Catholic emancipation would be to establish the Catholic Religion in Ireland, upon the ruins of the Protestant, (*Hear, hear!*) To enter upon such topics only tended to keep alive the spirit of disaffection in Ireland.—After some further remarks, the motion was negatived by a majority of 37, and the House adjourned.

TUESDAY'S LONDON GAZETTE.

BANKRUPTCIES ENLARGED.

N. Nathan, Whitechapel, tailor, from Jan. 22 to March 12.
J. and T. Rogers, Strand, jewellers, from Jan. 12 to March 2.

BANKRUPTCY SUPERSEDED.

J. Mills, Holywell-street, Strand, merchant.

BANKRUPTS.

J. Barber, and T. Hasston, Macclesfield, liquor-merchants.
J. Blaise, Dover-street, Hanover-square, upholsterer.
T. Foster, Doncaster, butcher.
S. Gosling, Braxhall, Cheshire, muslin-manufacturer.

- S. B. Hamand, Plymouth, linen-draper.
- J. Holder, Kingston-upon-hull, tailor.
- R. Phelps, and T. Prescoe, Newnham, Gloucestershire, linen-drappers.
- J. Scott, Failsworth, Lancashire, cotton-manufacturer.
- S. Sowter, Kingston-upon-Hull, and T. H. Payne, Collium-street, London, merchant.
- W. Whitnell, Bethnal-green, soap-manufacturer.
- R. Woolley, Lane-end, Staffordshire.

SATURDAY'S LONDON GAZETTE.

Whitehall, February 23, 1811.

His Royal Highness the Prince Regent has been pleased, in the name and on the behalf of his Majesty, to appoint John Pond, Esq. to be Astronomical Observator in the Observatory at Greenwich, in the room of Nivil Maskeleyne, Esq. deceased.

BANKRUPTCY SUPERSEDED.

B. Rouse, jun. Sittingbourne, Kent, dealer and chapman.

BANKRUPTS.

- G. Nelson, Liverpool, cow-keeper.
- S. Hammond, Levenshulme, Lancashire, silk-manufacturer.
- S. Silcox, Beckington, Somersetshire, clothier.
- R. Trow, son, Gray's-Inn-lane-road, cow-keeper.
- N. L. Caswell, Chelmsford, innkeeper.
- J. Midwood, Manchester, merchant.
- J. Greening, Crooked-lane, orange-merchant.
- H. Wagstaff, Manchester, machine and spindle-maker.
- J. Blissett, Burleygate, Hereford, cordwainer.
- M. Longsdon and Co. Ironmonger-lane, merchants.
- J. Burton, Liverpool, merchant.
- P. Bogle and Co. Ringley, Lancaster, calico-printers.
- T. H. Scott, Tiverton, Devon, spirit-merchant.
- R. Leigh and Co. Liverpool, merchants.
- T. Richardson, Liverpool, soap-boiler.
- J. Greenhaigh, Elton, Lancashire, whitster.
- W. Khabell, Goswell-street, coal-merchant.
- J. Watson, Liverpool, merchant.
- J. Higginson, Manchester, cotton-manufacturer.
- G. Newton, Maidstone, Kent, saddler.
- S. Griffiths, Carey-street, tailor.
- T. Coldman, Oakley, Surrey, shopkeeper.
- S. Marston, Grange-road, Bermondsey, baker.
- A. W. Sargenfrey, Liverpool, merchant.
- L. Kern and D. Muller, Paternoster-row, furriers.
- J. Shoobred, Broad-street, merchant.
- J. Denton, Burnham, Essex, seedsman.
- R. Rowney, Hatton-garden, perfumer.
- W. Lea, Deptford, ironmonger.
- C. Mullison, Tavistock-place, merchant.
- T. Jenkins, Prescott-street, Goodman's Fields, upholsterer.
- J. Jones, Basinghall-street, Blackwall-hall-factor.
- C. Stower, Paternoster-row, printer.

PRICE OF STOCKS ON SATURDAY.

3 per Cent. Consols. 65 3/4

Various Communications are still unavoidably delayed by the press of temporary matter.

The last year's VOLUME of the *Examiner*, is now ready for delivery: price in boards two guineas.

THE EXAMINER.

LONDON, FEBRUARY 24.

Our readers will have heard, ere this, the successful termination of our Trial on Friday last in the Court of King's Bench. The account of it in this paper, taken from the

Times, is by far the best that has appeared; but it is the intention, we understand, of the Proprietor of the *Stanford News*, from which the alleged libel was copied, to publish a full Report from short-hand, that the public may lose not an atom of a proceeding, the conclusion of which has stamped with additional lustre the character of British Trial by Jury. The Learned Counsel (Mr. BROUGESS) was instructed by us to make as full and unshaking a defence of the article in question, as his talent and spirit should direct; and those who have heard the universal talk on this subject, need not be told with what consummate skill he performed his task. His speech, clear, strong, and visiting, as it flowed, every creek and corner of the question, made a visible and unusual impression upon the persons present, and enforced that conviction upon the minds of the Jury, which, we may be allowed to say, the principles of this paper had a right to anticipate. The public will recollect, that this is the *third* attack which the ATTORNEY-GENERAL has made upon the Proprietors of the *Examiner*, and the *third* attack in which he has been defeated. What he feels on the occasion, we know not; but at all the expenses are on our part, and we shall now have paid about three hundred pounds in consequence of being three times found innocent, he probably comforts himself as much as possible with reflecting that he leaves this sting behind him, even if he loses half of his very being in inflicting it. Of this vindictive power in the hands of an Attorney-General,—a power which has no limit from circumstance, and no restraint but from the shame of him who may abuse it,—we shall think it our duty to lay a particular account before another Court. For the present, we take our leave of Sir VICARY, not without feelings of gratitude for the several little touches of ill-temper with which he was pleased to interest people in our behalf, and really, we aver, not without some emotions of compassion for this unfortunate Gentleman, the nap of whose feelings seems to be rubbed the wrong way whenever he comes in contact with an objector.

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It is notorious, that both in Parliament and in the Gazette, the Portuguese troops have been held up as good soldiers, capable of beating the French and of fighting in the same ranks with Britons. This being admitted, it may be asked Lord WELLINGTON's panegyrist, How it happens, that with a superior force under his command, he has retreated before the enemy, through the whole of Portugal, and now suffers them to confine him within a few miles of Lisbon? At this very moment, the allied force is estimated at 100,000 men, and the French at 70,000.—It is to be observed, too, that the enemy are in a hostile country, where the people are represented as heartily hating them, and as doing every thing in their power to destroy them. Can this state of things be explained to the honour of the British Commander?

The Recorder of London, on Thursday, attended the Regent's Council, and made his report of the twenty-six convicts, capitally convicted at the last October Sessions, when

Trueman, for robbing a woman of her watch near Smithfield, and who, at his apprehension, made a desperate resistance, in which the officers were wounded, and the traces of the coach, which conveyed the prisoner, were cut; an old man, well known by the name of *Old Dasher*, for a rape upon a woman, under aggravated circumstances, between Teddington and Hounslow; *Cope*, for coining; *Frazer*, for horse-stealing, were ordered for execution on Wednesday next.

The other twenty-two were respited during his Royal Highness's pleasure.

The following is given as a Copy of the Letter sent by the PRINCE REGENT to Mr. PERCEVAL, on the announcement of his Royal Highness's determination to retain the present Ministers in his service:—

“*Carlton-House, Feb. 4, 1811.*”

“The Prince of Wales considers the moment to be arrived, which calls for his decision with respect to the persons to be employed by him in the administration of the Executive Government of the Country, according to the Powers vested in him by the Bill passed by the two Houses of Parliament, and now on the point of receiving the sanction of the Great Seal.—The Prince feels it incumbent upon him, at this precise juncture, to communicate to Mr. Perceval his intention not to remove from their stations those whom he finds there as his Majesty's official servants. At the same time, the Prince owes it to the truth and sincerity of character which, he trusts, will appear in every action of his life, in whatever situation placed, explicitly to declare, that the irresistible impulse of filial duty and affection to his beloved and afflicted Father, leads him to dread that any act of the Regent might, in the smallest degree, have the effect of interfering with the progress of his Sovereign's recovery. This consideration alone dictates the decision now communicated to Mr. Perceval.—Having thus performed an act of indispensable duty, from a just sense of what is due to his own consistency and honour, the Prince has only to add, that, among the many blessings to be derived from his Majesty's restoration to health, and to the personal exercise of his Royal Functions, it will not, in the Prince's estimation, be the least, that that most fortunate event will at once rescue him from a situation of unexampled embarrassment, and put an end to a state of affairs, ill-calculated, he fears, to sustain the interests of the United Kingdom, in this awful and perilous crisis, and most difficult to be reconciled to the genuine principles of the British Constitution.”

HUGH DOBERTY, Esq. versus — WYATT, Esq.—This most interesting case came on yesterday in the Court of King's Bench, when a verdict (carrying costs and 1000l. damages) was given against the defendant, who had seduced the plaintiff's wife. In common justice to Mr. DOBERTY, who has so long laboured under the most odious imputations, the trial shall be given next week, when the reader will readily perceive to whom infamy attaches.

The romance of *Blue-beard* has been revived at Covent-garden Theatre, and the house is crowded nightly. The great attraction, it seems, consists in divers well-trained and gorgeously caparisoned horses from Asley's Amphitheatre. The animals pace, prance, charge, and *die*, in a very accomplished manner, not to be surpassed by any of SWIFT'S Houshynims. Mr. KEMBLE is charmed with his beautiful success. He is not quite sure that those excellent performers, “worthy of the first Theatre in Europe,” cannot be taught to join in the dialogue; but knowing well how to improve a harsh voice, he is disposed to think they may be made to sing.—The audience shortly expect to see announced, that the horse and Mr. CROSSMAN's sorrel mare, *de la Cour*, will attempt the celebrated *de la Cour*. Together let us range the fields.”

A master of a transport fell a victim to his intrepidity, in endeavouring to save the crew of the *Amethyst* frigate, which was wrecked in Plymouth Sound, on Friday se'night. On hearing the guns of distress fired, he, with another master of a transport, sprung into the boat alongside, though a dreadful sea was running on a lee-shore, and succeeded in bringing off one boat full. On the second trip, however, she had taken in too many, and she upset, when the gallant man, with about ten of the *Amethyst's* crew, were drowned. The other master was saved. Five men were also picked up, who had endeavoured to reach the shore on the wreck of the foremast. It is ascertained, that not more than 15 of the *Amethyst's* crew have perished.—The stores will be saved, it is hoped.

THE KING'S ILLNESS.

MEDICAL BULLETINS.

“*Windsor Castle, Feb. 17.*”

“His Majesty's progress is gradual and satisfactory.”

“*Windsor Castle, Feb. 18.*”

“His Majesty continues much the same.”

“*Windsor Castle, Feb. 19.*”

“His Majesty proceeds favourably in his recovery.”

“*Windsor Castle, Feb. 20.*”

“His Majesty is going on very favourably, although his indisposition admits of little variation from day to day.”

“*Windsor Castle, Feb. 21.*”

“His Majesty's progress confirms our expectations of his recovery.”

“*Windsor Castle, Feb. 22.*”

“His Majesty goes on satisfactorily.”

“*Windsor Castle, Feb. 23.*”

“His Majesty goes on in the most satisfactory manner.”

FINE ARTS.

ROYAL ACADEMY.

On Monday Mr. FLAXMAN, the able designer of the *Basso-Relievo* in front of Covent-Garden, and of other eminent works, delivered his introductory Lecture on Sculpture, in a style neat and perspicuous. The following is a faint outline of it:—

Among the liberal Arts, Painting takes the precedence. Sculpture immediately follows, as the principles are nearly the same. In its earliest periods it was employed in the service of Religion; and some of the most celebrated characters of antiquity have patronized and practised it.—SOCRATES was a sculptor by profession.—The Professor, after some other introductory observations, gave the general history of the different epochs of the art in England. When the Romans had subjugated England, they built magnificent structures, and adorned them with sculpture, but it was much inferior to what was executed at that time by their countrymen at home. The Britons learned the art from their masters, and cast magnificent works in bronze. The Professor here exhibited two female heads of British workmanship, and shewed some learned research in his remarks on the temples, mosaics, cups, patera, coins, and other Roman and British antiquities. The Roman dress, so favourable to art, continued till the time of Henry III. The Saxons were so unfriendly to the arts, that not even a sepulchral statue is known to have been formed by them previously to the reign of William the Conqueror; but the cessation of the Saxon and Danish ravages, and the event of the Crusades, again rendered statuary popular in England. The reign of Henry III. was highly favourable to its advance, and considering that printing, so useful in the promotion of art, was then un-

known, and that there were no professors of anatomy, it attained no common degree of excellence. The Professor here shewed some cathedral statuary, which exhibited much beautiful simplicity and delicacy of sentiment. The reign of Edward III. was also favourable to sculpture. The long and prosperous reign of Edward III. was propitious to literature and to the arts, and it is gratifying to know that the best sculptors it patronized were Englishmen. The reign of Henry VI. produced works worthy of honourable mention. Some of them evinced a grandeur of conception such as we admire in the works of MASSACIO and RAFFAELLE, while others are remarkable for their delicacy of sentiment. But the most striking remains of old English statuary are deposited in the Chapel of Henry VII., where the works of the English artists far exceed those of the foreigner TORRIGIANO. Here a farewell must for a long time be taken of the noble productions of art in England. In the reigns of Henry VIII. and Mary, the churches were dilapidated and the statuary destroyed. This melancholy catastrophe is more to be deplored, as it occurred at a time peculiarly favourable to the advancement of the Fine Arts. Printing was discovered at that time, and scientific knowledge considerably extended. But fanaticism stopped the genial current of English art, and whatever afterwards appeared in painting and sculpture, were almost exclusively executed by foreigners.—During the last sixty years, however, prejudice has vanished, and the liberal arts again cultivated. The Professor here eulogised the genius of the late Mr. BANKS, whose *Achilles* claims a near relationship to the excellencies of the antique; and some of whose other works even rivalled them.

R. II.

British Institution Exhibition, next week.

THE LATE SIR F. BOURGEOIS.

TO THE EDITOR OF THE EXAMINER.

SIR—It is stated in your last *Examiner*, on the authority of a Morning Paper, that the above-named gentleman "bequeathed property to the amount of 100,000l. to Dulwich College, and left nothing to two sisters and three nieces, who never gave him the slightest offence."

I take the liberty to trouble you with what I know of the matter. An acquaintance with Sir Francis of seventeen years enables me to pronounce decidedly that he could never have designed to have undone what he so clearly ought to have done. As he considered the Collection of Mr. Desenfans to be a sort of trust for the Public, he was, for some time before his death, anxious to dispose of it properly. He proposed to leave it to the British Museum, and saw Mr. Planta on the subject. The conditions, however, were not accepted, and he then thought with preference of Dulwich College. He saw the Warden accordingly, and by a will made soon after, disposed of that Collection, the great object of his solicitude. But it was never his intention to leave to Dulwich College the whole of his personal fortune. He had dictated his lawyer a very ample codicil to the will, by which he had testified his affection, and prolonged his bounty:—I mean to say, that his Relations were not neglected by him while he lived, and he was desirous that they and his friends should be benefited by him when he died. Though certainly not one of his intended *Legatees*, I have heard the names of several; and as the only way to clear up all that will survive him, his character, I call upon the College which he has endowed, and upon the lawyer who drew out the instrument, which he did not live to sign, to publish the Codicil, though they cannot act upon it; that it may be seen the late Sir Francis Bourgeois was capa-

ble of abandoning his Relations to want, and of amusing his friends with assurances, which he never intended to carry into effect. I am, Sir, your constant Reader,

Feb. 6, 1811

A. O.

SUBSCRIPTION FOR MR. FINNERTY.

On Wednesday there was a numerous Meeting at the Crown and Anchor for the purpose of promoting a subscription in favour of Mr. FINNERTY.

Sir FRANCIS BURDETT took the chair and addressed the Meeting. He said, that it was impossible that those who heard him should not have observed the great inroad which had been made in late times on the ancient liberties of this country. They were aware of the course which Ministers had long been pursuing, for the purpose of destroying every vestige of civil liberty. Even the last vestige of liberty, the liberty of complaining, was now taken away. The individual whose case had this day called upon their attention, had displayed such resolution and honesty in his defence, as to call for their approbation and support. He had manfully, ably, and honestly stood upon his truth and his innocence for his justification. He had done so under circumstances peculiarly distressing, before a tribunal who informed him that truth was no justification. He had before his eyes the disheartening prospect of other persons most severely treated for the like offences. It must be recollected always, that there was this broad distinction between a libel and any other thing which the law considers an offence; that in others, some moral guilt is supposed, whereas a libel conveyed no idea of moral guilt; it being perfectly well known, that it was the best, the ablest, and the wisest of men, who in all ages had been made the objects of the peculiar vengeance of oppressive Governments. In supporting the freedom of the press, and in pointing the case of Mr. Finnerty to their attention, he would not call the liberty of the press (as it had often been falsely called) the palladium of all our rights. That liberty of the press could not subsist without the real palladium of our liberty—the right of the people to choose their representatives in Parliament. (*Applause.*) As to the law of libel, he would say a few words hereafter; but he would first direct their attention to the terrible power which was exercised and usurped by Attorney-Generals, of filing Informations against whom they pleased, and bringing them to trial without the intervention of the Grand Jury. The Attorney-Generals could also imprison persons, or hold them to bail upon such Informations. This practice was most contrary to Magna Charta, and he could not admit it to be law. He would always contend, that Magna Charta was irrevocable by Act of Parliament, and that it could not be repealed or altered by a less power than that which produced it—a free, combined, and collected people. The punishment of libels was a power first exercised by the Star Chamber; but the jurisdiction of the Court of Star Chamber was so scandalously abused, and it became so infamous for the severity of its punishments, that it became necessary to abolish it. At the time that the Star Chamber was got rid of, it was expressly declared, that no similar jurisdiction should be exercised. It was, however, a matter perfectly immaterial to the country, whether cruel sentences were pronounced by the Star Chamber or the Court of King's Bench; of the two, he should prefer the Star Chamber, because it was open and avowed oppression. As to the law of libel, he would defy any lawyer to point out what it was, or where it was to be found. Mr. Fox's Act respecting libels, by declaring that the Jury were the judges of the law as well as the fact, gave them no power which they had not before possessed. That Act, he would admit, was well intended; but, like all other palliatives in such cases, its effect was rather to increase the disorder. If honest jurors were to decide on the law as well as the fact, justice would be done. It was notorious, however, in what a gross and scandalous way the Juries who tried those matters were packed and selected. If, then, a person charged with a libel were to present himself before a special Jury so packed, having no definition of libel but the dictum of the judge who tried it, and

having all the grounds of his defence cut off, how could he hope for acquittal? The very foundation of his defence, its truth and honesty, would be taken away by the charge of a Judge, that truth was no defence against an information for a libel. The person on his trial is told that he must not defend himself upon the truth of what he has written; and if he enquire what is the law respecting libels, there is nobody that can tell him. In this manner, truth and honesty may be ensnared by the cabalistic word *libel*, and punished as monstrous crimes. If we even seek the definition of the word *libel*, there is nobody who can tell us; all we know of its definition is, that it comes from a Latin word which signifies "a book." Now the writing a book cannot of itself be a crime. In all other things which are visited as crimes, the offence is clearly deduced from the name itself. If murder, burglary, or robbery are spoken of, every body knows what the offence is, and can perceive the guilt of them; but when the word *libel* is mentioned, no two men can agree what it means. In fact, the term implies nothing, and there is no law whatever upon the subject. He was glad, however, to find that Lord Holland, of whose talents he thought most highly, had given notice of a motion about informations filed by the Attorney-General. Some good might arise from the discussion, although he was afraid that it was some palliative measure which he had in his contemplation. No palliatives could remove the fundamental objection he had to those informations; and he thought that mitigating in some degree the abuse, might be giving a sanction to what in itself was infamous.—It was a circumstance which deserved their most attentive consideration, that almost every public writer who had written in favour of liberty and the rights of his country—he might almost say every public writer who was not notoriously bribed by administration to write against the cause of freedom—was either now in goal, or had criminal informations suspended over his head, and lived in apprehension of being visited with punishments as severe as the old Star-chamber formerly inflicted. Such was the state to which the boasted liberty of the press was now reduced in this country. When it was considered with what great delicacy public robbers were spoken of, and with what great delicacy they were treated, and what severity is shown to public accusers who are called libellers, it would seem as if all the channels of justice were stopped in the case of delinquents, and that all the severity of justice was reserved for those that should expose their crimes. Many others, connected with the press, had also suffered severely. Among all the cases, however, which had occurred, Mr. White's was one of the hardest. His crime was only the finding fault with the verdict of the Jury that acquitted Captain Chapman. He could not see why an Englishman should not find fault with the verdict of a Jury, if he thought it wrong; and from what he had heard stated of this case, he conceived it a most foul murder. It had been stated by some, that the reason why the Jury acquitted the prisoner, was, that it did not appear that the boy was killed by ill-treatment at any particular time, but that he was killed *by inches*. Mr. White spoke with great indignation of this acquittal, and for that offence his punishment was no less than imprisonment for three years.—Mr. White was certainly entitled to much commiseration and sympathy, as he had conducted himself with great boldness and resolution. They should consider under what perilous circumstances persons wrote in the cause of freedom, when an Attorney-General was always on the watch to catch them, if they wrote any thing which could be construed into a libel. Under those circumstances, they were particularly called on to protect and support any public writer who would venture, under so many discouragements, to speak the truth boldly and without fear. Mr. Finnerly had come forward thus boldly, and spoken of scenes which he had witnessed with his own eyes.—The charges of enormity which he brought forward against a distinguished political character, he had offered to substantiate by proof. As to the subject of Ireland, he had always found himself restrained from speaking of it by the very enormity of the crimes and oppressions which had been committed there.—When Mr. Finnerly charged Lord Castlereagh with being the

author or patron of the system of torture in that country, did he not speak of a fact as notorious (to use a Parliamentary phrase) as the sun at noon day, or as notorious as his Lordship's trafficking for seats in Parliament? And yet for so charging Lord Castlereagh, Mr. Finnerly was sentenced to a long imprisonment in a distant goal. The sending persons to distant prisons appeared to him a practice contrary to the spirit of our laws. As to the real state of the country at present, for the better understanding it, it would be well to recollect what had happened in the last year. Men had been killed in the streets of this metropolis by the King's troops, and no effectual inquiry had been made with respect to those who perpetrated such acts; while, on the other hand, a very large reward was offered by proclamation, to any person who could discover the man who shot through an ensign's hat. He had about that time spoken of a borough-monger Sovereign, of a faction that larded it alike over the King and his people. He would then ask, was it not the same faction, which went on for a quarter of a year without any Executive Government, who falsely declared themselves to be the representatives of the people, and who cartailed the authority of the Crown, and squared its powers to suit the purposes of its own faction? (Sir Francis here read to the meeting a letter he had received from a distant part of the country from a Mr. Honeywood Yate, inclosing 5l. and expressing strong feelings of sympathy in the cause in which they were embarked). He considered the liberty of the press, not as the foundation of our other liberties, but as a branch of the tree. It would be of little consequence that the branch should be sound, if the root was rotten. The root of all our liberties, and the foundation of all that was excellent in our Constitution, was the right of the people freely to choose their representatives for the Parliament. He was happy to inform the Meeting that symptoms had already been exhibited of the object of their meeting being likely to be fully obtained. (Sir F. Burdett then read a letter from Mr. H. Hunt, from Bath, inclosing a subscription of 17l. 10s. from different persons in that neighbourhood). Mr. Finnerly had certainly deserved their support by his manner of conducting himself in Court. He had in a most manly manner defended himself on his innocence and truth; and had not condescended to adopt other modes of defence which would probably have lessened materially the severity of his punishment. Under all these circumstances, he thought an expression of public feeling would be of great value. He never had thought any time improper for bringing on the question of Parliamentary Reform. It was not merely because he wished to deter public robbers from their depredations, and to protect innocent men from oppression; but because he believed that in the present times there was no other means of salvation for the country; but in firmly establishing on the rock of the constitution the liberties of the people of England.—[Sir Francis Burdett's speech was received with very great applause.]

Mr. Alderman Wood said, that he had at first blamed Mr. Finnerly for suffering judgment to go by default; but from what had since been stated by him and by the Hon. Baronet, and from his own knowledge about Special Juries, he now believed that he had acted rightly in so doing. He approved highly of the firmness which he displayed in introducing the character of his prosecutor. He coincided with what had been said by the Hon. Baronet with respect to Mr. White, the editor of the *Independent Whig*. He had written in a style bolder, or at least as bold, as any other man, and had displayed as much firmness and resolution. He hoped that his sufferings would not be forgotten.

Mr. MALLET seconded the Resolutions in a very animated speech. The freedom of the press, which they were then called to support, was worthy of their best exertions; and the individual whom they now proposed to support, had displayed as much talent in conducting his defence, as he had exhibited boldness in resting it on the foundation of truth and innocence. Lord Castlereagh was ill-advised, indeed, when he ventured to come into a Court of Law to attack Mr. Finnerly for a libel. Lord Castlereagh was, however, but a part of an Administration, which was itself but a part of a system, that

brought down all those evils upon Ireland and the Empire. The state to which Ireland had been reduced by the misrule of such men, was dreadful to think on. It was there

“Where sighs, and groans, and shrieks that rent the air,
Are made, not marked; where violent sorrow seems
A modern ecstasy: the dead man's knell
Is there scarce ask'd for who.”

As to the signification of the word libel, or the law of libel, there was no person who could explain it. In practice, however, it was known, that no sentiments which were printed in bulky volumes ever attracted a prosecution; but whenever important truths were brought to the level of the common understanding, and printed in such a manner as to be likely to meet the general eye, then Attorney-Generals were very vigilant in their prosecutions. As to what was or was not a libel, it was very rare to find any two lawyers or any two Judges agreed. Mr. Finnerly had given as good a definition of libel as any other person, when he said that it was nothing but the mere dictum of the Judge which constituted it. As to the character of Lord Castlereagh, he would not take it merely from the statement of Mr. Finnerly; but he would take it from the unanimous opinion of Ireland, of England, and he believed of the Island of Walcheren. (*A laugh.*)

Sir F. BURNETT afterwards put the resolutions, and they were unanimously agreed to.

A Committee was then appointed for the purposes of the meeting, and books were opened for the subscription.

LAW.

COURT OF KING'S BENCH.

Wednesday, Feb. 20.

THE KING v. WITHERS, AND OTHERS.

This was an indictment, on the prosecution of Mr. Josiah Copeland, then of Lower Edmonton, for a trespass and assault in levying an execution for damages recovered by Mr. Carter Draper, the Attorney against the prosecutor in an action of defamation. The indictment was brought against *Withers, Phillips, Siddons, Duke, Fethers, and Draper*, two of whom were Sheriff's Officers, and the rest were Bailiff's Followers, and the Attorney.

Mr. Copeland, his wife, and female servant, proved, that at eight o'clock of the morning of the 21st of May last, Mr. Copeland went out into his pleasure-ground, with the intention of unlocking his garden-gate, when he saw in the garden the defendants, upon which he turned back into his house by the side-door, out of which he had entered the ground, and bolted the door against the defendants. They immediately broke open the garden-gate, followed the prosecutor, burst open his side-door, (an outer-door) knocked him down, two dragging him to the stair-foot, and two beating him. His wife, alarmed by the cries of murder, came down stairs, and found him kept down upon his back by the defendants, his eye cut, his face bleeding, and his clothes torn. The defendants swore they would murder the prosecutor, and used other offensive language. Upon the wife's enquiring what was the matter, one of the defendants was about to attack her, but Siddons prevented him. In consequence of this assault, the prosecutor was blind for three days, and had his cheek-bone dislodged, as might be now seen.

The Jury found all the defendants guilty, except Draper.

Friday, Feb. 22.

THE KING v. LEIGH AND JOHN HUNT.

Upon the trial of this criminal information, only two Special Jurors appeared, viz.

1. Samuel Bishop, Upper Grafton-street, Esq.

2. George Baxter, Church-terrace, Paneras, Esq.

After some consultation, the ATTORNEY-GENERAL prayed a *talce*, when the following common jurors made up the Jury:

3. Robert Maynard, Glass-house-street, Oilman.

4. Walter Row, Great Marlborough-street, Stationer.

5. Richard Bolton, Silver-street, Portman.

6. John Rotton, Vigo-lane, Cutler.

7. Henry Perkins, Great Marlborough-street, Grocer.

8. William Lonsdale, Broad-street, Cabinet-maker.

9. John Sebrook, Rupert-street, Cook.

10. Thomas Rixon, Carnaby-street, Victualler.

11. John Nunn, Great Crown-court, Victualler.

12. David Miller, Carnaby-market North, Baker.

Mr. RICHARDSON opened the pleadings, by stating, that this was a criminal information filed against Leigh and John Hunt, Proprietors of the *Examiner*, Sunday newspaper, for a seditious libel, to which the defendants had pleaded—*Not Guilty.*

The ATTORNEY-GENERAL said, that he had thought it incumbent on him to prosecute the defendants for a libel; the tendency of which was not only to excite the disaffection of the soldiery, by representing that they were treated with improper and excessive severity, but (what was still more mischievous) to represent the treatment of Bonaparte's troops, and the means which were used to enlist them, as infinitely preferable to the system employed in Great Britain. The effect of this libel was obviously to excite discontent and dissatisfaction in the minds of the soldiers who had already entered the British service, and to disincline others from entering into that service. How fatal such efforts were to the country, it was unnecessary for the Attorney-General to state. The defendants had chosen to select for their motto, what they supposed him to have said upon the occasion of a former trial of this nature, when it became necessary for the Attorney-General to prosecute Mr. Cobbett for animadversions of extreme severity and injustice, upon an occasion of a mutiny in the Local Militia, which was punished by a Court-martial, with a sentence of a certain number of lashes, the infliction of part of which was remitted. The defendant on that occasion chose for his motto, or text, a statement of the circumstance from the newspapers; to which he subjoined a libel of extreme malignity, upbraiding those who stood by to see it punished. On that occasion, too, the defendant took an opportunity of speaking of the manner in which Bonaparte was supposed to recruit his army, taunting and reviling those who talked of his severity, and telling them it was ridiculous to animadvert on his cruelty while so much greater existed in our own army. After observing in that case upon the mild sentence and still milder indictment which attended the mutiny of those men who had risen upon their officers, the Attorney-General supposed he did use the sentence which the present defendants had selected for the motto of their libel—"The aggressors were not dealt with as Bonaparte would have treated his refractory troops." He repeated this assertion now; he verily believed it; in Bonaparte's army the offenders would not have escaped with their lives. Mr. Cobbett having been convicted for the libel; the present publishers took up the subject; and, whereas Mr. Cobbett took up a particular instance of military punishment upon which to comment, the present writers take all they can collect from all the papers, and presented them in a mass in the most aggravating manner, evidently for the purpose of inflaming the minds of the soldiers, rendering them disaffected to the service, and subjecting the public to all those calamities which would follow the effect which this publication was calculated to produce. The Attorney-General assumed as a fact, that wherever there was an army, it was absolutely necessary that that army should be governed by laws which were not applicable to the rest of society. In families, it was necessary that children should be obedient to their parents, servants to their masters; and where this obedience did not obtain, the most serious domestic evils were found to ensue. But there the evil ended. In the army it was otherwise. If once the army was let loose from its code of laws, not only would follow the destruction of the military system, but the downfall of the whole state. It was unnecessary to state the consequences which would ensue. It could not be said, that this publication had not a tendency to those consequences; for what could tend to that end more directly than to represent the military code as cruel and oppressive, and administered with unnecessary severity? Could such

a representation as this be exceeded in atrocity? Yes, it could. The English army could be brought into comparison with the French army, and the preference given to the latter. Having thus opened the principles, upon which the Attorney-General was sure the Jury would decide this publication to be a libel, he proceeded to read and comment upon it as follows:—

“ONE THOUSAND LASHES!!

(FROM THE STAMFORD NEWS.)

“The aggressors were not dealt with as Bonaparte would have treated his refractory troops.”—*Speech of the Attorney-General.*

This was the first motto, and implicated the libel which followed it so closely, that the Attorney-General took it to be a continuance of that libel for which Mr. Cobbett had received the sentence of the Court. The second motto consisted of the reports of military punishment, collected from all the London newspapers (of which it might be necessary to inform some of the Jury, that 60 different ones were published every week) and represented in one mass. The number of troops subject to these punishments consisted of 180,000 local militia, and 90,000 original militia, in all 270,000; besides all the regular troops in the service; and was it fair to pick out all the punishments which had been sentenced on the soldiery, without reporting, at the same time, the number of offenders who had been pardoned, and the number of persons subject to commit the offence? Was this the course of proceeding of a fair discussor of the policy of military flogging?

“Corporal Curtis was sentenced to receive ONE THOUSAND LASHES, but, after receiving two hundred, was, on his own petition, permitted to volunteer into a regiment on foreign service.—William Clifford, a private in the 7th Royal Fifean Battalion, was lately sentenced to receive ONE THOUSAND LASHES, for repeatedly striking and kicking his superior officer. He underwent part of the sentence, by receiving seven hundred and fifty lashes, at Canterbury, in presence of the whole garrison.—A Garrison Court Martial has been held on board the Metcalf transport, at Spithead, on some men of the 4th Regiment of Foot, for disrespectful behaviour to their officers. TWO THOUSAND SIX HUNDRED LASHES were to be inflicted among them.—Robert Chilman, a private in the Bearstead and Mulling regiment of Local Militia, who was lately tried by a Court Martial for disobedience of orders and mutinous and improper behaviour while the regiment was embodied, has been found guilty of all the charges, and sentenced to receive EIGHT HUNDRED LASHES, which are to be inflicted on him at Chatham, to which garrison he is to be marched for that purpose.—*London Newspapers.*

This was the second motto; and now the libel commences at once:—

“The Attorney General said what was very true;—these aggressors have certainly not been dealt with as Bonaparte would have treated his refractory troops;—nor indeed as refractory troops would be treated in any civilized country whatever, save and except only this country.—Here alone, in this land of liberty, in this age of refinement—by a people who, with their usual consistency, have been in the habit of reproaching their neighbours with the cruelty of their punishment,—is still inflicted a species of torture, at least as exquisite as any that was ever devised by the infernal ingenuity of the Inquisition.—No, as the Attorney-General justly says, Bonaparte does not treat his refractory troops in this manner: there is not a man in his ranks whose back is seamed with the lacerating cat-o-nine-tails;—his soldiers have never yet been brought up to view one of their comrades stripped naked,—his limbs tied with ropes to a triangular machine,—his back torn to the bone by the merciless cutting whipcord, applied by persons who relieve each other at short intervals, that they may bring the full unexhausted strength of a man to the work of scourging. Bonaparte's soldiers have never yet with tingling ears listened to the piercing screams of a human creature so tortured: they have

never seen the blood oozing from his rent flesh;—they have never beheld a surgeon, with dubious look, pressing the agonized victim's pulse, and calmly calculating, to an odd blow, how far suffering may be extended, until in its extremity it encroach upon life. In short, Bonaparte's soldiers cannot form any notion of that most heart-rending of all exhibitions on this side hell,—an English Military Flogging.

“Let it not be supposed that we intend these remarks to excite a vague and indiscriminating sentiment against punishment by military law:—no; when it is considered that discipline forms the soul of an army, without which it would at once degenerate into a mob;—when the description of persons which compose the body of what is called an army, and the situations in which it is frequently placed, are also taken into account, it will, we are afraid, appear but too evident, that the military code must still be kept distinct from the civil, and distinguished by greater promptitude and severity.—Bonaparte is no favourite of ours, God wot—but if we come to balance accounts with him on this particular head, let us see how matters will stand. He recruits his ranks by force—so do we. We flog those whom we have forced—he does not. It may be said he punishes them in some manner;—that is very true. He imprisons his refractory troops—occasionally in chains—and in aggravated cases he puts them to death. But any of these severities is preferable to tying a human creature up like a dog, and cutting his flesh to pieces with whipcord. Who would not go to prison for two years, or indeed for almost any term, rather than bear the exquisite, the almost insupportable torment, occasioned by the infliction of seven hundred or a thousand lashes?—Death is mercy compared with such sufferings. Besides, what is a man good for after he has had the cut-o-nine-tails across his back? Can he ever again hold up his head among his fellows? One of the poor wretches executed at Lincoln last Friday, it is stated, had been severely punished in some regiment. The probability is, that to this odious, ignominious flogging, may be traced his sad end; and it cannot be doubted that he found the gallows less cruel than the halberds. Surely, then, the Attorney-General ought not to stroke his chin with such complacency, when he refers to the manner in which Bonaparte treats his soldiers. We despise and detest those who would tell us that there is as much liberty now enjoyed in France as there is left in this country. We give all credit to the wishes of some of our great men; yet while any thing remains to us in the shape of free discussion, it is impossible that we should sink into the abject slavery in which the French people are plunged. But although we do not envy the general condition of Bonaparte's subjects, we really (and we speak the honest conviction of our hearts) see nothing peculiarly pitiable in the lot of his soldiers when compared with that of our own. Were we called upon to make our election between the services, the whipcord would at once decide us.—No advantage whatever can compensate for, or render tolerable to a mind but one degree removed from brutality, a liability to be lashed like a beast. It is idle to talk about rendering the situation of a British soldier pleasant to himself, or desirable, far less honourable, in the estimation of others, while the whip is held over his head—and over his head alone, for in no country in Europe, (with the exception, perhaps, of Russia, which is yet in a state of barbarity) is the military character so degraded.—We have heard of an army of slaves, which had bravely withstood the swords of their masters, being defeated and dispersed by the bare shaking of the instrument of flagellation in their faces. This brought so forcibly to their minds their former state of servitude and disgrace, that every honourable impulse at once forsook their bosoms, and they betook themselves to flight and to howling. We entertain no anxiety about the character of our countrymen in Portugal, when we contemplate their meeting the *baganets* of Massem's troops,—but we must own that we should tremble for the result, were the French General to dispatch against them a few hundred drummers, each brandishing a cat-o-nine-tails.”

Now, why, in his outset, did this writer compare the treatment of our soldiers with that of Bonaparte's? Did he mean to recommend our Government to abolish the present military code, and substitute that of Bonaparte? Did our system drag

men from their homes, and oblige them to enter the army against their will, as that of Bonaparte does? If it did, the Attorney-General should not have dared to stand up this day against any publication which execrated such a plan. Military punishments were severe; but was it the interest of the soldiers of them to render them more so than was necessary? And was it not necessary to insure prompt obedience, by prompt justice than could be sought for in any other than the military code? The whole of the first paragraph was comparison with the French; and the obvious tendency of it was to elevate their conduct, and to debase our own.—The Attorney-General then pointed out with what extreme reluctance the enormities of the French System were mentioned. “He recruits his ranks by force,—*so do we*,” as if by the same degree of force! The imprisonments and deaths to which he has recourse were slightly passed over.—If there were to be made any alteration in our military code, it must be by increasing the number of those offences punishable by death; and if a proposal were made to this effect, the Attorney-General should like to know in what terms of severity the writer of this libel would attack the proposer of such a measure. The writer struck his balance between the supposed hardships of our army and the real ones of Bonaparte’s, and gave the final preference to the Corsican. Could the jury hear this without indignation? Was it possible not to see that the tendency of the libel was to alienate the soldiers love of his profession, and disincline every body else from embracing it? Could any thing be more pointedly mischievous? The whole libel was equally offensive; every sentence had the same tendency. Of this tendency there could be no doubt; and the jury would therefore hear from his Lordship that this was a most mischievous and seditious libel.

Mr. BROUGHAM then addressed the Court and the Jury on behalf of the defendants, to the following effect:—“In rising to support the cause of these defendants, I am abundantly sensible of the difficulties under which I labour, not merely on the score of unequal talents and learning, or on account of the high influence of the office of the Attorney-General; not merely because I am defending the cause of those prosecuted by the Crown, a circumstance which throws an odium upon defendants, in whose favour, in civil prosecutions, the presumption is; but because this charge of libel is brought forward at a time when the licentiousness of the press has reached a height, which it certainly had not attained at any former time even in this country; a licentiousness, whereby every boundary is removed, and every obstacle overwhelmed. I will not say that no character is so exalted, because it is not of the attacks upon exalted characters that I complain; but I will say, that no character is so humble and so private as to have escaped the libels of those, who seek to gratify an idle curiosity, or to flatter a still less excuseable malignity. To point out as an object for the tongue of slander the man who is endeavouring to enter into private life, is with some the road to popularity, with hundreds the means of a base subsistence. It is unnecessary for me to state the nature, consequences, and grounds of this licentiousness of the press; and I am far from saying there is nothing to extenuate it. It arises in a great degree from that love of publicity with which many are seized, to a degree which leads them to value their existence only in proportion as it is passed before the gaze of the world, and to care not what they do, so as they be but talked of. In this particular the public at least are liberal, and never fail to reward him who panders to their gluttonous appetite. The consequences, however, are fatal to the press itself, tending to alienate the minds of the fastest friends to its freedom, and to lead them to doubt whether its abuse be not greater than its use; till at last, instead of blessing its light, they come to consider it as a source of certain mischief and of doubtful good. Instead of confining public discussion to the characters of great men, and of public actions, the press is occupied in private scandal, and in slipping up the secret histories of humble individuals. It is no small hardship in the present case, too, that the defendants come into court after the judgment of several general libels, because, the subject of the libel being only

stated, it is natural to conclude, that this is of the same species with that of which Mr. Cobbett, or Mr. Any-body-else, has been convicted. The Attorney-General has endeavoured, indeed, to draw a parallel between this case and that of Mr. Cobbett, in which it is unnecessary to follow him; for I trust I shall not proceed far before I shall have convinced you that the light is not more different from darkness, than the present case is from all and each of those that have preceded it. The consequence, however, of all these prejudices is excessively hurtful to my case; and, indeed, I have to withstand a tide and torrent of prejudice directed now-a-days to almost every thing which comes in the suspicious shape of being printed. But I should not have counselled the present defendants to make a struggle to-day, unless their case had merits of an individual nature, and of such a nature as will, I trust, induce the Court and Jury to stretch forth their friendly hand to prevent them from utterly sinking. If I can shew that the intention of the defendants was good (whether it was laudable or not, is another question), then are they innocent and not blameable. In whatever light the composition may be considered critically, and as a piece of writing, although it be not an original article belonging to the paper, I am content to consider the defendants on the footing of its authors; and if you should not attribute guilty intentions to them as its composers, it will be your duty to acquit them. This will be the question you will have to decide; but at the same time, I will not disguise to you that you have now to try a far more important question, whether from this time an Englishman shall have the privilege of free discussion, and, if discussion, of expression of his opinions against, as well as for, any political measure, or statistical system. The present is not an instance of the canvass of individual character, of a particular error of policy, or abuse of system; (I do not deny that an Englishman has that privilege of discussion, too; but that is not now the question); the present question is as to his right of discussing a general, I had almost said, an abstract, question—of giving his own opinion as to a particular cast of policy, which it has pleased the Legislature to adopt. It is a question, whether we have a right to endeavour to make that perfect, which we all so greatly admire—the constitution of our army; it is a question, whether a man, vehemently anxious for the glory of the army, may promote the good of the service, by shewing wherein its system is hurtful, and by pointing out those flaws, which prevent its attainment of a greater degree of perfection. Upon the soldier’s feelings of honour depend the safety of these kingdoms; and, with this consideration before him, is not that man the benefactor of his country who endeavours to refine those notions of honour to the uttermost pitch of perfection? These are the questions in this case; and these your verdict will decide. It is well known that for many years the attention of the Legislature has been almost exclusively called to the importance of military policy. It is not necessary for me to go into a detail of all the plans which have been at different times proposed; it is sufficient to state, that all of them have had one object in view—that of bettering the condition of the soldier. To some of these plans it is, however, necessary that I should direct your attention. The first I shall mention is that of shortening the term of military service. Upon this subject, Sir R. Wilson, whose presence in Court prevents me from saying, that, as there is not one officer in the service more distinguished for gallantry and skill, so there is none more distinguished by an accident, nay, almost a romantic, attachment to the profession of arms; not one in whom Bonaparte has a deadlier (I had nearly said a more personal) enemy, or this country and its allies a faster friend. This gallant officer, in the year 1804, published a tract upon the subject of improving and re-organizing the military system. It was addressed to Mr. Pitt, whose attention was then directed to the subject; and mentions, among a variety of causes operating to deter men from military enlistment, the length of the term of that enlistment. The writer is, perhaps, warm in much of his language; and I should have held that author cheap indeed, who could have touched upon such a subject with all the coldness of a regimental return. “Is not this enlistment for life,” the

gallant writer asks, "declaring to the world that the military profession is so ungrateful, that it is necessary to secure the soldier, otherwise he would never stay in it?" He then talks of the liability to service in the West India Islands as another great drawback to enlistment. I may not agree with the writer in every one of his arguments; but God forbid that I should impute a libel to the gallant officer. He proposes that the West Indies should be given up: "that charnel-house," says he, "must be closed for ever against British troops." Did Sir Robert Wilson mean by all this to disincline the regiments already there, or about to embark thither, from the military service? Far be it from me to impute any such intention to him. This is the language of free discussion, and the gallant writer speaks warmly because he thinks strongly. Honour is the nature of the tenure by which the soldier holds his sword; and upon the subject of military punishments, the writer enters at once, in language certainly not weaker than that of the publication before you. "The second and equally strong check to military enlistment," says he, "is the frequency of military punishment. The late Sir Ralph Abercrombie," he adds in a note, "was an enemy to it for light offences; and Lord Moira, and almost every General in the service, are universal enemies to it." And how is there any chance of subverting the system, unless, by facts and reasoning, the country and the legislature are convinced of its error? Sir Robert Wilson does not represent a picture of military punishment, too frightful as it is for patient examination; but he does say, that there is no mode so disgraceful as that of punishment by flogging, and more inconsistent with the military character; and is justly severe when he sees that punishment, which should be awarded only to crimes of the blackest dye, inflicted upon petty breaches of military law. He attributes his early respect for the army to the circumstance of his having been educated in a regiment, in the face of which the triangles were never planted, and of which every man therefore walked erect and conscious of the dignity of a soldier. "There is no maxim (he observes) more true, than that cruelty is a mark of cowardice—humanity of bravery. To a commanding officer possessing the latter qualities, a thousand methods of commuting the punishment of flogging for a better mode of punishment would suggest themselves." He then proceeds to say, that if a return were made of the number of soldiers punished, the astonishment of the public would be excited; and relates an instance of an Irish Commander who once flogged 70 men in one day, and resumed the employment the next morning. "Corporal punishments (he concludes) never reform a corps; they break the soldier's spirit, without mending his disposition: the cat-o-nine tails defeats every end of punishment, only rendering the soldier despicable in his own eyes, and the object of approbrium in those of others." I admit that this is a topic of delicacy; but it was the gallant officer's duty to touch upon it, from which, as an upright man, he was not deterred by the fear of having attributed to him motives, by which he was never actuated. He afterwards remarks the melancholy truth, that military punishments subdue every amiable disposition, and familiarize gentlemen by every right of education and birth, to scenes with which no other civilized nation is acquainted. "Why (he asks) should England be the last to adopt the humane system? France allows of flogging only in her marine: and in no other country, save and except England alone, is that system constantly resorted to." It is not by the writings of Sir Robert Wilson only, that I defend the opinions of the paper before me; I have others on the same side; but I shall only mention one more, that of Brigadier General Stuart; the object of whose publication (dated 1806) is to shew the defects in our present military establishment, and to urge the necessity of its reform. "Without a radical change, (he says) the British army will never continue formidable abroad and respected at home;" and he then mentions the very same defects that are pointed out by Sir Robert Wilson. He, too, has recourse to that topic, which it seems no man can write upon this subject without adverting to—the system of France. The French soldiers, he says, are often shot, but seldom punished corpor-

rally; and in no service have I seen discipline preserved upon truer principles. Gentlemen, I like not an over-proneness to praise every thing French; but in men who have beaten the French, there is an additional merit in giving their adversaries their due praise; it adds the grace of liberality to the value of truth; it shews them to be above little, petty, paltry feuds, and that their way of fighting their enemies is in the field, and not by upbraidings. This gallant General has seen other service; he has served with Austrians, Russians, and Swedes; but in no service did he see discipline preserved on truer principles than in the French. Do I mean, Gentlemen, to argue from all this, that because gallant officers have done improperly, the defendants have a right to do so too? Do I know so little of your understandings, or have I so little regard for the interruptions of the learned Judge, as to offer the absurd, the insane proposition, that the fault of one man excuses that of another? Did I bring forward one libel to screen another, that circumstance would be only an aggravation of the offence. No, Gentlemen; I quote the words of these gallant officers to you, because you and I must hold them incapable of sowing dissensions among their men, or deterring others from entering the army. Of all men in the country, there are no two who more eminently adorn their profession, or are more enthusiastically fond of it; and there cannot be a rational pretext for charging them with a libellous intention in the publication of their respective pamphlets; it is, therefore I argue, (with great submission to his Lordship) that if these gallant officers could publish what they had published, without any libellous intention, the mere fact of the publication of my client's paper is no evidence of a libellous intention. With this statement of my argument, I shall now proceed to the consideration of the alleged libel itself. Upon its first motto, I shall not detain you long. Nothing surely can be made of a fashion, which has been the commonest device of an author, at least from the time of the Spectator; and it surely is too much, because a quotation is made from the Attorney-General's speech upon a former trial, to implicate the quoter in the libel of which that was the trial. In case, then, it should be said that the present writer proceeded upon no facts, he collects a body of such facts, and places them at the head of his argument, as so much the stronger reason for agitating the question. It had been enough for his argument to have said, that "Corporal Curtis was sentenced to receive one thousand lashes;" but he fairly adds, "but, after receiving two hundred, was permitted to volunteer on foreign service;" and in the same spirit of candour, he states that the offence of William Clifford was that of "repeatedly striking and kicking his superior officer." It is thus that through the article he qualifies and guards his expressions, in the true temper of an impartial arguer. After some warm and vehement writing on the subject of the floggings, equally warm with that of Sir Robert Wilson, (and who should say the writer, feeling warmly, was not to express himself so?) he is afraid that his readers may be led into the mistake, into which it seems the Attorney-General has actually fallen, and therefore cautions them, lest they should suppose he was too generally fond of French systems. [The Learned Counsel then read the beginning of the second paragraph of the libel.] It has been objected, that the writer has not sufficiently guarded his military reader (supposing him to have one) from an idea that there was no difference between the English and the French military codes; but the writer expressly states, "that Bonaparte imprisons his refractory troops, occasionally in chains; and in aggravated cases he puts them to death." Is this not stating both sides fairly? Is this keeping out of sight the severities of Bonaparte? Had the writer any reason to mention the French punishments? But though the conduct of his argument does not demand it, he admits that Bonaparte punishes with chains and death. Many of our first Statesmen, on the agitation of the question, have maintained that the punishment of death should supersede that of flogging in our army; and it is not out of compassion to the soldier, that the argument in the paper before me is held, as much as to say to him, "Must you? that's right? You are liable to have your back tortured, and

our revolt is justifiable!" The argument is, that the punishment of death is less horrible and disgraceful than that of whipping; and the writer's address to the soldier is, "don't think you are to get off for your offences; my notion is, that instead of being flogged, you should be chained for life, or put at once to death." The writer's tenderness was exercised towards the military character in general, and not to the soldier in particular; and, instead of exciting them to mutiny, he addressed them in the language of severity; he was aware of the strictness necessary in military discipline, and where others would flog, he would shoot the soldier. "We despise and detest those who would tell us, that there is as much liberty now enjoyed in France as there is left in this country." Is this the language of him who would fix the eye of blame only upon what happens at home? The whole gist of the argument is, that the French discipline being superior to ours, as Sir Robert Wilson and General Stuart have testified it was, we ought to suffer ourselves in that particular to be taught even by our enemies. The topic of comparison with the French, delicate as it is, was necessary in his argument, which could not be conducted without it. At the same time he guards his reader against any erroneous impression which the preference he was compelled to give in this comparison might make upon him; and I pray you, gentlemen, not to be led away by any appearance of warmth or violence, with which his remarks may be made. He might have made these remarks without the qualification which he has annexed to them, and yet I should not have been afraid of his defence; he has qualified them, and his defence is sure. The points he has urged, he had a right to press; unless free discussion mean a free choice of topics, but a fettered use of them,—a selection of subject, but a restriction of language. If there is one subject upon which we may be allowed to think more strongly than another, it is the present; and every body above the level of a stock or a stone will write in proportion to his feelings on this subject. If we have not the power to do this, to what is the privilege of discussion reduced! To something like a free selection of what another prescribes—to a rule eaten up with exceptions; and he who tells you you have the privilege, has either a small acquaintance with the language, or a slight regard to truth. The present writer has stated facts; a system itself is impeached, and it is part of his argument, that that system leads to unavoidable cruelty, and cruelty which cannot fail to be exercised. He who has a right to hold this opinion, has a duty to communicate it; and as for the fear of exciting mutiny in the soldiers, it is idle and chimerical. But laying out of your view, Gentlemen, my former argument, and the high authorities upon which I grounded it, namely, that evil intention was no more imputable to my clients, than to the gallant officers I have quoted to you, is there any visible limit to the Attorney-General's argument? Is there any safe subject for discussion, if we are to be told that our arguments tend to excite revolt? What are the most common of all political subjects? Taxes, wars, and expeditions. If I object to the imposition of taxes, the Attorney-General says to me, "what are you about? You are exciting a resistance of the imposts of your country. Can any thing be more dangerous?" If I were to complain that our expeditions send armies to perish, not by the sword of the enemy, but by the yellow fever; not by the cannon, but by the pestilence of Walcheren; would any body dream that my intention was to excite mutiny? Must an Englishman have the privilege of Parliament before he can discuss public measures? Was such a thought ever entertained? Gentlemen, I shall only advert to one other subject; I mean, the eloquent efforts which were made on behalf of the West India slaves. Could there be a more delicate subject than that, or one which required to be more cautiously handled? Were not all the masterly speeches of Mr. Pitt on that subject, pictures of horrors from beginning to end; and did any one impute a wish to excite insurrection to him, although he was addressing islands peopled with blacks? This privilege, if it is good for any thing, is good for all; and I have a right to discuss any subject. But is there no danger of mutiny to be apprehended from the infliction of these military floggings, in the sight and hearing of thousands

of soldiers and peasantry, although the danger which the mere narrative of them is to produce be so great? Is this fund of peasantry, out of which your future soldiers are to be drawn, to hear with their own ears, and see with their own eyes, the horrors of a military flogging without thinking twice before they enter this army? All this is a chimerical fear; let their eyes feast on the sight, let their ears be gladdened with the sound; all is safe, there is no fear of their being moved; but have a care how you describe or comment upon all this, (we have scarcely and very inadequately done either the one or the other); but of all things take care how you argue on the policy of this system; for a single word of argument will occasion those troops to revolt, and that peasantry to turn their attention to some other way of life, who saw and heard a military flogging with the coolest satisfaction! Gentlemen, I have done; the whole case is before you; and you will now decide, whether an Englishman has any longer the privilege of discussing public measures.

The ATTORNEY-GENERAL replied; he agreed with the Learned Gentlemen in his remarks upon the licentiousness of the press; and perhaps it fell more in the Attorney-General's way than in that Gentleman's to know the number of weak nerves which were affected by this dread of libel. It was now a question with publishers, not whether this or that line of opinion was the result of their conviction, but whether it would sell their paper best, and the Court had an affidavit to this effect upon its record, (alluding to the late disgusting case of *The Day* newspaper). It had been said, that this was a free and liberal discussion of a public measure; and that its arguments were justified by the example of two gallant officers; but to rank Sir Robert Wilson, and Brigadier-General Stuart with the Proprietors of the *Examiner*, was really quite laughable. It might be a question whether it was advisable in these officers to make their thoughts on the army (which the Attorney-General had not before seen) public, when they had a private opportunity of communicating them where they might have been more efficacious; and it might be also a question whether it was prudent in one of those gallant officers to enlarge upon the corporal punishment of the soldiery, in such ardent and glowing language. But the officers could have no improper object in view. Not so the defendants; and the question was, what was the object of Messrs. Hunt, Proprietors of the *Examiner*? He protested against any invasion of the liberty of the press!

Lord ELLENBOROUGH then charged the Jury. It had been stated by the Counsel for the defendants, in a speech of great ability, eloquence, and manliness, that the question was, whether it were lawful for an Englishman to comment on any particular policy? Of this there could be no doubt, and that whether privately or through the press, provided it were done decently and with a true regard to public and private interests. This was an anxious and awful moment, when the personal liberty of every man depended upon our resistance to Bonaparte, and all the powers of Europe, who were combined with that formidable foe. It therefore became doubly necessary to see that he had no auxiliary from within us, and that he had not the aid to his ambitious tyranny of the British press. The freedom of discussion was in proportion to its delicacy; and the Noble and Learned Judge could not help thinking, that the gallant officer now on the Bench would have done better to have made a communication of his sentiments in a more private form. The soldiery were now a class of men upon whose fidelity to the banners of their country every thing depended; and it could not be supposed that the subject of their punishment had not undergone the consideration of those who were supposed to be full of all honourable feeling. Upon the subject of enlistment for life, his Lordship himself knew that the opinions of all the General Officers had been collected. There were a variety of punishments, which would not bear detail; suppose that capital punishment were described in an inflammatory way, no man could say to what extent Juries might be led by their feelings, in trying capital issues, or even Judges, in pronouncing upon their criminality? His Lordship then read and commented on the libel. The title, "One Thousand Lashes," was printed in

*Capitals** to catch the eye; and the lashes were in one instance added together, and not apportioned to each offence, for the purpose of aggravation. The words, "with their usual consistency," were a sting at the country. Was this fair discussion? Do we use force to recruit our armies? The duty of being ballotted for militias pressed upon every body alike, with certain exceptions; and yet it was meant to be represented that equal force was used in recruiting our army with what was employed in France, where every man was drawn out and sent from Holland to Spain, fighting for a territory to which he had no title, and merely subserving the views of a tyrant. By the French Code of Conscription, the punishments inflicted on those relatives who concealed objects of conscription were truly horrible; they were condemned to linger out their lives in the galleys, and to other severities. If the writer had been really actuated by a feeling for the soldiery, why did he not make a private representation to some Member of the Legislature, instead of drawing up a picture calculated to harrow up the souls of his readers, and to attract the attention of the military, and render them disgusted with the service? In the conscientious discharge of his duty, his Lordship had no hesitation in pronouncing this an inflammatory libel.

The Jury, after some consultation, withdrew:—after remaining out one hour, they sent for the Newspaper containing the alleged libel.—In three quarters of an hour afterwards, they returned with a verdict of—NOT GUILTY.

THE KING v. HORNE.

This was also an information for a libel. The defendant was a bookseller in St. James's, and published a pamphlet, in which it was stated that the people might at all times pull their Government to pieces and re-model it; and that it was highly expedient to begin the work at present.—The Jury immediately found the defendant guilty.

OLD BAILEY.

On Friday, *Rachel Woodthorpe* was indicted for the wilful murder of *Wm. Crickelt*, her uncle, who lived in the Weaver's Alms-houses, Shoreditch.—It appeared in evidence that the deceased was an infirm old man, who had been visited by insanity;—that on the morning of the 10th inst. one *Holloway* received a note from the prisoner, stating that the deceased had cut his throat in the night. *Holloway* went and found the old man alive and sensible. On being asked whether he had cut his own throat, he said, "No." The question being put whether his niece had done it, he at first made no answer, but on being pressed, replied, "yes."—The prisoner being interrogated, said, that early in the morning she awoke and found her uncle covered with blood; that she got up, lighted the fire, and walked about the room all night; but she did not call in assistance, as she did not like to disturb the neighbours at that unseasonable hour.—The deceased died in the morning.—It appearing, however, that the prisoner had always been very attentive to the deceased,—and that she lost rather than gained any thing by his death, the Jury, after retiring for three quarters of an hour, gave a verdict of—Not Guilty.

Lawrence Jutta and *Joseph Franco Cardozo*, two Portuguese sailors, were found guilty of wilfully cutting and maiming *James Starling*, in a quarrel at Wapping.—In the dispute, *Jutta* exclaimed, "Damn him, if he don't know

* Had his Lordship taken the trouble to look at the other parts of the paper, he would at one glance have seen, that the CAPITALS he so curiously pointed out to the Jury as designed "to catch the eye," were not only of the same size and sort used for other headed articles, but were even much smaller than those which head several divisions of the paper.—*E. familiar.*

Portuguese fashion, I'll make him;" the prisoners then pursued the prosecutor with brandished knives, and stabbed him in the back.—*Death.*

BIRTHS.

On Friday evening, Mrs. Spencer, of Arundel-street, Strand, (wife of Mr. T. Spencer, of the Custom-House) of a daughter.

DEATHS.

On Monday, at Paddington, the Duke of Albuquerque, who laboured under a mental derangement of the most violent kind. His unhappy malady is said to have arisen from the treatment he received from the late Junta of Cadiz.—The Duke was seized on Friday week, and never had a lucid interval from that day. His usual residence was at the Clarendon Hotel; and on the first appearance of the disorder, he is said to have beat his own servants severely. This naturally excited astonishment, for his temper was usually calm and mild, and he had ever been one of the kindest and most indulgent masters. He then burst forth into a strain of invective against Bonaparte, so loud that he might be heard in the street—*Mourir Napoleon* was his constant cry from the moment of his attack almost to that of his death. Medical aid was called in, and he was removed to Paddington, where his paroxysms were so violent, that it was with difficulty he could be kept in bed. On Monday night, after a restless day, during which he had scarcely ever ceased to cry out *Mourir Napoleon*, he dropt into a short sleep, and a message was dispatched to Admiral Apodaca with the intelligence. It was thought his disorder would assume a quieter aspect—vain hope! at half past eleven he awoke in a violent paroxysm, and almost immediately expired.

On Thursday week, at Norton-place, near Spittal, at the advanced age of 78, the truly venerable and highly respected *John Harrison, Esq.* He rose apparently in good health, and his servant had assisted to dress him, but wanting something from below stairs, he left his master for only a few minutes, and on his return to the chamber found him lying on his bed a corpse. A character like this must not be allowed to pass so rapidly into the obscurity of the grave; it deserves to be embalmed in our memories. A man more worthy, both in private life and in public character, the county of Lincoln has never known. He sat in several Parliaments as member for Grimsby, in this county, and for Thetford, in Norfolk, till age and infirmity rendered it necessary that he should decline the public service. As long as he bore a public character he was invariably the friend of the people and humanity. While others were won by bribes, or cajoled by promises, or terrified by the power and influence of Ministers, the cabinet of the day, the minions of the court, always found him inflexible; so that he acquired in Parliament the nick-name of old Adam (a faithful servant in Shakespeare's "As you like it," who would not forsake his master though he was left alone to serve him). He was a determined and a steady Whig. Tory principles and Tory practices were an abomination to him. And it is well remembered by some still living, that in the American war, when it was hazardous to broach a sentiment hostile to the court, that he delivered on the hustings at Lincoln a solemn prophetic intimation. Replying to a gentleman who had been boasting of the wisdom of Ministers and the splendour of the present reign, he said, it began, indeed, in splendour, but, if he was not greatly mistaken, it would end in darkness and disgrace. Let our present prospects attest how justly he appreciated the measures which began with Lord Bute, were pursued by William Pitt, and have been blindly and servilely adhered to by our "bench of little lawyers." We shall with pleasure, if it fall in our way, communicate farther particulars of this estimable man and sound politician. He has left two daughters, the one unmarried, the other allied to Sir Montague Cholmondeley, whose children, it is supposed, will inherit the greater part of his fortune.—*Stamford News.*