

AGAINST the Previous Question.

FOR the Previous Question.

*East Loos.*Alexander Irvine, Esq;
Lord Viscount Belgrave*St. Edmund's Bury.*

Lord Charles Fitzroy

Sir Charles Davers, Bart.

Essex.

Thomas B. Bramston, Esq;

Evesham.

Sir John Rushout, Bart.

Charles W. B. Rouse, Esq;

Exeter.

John Baring, Esq;

Sir C. W. Bampfylde, Bart.

Epy.

General Phillipson

Major General Bathurst

Flintshire.

Sir Roger Mostyn, Bart.

Flint.

Major W. Williams

Fowey.

Philip Rashleigh, Esq;

Hon. Richard Edgumbe

Gatton.

James Frazer, Esq;

St. Germain's.

John James Hamilton, Esq;

Samuel Smith, Esq;

Glamorganshire.

Charles Edwin, Esq;

Gloucestershire.

Hon. Capt. Berkley

Thomas Master, Esq;

Gloucester.

John Webb, Esq;

Grampound.

Francis Baring, Esq;

Grantham.

George Sutton, Esq;

East Grimsby.

John Harrison, Esq;

Dudley Long, Esq;

East Grinstead.

George Medley, Esq;

Guildford.

Hon. Thomas Onslow

Hon. General Norton

Hampshire.

Robert Thistlethwaite, Esq;

Jervoise Clarke Jervoise, Esq;

Harwich.

John Robinson, Esq;

Haslemere.

John B. Garforth, Esq;

John Lowther, Esq;

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AGAINST the Previous Question.	FOR the Previous Question.
	<i>Hastings.</i>
John Stanley, Esq;	
John Dawes, Esq;	
	<i>Helfton.</i>
James B. Burges, Esq;	Roger Wilbraham, Esq;
	<i>Herefordshire.</i>
Right Hon. Thomas Harley	Sir Geo. Cornwall, Bart,
	<i>Hereford.</i>
	John Scudamore, Esq;
	James Walwyn, Esq;
	<i>Hertfordshire.</i>
Lord Visc. Grimston	William Plumer, Esq;
	<i>Hertford.</i>
Baron Dimsdale	
John Calvert, Esq;	
	<i>Heydon.</i>
Lionel Darell, Esq;	
	<i>Heytesbury.</i>
	W. P. A'Court, Esq;
	<i>Higham Ferrers.</i>
	Right Hon. F. Montagu
	<i>Highworth.</i>
Sir C. F. Ratcliffe, Bart.	Will. Evelyn, Esq;
	<i>Hindon.</i>
Will. Egerton, Esq;	
	<i>Honiton.</i>
Rt. Hon. Sir G. Yonge, K. B.	Sir Geo. Collier
	<i>Horsham.</i>
Jer. Crutchley, Esq;	
Phil. Mercallie, Esq;	
	<i>Huntingdonshire.</i>
Lord Visc. Hinchinbroke	Earl Ludlow
	<i>Huntingdon.</i>
	Sir Walter Rawlinson
	John Willert Payne, Esq;
	<i>Ilchester.</i>
Benj. Bond Hopkins, Esq;	
Geo. Sumner, Esq;	
	<i>Ipswich.</i>
Charles Alex. Crickett, Esq;	William Middleton, Esq;
	<i>St. Ives.</i>
Will. Praed, Esq;	
	<i>Kent.</i>
Hon. Charles Marsham	Filmer Honeywood, Esq;
	<i>King's Lynn.</i>
	Hon. Horatio Walpole
	<i>Kingston-upon-Hull.</i>
Sam. Thornton, Esq;	
W. Spencer Stanhope, Esq;	
	<i>Knareborough.</i>
	Lord Visc. Duncannon

AGAINST the Previous Question.

FOR the Previous Question.

John Blackburne, Esq;

Lancashire.

Thomas Stanley, Esq;

Lancaster.

Sir Geo. Warren, K. B.

Ab. Rawlinson, Esq;

Lancaster.

Lord Arden

Sir John Swinburne, Bart.

Leicestershire.

John Peach Hungerford, Esq;

Will. Pochin, Esq;

Leicester.

Colonel Macnamara

Charles Lor. Smith, Esq;

Leominster.

John Hunter, Esq;

Penn A. Curzon, Esq;

Leicester.

Hon. Edward James Eliot

Hon. John Eliot

Leicester.

John Thomas Ellis, Esq;

Sir John Sinclair, Bart.

Leicester.

Thomas Kempe, Esq;

Hon. Henry Pelham

Lincolnshire.

Sir John Thorold, Bart.

Chas. Anderson Pelham, Esq;

Lincoln.

John F. Cawthorne, Esq;

Hon. R. L. Saville

Litchfield.

George Anson, Esq;

Liverpool.

Bamber Gascoyne, Esq;

Lord Penrhyn

London.

Sir Watkin Lewes

Nathaniel Newnham, Esq;

John Sawbridge, Esq;

Ludlow.

Lord Clive

Richard P. Knight, Esq;

Lutterworth.

Geo. Aug. Selwyn, Esq;

Nath. W. Wraxall, Esq;

Lyme Regis.

Hon. Thomas Fane

Hon. Henry Fane

Lymington.

Robert Colt, Esq;

George Rose, Esq;

Maidstone.

Matthew Bloxam, Esq;

Clement Taylor, Esq;

Malden.

John Strutt, Esq;

Sir Peter Parker, Bart.

AGAINST the Previous Question.

FOR the Previous Question.

	<i>Malmesbury.</i>
	Lord Viscount Melbourne
	Lord Viscount Maitland
	<i>Malton.</i>
	Right Hon. Edmund Burke
	William Weddell, Esq;
	<i>Marlborough.</i>
Earl of Courtown	
Sir Philip Hales, Bart.	
	<i>Marlow.</i>
Sir Thomas Rich, Bart.	William Clayton, Esq;
	<i>St. Marwes.</i>
Hugh Boscaven, Esq;	
William Young, Esq;	
	<i>St. Michael.</i>
Christopher Hawkins, Esq;	David Howell, Esq;
	<i>Midhurst.</i>
Henry Drummond, Esq;	Edward Cotsford, Esq;
	<i>Middlesex.</i>
William Mainwaring, Esq;	
	<i>Milbourne Port.</i>
Lord Muncaster	Colonel W. Popham
	<i>Minehead.</i>
Robert Wood, Esq;	
	<i>Monmouthshire.</i>
Major General Rooke	John Morgan, Esq;
	<i>Monmouth.</i>
Marquis of Worcester	
	<i>Montgomeryshire.</i>
	William Mostyn Owen, Esq;
	<i>Montgomery.</i>
	Whitshed Keene, Esq;
	<i>Morpeth.</i>
	Peter Delme, Esq;
	Sir James Erskine, Bart.
	<i>Newark</i>
Lieut. Col. John Sutton	
Lord Mulgrave	
	<i>Newcastle-under Lyne.</i>
Sir Arch. Macdonald	
Richard Vernon, Esq;	
	<i>Newcastle upon-Tyne.</i>
Charles Brandling, Esq;	Sir Matt. W. Ridley, Bart.
	<i>Newport, Cornwall.</i>
	Sir John Miller, Bart.
	<i>Newport, Hants.</i>
Hon. John Townshend	Edward Rushworth, Esq;
	<i>Newton, Lancashire.</i>
Thomas Brooke, Esq;	Thomas P. Leigh, Esq;
	<i>Newton, Hants.</i>
John Barrington, Esq;	
Mark Gregory, Esq;	

AGAINST the Previous Question.

FOR the Previous Question.

Sir John Wodehouse, Bart.

Henry Peirse, Esq;
Edwin Lascelles, Esq;

Sir James Langham, Bart.

Hon. Henry Hobart

Robert Smith, Esq;

Humph. Minchin, Esq;

Sir William Dolben, Bart.

Robert Fanshaw, Esq;

John Stephenson, Esq;
John Pardoe, jun. Esq;John Smyth, Esq;
William Sotheron, Esq;

William M. Pitt, Esq;

Hon. W. Cornwallis

Sir Henry Houghton, Bart.

Norfolk.

Northallerton.

Northamptonshire.

Northumberland.

Norwich.

Nottinghamshire.

Nottingham.

Oakhampton.

Orford.

Oxfordshire.

Oxford.

Oxford University.

Pembroke.

Penrhyn.

Peterborough.

Petersfield.

Plymouth.

Plympton.

Pontefract.

Poole.

Portsmouth.

Preston.

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Sir Edward Affley, Bart.

Thomas Powys, Esq;

Sir William Middleton, Bart.
Charles Grey, Esq;

Rt. Hon. W. Wyndham

Lord E. B. Cav. Bentinck
C. Meadows Pierpoint, Esq;

Dan. P. Coke, Esq;

Lord Visc. Malden

Hon. G. Seym. Conway

Lord Charles Spencer

Lord Robert Spencer
Hon. Peregr. Bertie

Francis Page, Esq;

Hugh Owen, Esq;

Sir John St. Aubyn, Bart.

Richard Benyon, Esq;
Hon. Lionel DamerLord Viscount Downe
William Jolliffe, Esq;

John Macbride, Esq;

Mich. A. Taylor, Esq;

Sir Harry Featherstone, Bart.

Right Hon. Gen. Burgoyne

AGAINST the Previous Question.	FOR the Previous Question.
George Bowyer, Esq;	Queenborough.
John Aldridge, Esq;	
Thomas Johnes, Esq;	Radnorshire.
Francis Annesly, Esq;	
Richard A. Neville, Esq;	Reading.
Earl of Lincoln	
	East Retford.
	Warton Amcotts, Esq;
	Richmond.
	Earl of Inchiquin
	Sir Grey Cooper, Bart.
	Rippon.
	William Lawfence, Esq;
	Rochester.
Sir Charles Middleton, Bart.	
John Hennister, Esq;	New Romney.
Rich. Joseph Sullivan, Esq;	
George B. Brudenell, Esq;	Rutlandshire.
Rt. Hon. C.W. Cornwall, <i>Speaker</i>	Gerard Noel Edwards, Esq;
William Bellingham, Esq;	Rye.
Reginald Pole Carew, Esq;	William Dickenson, Esq;
John Kynaston, Esq;	Rygate.
	Salop.
	Salisbury.
	Major Lemon
	Sandwich.
Philip Stephens, Esq;	
Charles Brett, Esq;	New Sarum.
Hon. W. H. Bouverie	William Hussey, Esq;
Right Hon. J. C. Villiers	Old Sarum.
George Hardinge, Esq;	
Earl of Tyrconnell	Scarborough.
George Osbaldeston, Esq;	
	Seaford.
	Sir Godfrey Webster
	Shaftesbury.
	Shoreham.
	Shrewsbury.
Hans W. Mortimer, Esq;	
John Drummond, Esq;	
John Peachey, Esq;	
John Hill, Esq;	

AGAINST the Previous Question.

FOR the Previous Question.

Edward Phelips, Esq;

Somersetshire.

John Fleming Esq;

Southampton.

James Amyatt, Esq;

Southwark.

Henry Thornton, Esq;

Paul Le Mesurier, Esq;

Staffordshire.

Earl Gower

Sir Edward Littleton, Bart.

Stafford.

Hon. Edward Monckton

R. B. Sheridan, Esq;

Stamford.

Sir Geo. Howard, Bart.

Henry Cecil, Esq;

Steyning.

Hon. Richard Howard

Stockbridge.

James Gordon, jun. Esq;

T. Boothby Parkyns, Esq;

Sudbury.

William Smith, Esq;

John Langston, Esq;

Suffolk.

Sir John Rous, Bart.

Jof. Grigby, Esq;

Surry.

Sir Joseph Mawbey, Bart.

Hon. William Norton

Suffex.

Lord George Lenox

Hon. Thomas Pelham

Tamworth.

John Calvert, jun. Esq;

John Courtenay, Esq;

Tavistock.

Right Hon. R. Fitzpatrick

Lord John Russell

Taunton.

Alexander Popham, Esq;

Sir Benjamin Hammett

Tbetford.

Sir Charles Kent, Bart.

George Jennings, Esq;

Thirsk.

Sir G. P. Turner, Bart.

Robert Viner, Esq;

Triverton.

Hon. Dudley Ryder

Totnes.

Hon. Colonel Phipps

Tregony.

Robert Kingsmill, Esq;

Hon. Hugh Conway

AGAINST the Previous Question.

FOR the Previous Question.

Hiley Addington, Esq;
Colonel Boscawen

Sir Francis Sykes, Bart.

Thomas Farrer, Esq;

Sir Robert Lawley, Bart.

Sir Geo. A. W. Shuckburgh, Bart.

Clement Tudway, Esq;

Sir John Scott
Hon. Thomas Thynne

Samuel Estwick, Esq;
John Maddocks, Esq;

Major John Scott
James Adams, Esq;

William Selwyn, Esq;]

Lord Herbert

Rich. Gammon, jun. Esq;

Earl of Mornington

Truro.

Wallingford.

Wareham.

Warwickshire.
John Calcraft, Esq;

Warwick.

Robert Ladbroke, Esq;

Wells.

Wendover.

Robert Burton, Esq;
John Ord, Esq;

Wenlock.

Sir Henry Bridgeman, Bart.
George Forrester, Esq;

Weobly.

Westbury.

West-Looe.

Westminster.

Right Hon. C. J. Fox
Lord John Townshend

Westmoreland.

Sir M. Le Fleming, Bart.
John Lowther, Esq;

Weymouth and Melcomb Regis.

Right Hon. Welbore Ellis
John Purling, Esq;

Whitchurch.

Lord Viscount Middleton

Wigan.

John Cotes, Esq;
Orlando Bridgeman, Esq;

Wilton.

Winchelsea.

John Nesbitt, Esq;

Winchester.

Henry Penton, Esq

Windsor.

AGAINST the Previous Question.

FOR the Previous Question.

Sir H. W. Dashwood, Bart.
Francis Burton, Esq;

Woodstock.

Worcestershire.

| Hon. Edward Foley

Worcester.

Samuel Smith, Esq;

Wootton Bassett.

| Hon. Colonel North

| Hon. Robert S. Conway

Chipping Wycombe.

Robert Waller, Esq;

Yarmouth, Norfolk.

Sir John Jervis, K. B.
Henry Beaufoy, Esq;

Yarmouth, Hants.

| Philip Francis, Esq;

| Thomas Jer. Clarke, Esq;

Yorkshire.

Henry Duncombe, Esq;
William Wilberforce, Esq;

York.

Richard Slater Milnes, Esq;

| Lord Galway

S. C O T L A N D.

Aberdeenshire.

| George Skeene, Esq;

Aberdeen, &c.

| Sir David Carnegie, Bart.

Argyleshire.

Lord F. Campbell

Bamffshire.

Sir James Duff, Bart.

Berwickshire.

Pat. Home, Esq;

Clackmannon.

Burnet Abercrombie, Esq;

Craill, Pittenweem, &c.

| John Aufruther, Esq;

Cupar, Dundee, &c.

| George Dempster, Esq;

Dumbarton, Glasgow, &c.

Ilay Campbell, Esq;

Dumfrieshire.

| Sir Robert Laurie, Bart.

Edinburghshire.

Right Hon. Henry Dundas.

Edinburgh.

Sir Adam Ferguson, Bart.

AGAINST the Previous Question.	FOR the Previous Question.
Earl of Fife	<i>Elginshire.</i>
Colonel Wemys	<i>Fifehire.</i>
Archibald Douglas, Esq;	<i>Forfarshire.</i>
John Hamilton, Esq;	<i>Haddingtonshire.</i>
Lord William Gordon	<i>Invernesshire.</i>
Sir Hector Munro, K. B.	<i>Inverness.</i>
Sir Archibald Edmondston, Bart.	<i>Inverine, Inverary, &c.</i>
Robert Allardice Barclay, Esq;	<i>Kincardineshire.</i>
Sir Charles Preston, Bart.	<i>Kirkcubright Stewartry.</i>
Sir James S. Denham, Bart.	<i>Kinghorne, &c.</i>
	<i>Lanarkshire.</i>
	<i>Lauder, &c.</i>
	Colonel Fullarton
	<i>Linlithgowshire.</i>
	Sir Wm. A. Cunnyngnam, Bart.
Alexander Brodie, Esq;	<i>Nairnshire.</i>
	<i>Orkney, &c.</i>
	Colonel Dundas
David Murray, Esq;	<i>Peebleshire.</i>
Hon. General Murray	<i>Perthshire.</i>
	<i>Renfrewshire.</i>
	John Shaw Stewart, Esq;
	<i>Resfshire.</i>
	Francis H. Mackenzie, Esq;
Sir George Douglas, Bart.	<i>Roxburghshire.</i>
Mark Pringle, Esq;	<i>Selkirkshire.</i>
Major Moore	<i>Selkirk, &c.</i>
	<i>Stirlingshire.</i>
	Sir Thomas Dundas, Bart.
Lieut. General Grant	<i>Sutherlandshire.</i>
Andrew M'Dowall, Esq;	<i>Wigtownshire.</i>

Teller FOR the Question,

THOMAS STEELE, Esq;
Member for Chichester.

Teller AGAINST the Question,

WILLIAM ADAM, Esq;
Member for Kinton, Bamff, &c.

PAIRED OFF FOR THE QUESTION.

Right Hon. James Grenville	<i>Buckingham.</i>
Right Hon. Isaac Barre	<i>Calne.</i>
Charles Rofs, Esq;	<i>Kirkwall, &c.</i>
Sir Richard Hill, Bart.	<i>Shropshire.</i>

PAIRED OFF AGAINST THE QUESTION.

	<i>Banbury.</i>
	Lord North
	<i>Dumbartonshire.</i>
	Keith Elphinstone, Esq;
	<i>Wilton.</i>
	Right Hon. W. G. Hamilton]
	<i>Winchelsea.</i>
	William Nedham, Esq;

MAJORITY AGAINST THE PREVIOUS QUESTION, AND
IN FAVOUR OF MR. PITT'S MOTION SIXTY-FOUR.

The following Gentlemen, who were prevented by Illness, &c. from attending the House, on *Tuesday*, the 16th Instant, voted for and against Mr. DEMPSTER's Motion for an ADDRESS to the PRINCE OF WALES, on *Monday*, the 22d Instant.

AGAINST the Motion.

Sir C. Sykes, Bart. *Beverley*.
 Henry Cruger, Esq; *Bristol*.
 John Parry, Esq; *Carnarvonshire*.
 Edmund Bastard, Esq; *Dartmouth*.
 Henry Addington, Esq; *Devizes*.
 Edward Bearcroft, Esq; *Heydon*.
 William Chaytor, Esq; *Heydon*.
 Lord Kensington, *Haverfordwest*.
 Thomas Gilbert, Esq; *Litchfield*.
 Lord Wenman, *Oxfordshire*.
 Richard Barwell, Esq; *St. Ives*.
 Charles Ambler, Esq; *Salisbury*.
 Sir John Honeywood, Bart. *Steyning*.
 Sir John Duntz, Bart. *Truro*.
 William Lygon, Esq; *Worcestershire*.
 P. P. Powney, Esq; *Windsor*.

FOR the Motion.

Lord Beauchamp, *Orford*.

The following Gentlemen have been prevented, by Illness, from attending the House, during the present Session.

Sir Henry Peyton, Bart. *Cambridgeshire*.
 Paul Orchard, Esq; *Callington*.
 Nathaniel Smith, Esq; *Rocheſter*.
 Sir John Trevelyan, Bart. *Somerſetſhire*.
 J. F. Luttrell, Esq; *Minehead*.

WEDNES-

WEDNESDAY, DECEMBER 17.

HOUSE OF LORDS.

THIS day the House met, in pursuance of the last adjournment, when the Lord President of the Council presented the Report from the Select Committee of Lords, appointed for the purpose of searching for Precedents.

Ordered the same to lie on the table.

It was then moved and ordered, that copies of the said Report be printed, for the use of their Lordships.

Adjourned to Friday.

THURSDAY, DECEMBER 18.

HOUSE OF COMMONS.

THE *Chancellor of the Exchequer* moved the order of the day, for taking into consideration the STATE OF THE NATION.

Colonel Fitzpatrick informed the House, that the indisposition of his Right Hon. Friend (Mr. Fox) prevented his attendance that day. On a question of such importance to the country, the House would not think a member *so considerable* should be absent; he therefore wished the subject intended for discussion to be postponed till to-morrow, when there would be a probability of Mr. Fox being capable of attending his duty in the House.

Mr. Pitt declared, he had no objection, as far as was consistent with the public welfare, to postpone the subject under consideration. He was desirous of shewing Mr. Fox every personal civility and accommodation not likely to impede the progress of public affairs. In this case, the Lords would not have the deliberations of the Lower House properly before them till Saturday; but being desirous of the presence of Mr. Fox, in every stage of the business, he freely consented to adjourn the consideration of the subject till to-morrow.

Mr. Burke complimented Mr. Pitt on his forbearance, candour, and liberality, in consequence of the indisposition of Mr. Fox.

The House immediately adjourned.

FRIDAY,

FRIDAY, DECEMBER 19.

HOUSE OF LORDS.

THE House met pursuant to the adjournment of Wednesday. Soon after the Lord Chancellor had taken the woollack, and consulted a few minutes with the Lord President, Lord Privy Seal, and the Duke of Richmond, his Lordship rose, and put the question of adjournment; the House then adjourned till tomorrow, in order to receive the Resolutions from the House of Commons.

HOUSE OF COMMONS.

STATE OF THE NATION.

Mr. Alderman Watson appearing at the bar with the Report of the Committee on the *State of the Nation*, the following question was put from the Chair, "That this Report be now brought up."

Sir John Sinclair rose, and declared, that with regard to the first Resolution, there was no individual in that House, who felt more, the lamentable calamity that had befallen the King and the Country, than he did. With regard to the Rights of the two Houses of Parliament, to provide the means for supplying the defect in the exercise of the Royal Authority, he must still be of opinion, that it was not necessary for that House to make a declaration of its Rights, on the slight ground, of the expression of the Right of the Prince of Wales, stated in the speech of one of its Members. If the Right Hon. Gentleman, who first expressed his doubt of the Right of that House, instead of doing so, had brought forward a motion, declaring the Prince of Wales's Right, no man would have more firmly resisted such a motion than he would. In the third Resolution there was, he said, something dark and mysterious; and whatever ideas he had of the character and abilities of the Right Hon. Gentleman, who had called upon the House to declare their Right by the second Resolution, which appeared to him to be unnecessary, the mystery in the third Resolution demanded explanation. He said, he gave the Right Hon. Gentleman credit for too much manliness of mind, to suppose, that he would endeavour to entrap that House,

House, and fetter its future conduct by any equivocal Resolution; but, before he gave his assent to the bringing up of the Report, he must beg to know, what his reasons were for the wording of the third Resolution, and to have an explanation of what was meant by the Bill to be passed by the two Houses of Parliament. Sir John expressed his fears, that the two Houses were intended to be called upon to exceed their constitutional powers; and this was a time, of too critical a nature, for any part of so serious a proceeding to be suffered to remain in the dark, or subject to any kind of doubt. Every step, in such a proceeding, should be clearly understood, and maturely considered. Before, therefore, he said more, he would wait for the Right Hon. Gentleman's explanation.

The *Chancellor of the Exchequer* said, he was very ready to give the Hon. Baronet every explanation in his power. That he wished not to bring forward any thing in that House, but what was clearly understood: the Hon. Baronet, therefore, he said, did him no more than justice, when he gave him credit for not having any intention, by any equivocal Resolution, to entrap that House, and fetter its future proceedings; he trusted, that he had never shewn a disposition to bring forward measures in disguise; in respect to the information which the Hon. Baronet wished to receive, it would be recollected, that he had, in his general opening of the Resolutions, pretty much at large explained the whole of this object. With regard to the means of providing for the defect in the exercise of the Royal Authority, in consequence of his Majesty's incapacity, he had stated, that as in consideration of law, his Majesty's political capacity was entire, their first proceeding must be by the Royal Authority, which was by a Bill sanctioned by the concurrence of the King and the two Houses of Parliament. Now, though the necessity of the case did not oblige them to act without the Royal Authority, it did oblige them to provide the means of supplying the defect, arising from his Majesty's indisposition, by issuing a commission under the Great Seal of England, appointing Commissioners to open the Parliament, in the name of his Majesty, in the usual form, and state the reasons for calling them together. He said, he conceived that to be the only mode of proceeding that could be adopted, consistent with the principles of the Constitution; a way of exercising the Royal Assent, he conceived, perfectly consistent with the substantial duties of Parliament, and the true interests of the country. It was a circumstance of necessity, and not to trespass beyond that line, was the duty of those, who constituted the remaining powers of government.

Sir John Sinclair declared himself surprized, that the Right Hon. Gentleman should call the system of measures, that he had explained to the House, a system consistent with the principles of the

the Constitution, when it was contrary to law. He declared, the mode the Minister meant to adopt was inimical to the spirit of the English Laws, and a doctrine extremely hostile to the Constitution; and in terms forcible and perspicuous, deprecated the assumption of the power intended to be called forth in the suspended exercise of Royal Authority. Every Gentleman conversant with the Statute Law knew, that it was by the 13th of Charles the Second declared illegal for the two Houses of Parliament to legislate for themselves, or make laws without the King; and by the same Statute the declaration, that they had any such power, was pronounced high treason in the person making it, and he was liable to all the pains and penalties of a *pre-munire*. Sir John said, he was happy the Right Hon. Gentleman had explained his measures, which appeared to him to be highly objectionable. Precedents had been resorted to, and in cases where the analogy was most striking, that mode had been practised, which ought, in this case, to have been adopted. The proper and simple mode of procedure for the two Houses to adopt, in his opinion, was for them to address the only individual that all mens' eyes were fixed on; as the fit person, to undertake the Administration of Government, in like manner as our ancestors addressed the Prince of Orange a century ago; this, he conceived, would have been the direct constitutional line of proceeding; but what has been substituted, bore such evident marks of usurpation, as rendered it so obnoxious to the welfare of the Country, that made him determined to bring forward a plan of his own, to obtain a constitutional establishment of a Regency. When the Right Hon. Gentleman's system came on again in that House, Sir John Sinclair said, he would subject his plan to their consideration.

Mr. Powys said, he had felt pretty nearly the same anxiety as the Hon. Baronet had expressed, though he believed the stating on what that anxiety turned, was premature in that stage of the business. When the Report should be brought up, he believed he might undertake to prove, that the Right Hon. Gentleman's system was not founded either in precedent or law.

The Report having been brought up, and the first Resolution read and agreed to, the second was read, when

Sir Grey Cooper desired to be permitted to state, with great submission, a doubt that occurred to him, whether the House, in its present limited and imperfect capacity, could, with propriety and consistency, with order and regularity in its proceedings, agree to the Resolution then reported from the Committee on the State of the Nation. He requested them to consider the very peculiar and unprecedented circumstances under which they were assembled, and then sitting; they were one of the estates of the kingdom assembled at *Westminster*, but not assembled in Parliament; they

they were maimed and mutilated in their legislative capacity, by the present incapacity of the Royal Authority. They met, he said, on the 20th of November, on the expiration of a period to which they had been duly prorogued by a commission from the Royal Authority. On that day, no commission came to prorogue them to a further time. The Speaker had arranged the proceeding, on that occasion, in the best manner possible, when he had taken the Chair, by the desire of the Members present. The Minister then opened to the House the deplorable cause which prevented his Majesty's servants from taking his pleasure with respect to a further prorogation. The House paused and hesitated in what they were to do in such an exigency; but, upon the Motion of the Chancellor of the Exchequer, the House assumed energy enough to adjourn for fourteen days; and, upon the special circumstances of the case, and the support of the authority of a precedent in the time of King William, which bore some analogy to their proceeding, he thought they did perfectly right. They met again on the 4th of December, and were informed by the Minister, that the same cause unhappily continued to prevent the exercise of the Royal Authority, and they were then informed, that there *was a necessity* for their proceeding, to supply the defect in the functions of the Royal Authority. Since that measure had been recommended by the Minister, and adopted by the House, they had, in all their proceedings, acted under the mere impulse of that necessity. They derived, Sir Grey understood, their power and energy, to take any step, or to do any act, from that necessity alone, which, in all extreme cases, had been deemed, and must be acted upon, as *magnum humanæ imbecilitatis patrocinium*. Whatever act or proceeding of that House, in its present situation, goes beyond the clear bounds of that necessity, and the regular cause that is pointed out by it, was, *in his humble opinion, an act of self constituted power, and, as he conceived, of a very dangerous tendency and consequence*. They had come, therefore, to the Question, whether this Resolution was, or was not, an act of necessity, for the purpose of supplying the defect in the Legislature. He contended that it was not necessary, because there was no real impediment or obstacle to their progress, which must be removed and cleared away, before they could act in their deliberative capacity. That *was no claim of Right, no denial of their authority, no matter of which the House could, consistently with the gravity and order of its proceedings, take parliamentary notice or cognizance*. The Committee, it must be admitted, had no greater power than the House, and therefore he concluded, that this Resolution was not founded in necessity, but an act of assumed and self-constituted authority. At the glorious and immortal æra, the Revolution, steps were taken diametrically opposite to those now pursued; the Convention Parliament did not, in the famous

'Committee on the State of the Nation, declare what it was their right or duty to do. It appears that Finch, Sir Edward Seymour, and other considerable and leading men, delivered opinions directly contrary to the principles of the first vote on the 28th of January, 1689. The Grand Committee proposed no Resolution to vindicate or establish their right against such assertions. They exercised that right, and did the noble work they were about, and they thought, that the doing the deed, comprehended in it, and incontestably proved, both their right and their duty.

Having submitted these observations to the consideration of the House, he expressed his surprize that Gentlemen should be so much at a loss to strengthen their arguments as to have recourse to Precedents, quite opposite to any thing analogous to the present day. He requested the indulgence of their attention to some remarks upon some of the Precedents, on which the Right Hon. Gentleman had laid the foundation of his Resolutions, and particularly on the Precedent of the 32d and 33d of Henry the Sixth, which runs from page 42 to page 77 in the Report from the Committee. The Precedent had been much relied on; this he proposed as a pattern for their proceeding, in the great and arduous affair which a most deplorable necessity imposed upon them. They had been called by the great law authorities in that House, to follow the example of their ancestors, and *not to leave them in the lurch* by departing from the principles on which they voted. But, before they determined to follow the example of their ancestors, it seemed to him that they should consider *what sort of persons those same ancestors were*. He would venture to undertake to prove, by the irrefragable evidence of records, and the authentic history of the times, that, during the course of all the proceedings which collectively form that Precedent, both Houses of Parliament were in the most abject and humiliated state of dependence, on the power, the will and the nod of Richard Duke of York, and the potent and formidable faction of the noble families who adhered to him, and followed the projects of his ambition; and that every step they took, every declaration they made, and every act they did or passed, were taken and done under the impression of immediate force, and irresistible influence. He desired to be permitted to state some facts anterior to the year 1454, (in which that Precedent principally arose) in order to introduce with more regularity and clearness, the documents and evidence by which he intended to support his proposition. After the assassination of the virtuous Duke of Gloucester, the King's uncle Richard, Duke of York, became first Prince of the blood and presumptive Heir to the Crown. The impeachment of the great Minister and favourite, the Duke of Suffolk, and his banishment and death soon followed. Edmund Beaufort, Duke of Somerset, succeeded to the favour of the

the Queen, the powers of administration, and the unpopularity of his predecessor. The Duke of York, trusting to the advantage which that unpopularity, and the weakness of the government gave him, raised an army in the year 1452, and marched with ten thousand men from Wales to the gates of the city of London, for the purpose, as he gave out, of a reformation in the government, and the removal of the Duke of Somerset from all his power and authority. The manner in which he was foiled in this bold enterprize, of his being the dupe of his confidence in the promises of the Court, and of his escape from the power of his enemies, are facts well known to all those who have ever looked into the history of this eventful period. He lived in retirement, at his castle, on the borders of Wales, till the latter end of the year 1453. The Prince of Wales was born in October 1453. About this time the King fell into a disorder of the mind, which rendered him unfit, even to maintain the appearance of royalty. The Queen and Somerset found themselves obliged by this exigency to yield, for a time, to the high power and connections of the Duke of York. Somerset was actually sent to the Tower on the thirteenth of February 1454; Richard was appointed, or, more properly speaking, appointed himself Lieutenant to the King for holding the Parliament; which having first been assembled at Reading, was, after several prorogations and adjournments, assembled at Westminster, on the fourteenth of February. About this time the famous Earl of Warwick, the Earls of Salisbury and Westmoreland, and many other of the Duke's followers, were admitted into the Council, in the place of the former administration, and had the whole government in their hands. By their command and influence, the Committee of Lords was sent, on the twenty-third of March, to Windsor, to the King, who lay sick at that palace, with certain questions stated in their commission. On the twenty-fifth of March, the Bishop of Carlisle, one of the deputed Lords, reported to the House, that they found the King in a state of perfect lethargy and insensibility. Then followed on the twenty-seventh of March, the famous transaction, of the nomination and Election of the Duke of York to his first Protectorate, by the *Peers spiritual and temporal in Parliament assembled*, without any participation, or even consent of the Commons. He said, he did not consider their appointment of the Duke of York to the first Protectorate, as in any respect proceeding from the free deliberation or choice of the House of Lords, but that it was dictated and compelled, by the controuling and overbearing power of the Duke and his adherents. This conclusion was not founded on conjecture, or on the mere authority of any historian or annalist; but on the evidence of a record in the fifth volume of the *Rolls of Parliament*, page 349.

"Be it remembered, that whereas the 30 day of March, the 22d year, in this present Parliament, Thomas, Earl of Devonshire, upon an inditement of High Treason by him supposed to be done, against the Kyng's honourable estate and Person, before Humphry Duke Buckingham, steward of England for that time assigned—was arraigned, and of the same treasons, by his Peers the noble Lords of this Royaume of England, being in this said present Parliament, was acquitted of all things contained in the said inditement—By which inditement the right high and mighty Prince, Richard Duke of York, Lieutenant for the King, in the said Parliament, conceived the trooth of his allegiance to bee emblemyshed and dissteigned; in the presence of all the Lords, as well Spiritual as Temporal, there being present, anon forthwith declared himself of his truth by the King our Sovereign Lord, in manner and form following:"

"My Lordes—for so much as the matter contained in the said inditement, toucheth right nigh, my worship, honestie, and trouthe: I say that what, so toucheth me, is fals and untrew, and that I am, and all the dayes of my lyfe have been, and to the end thereof shall be, trewe and humble Liegeman to the King, my most dread Soverain Lord; and never prively ne apertly thought, nor meant the contrary—whereof I call into witness God, and all the Saints of Heaven, and the same have been, and am ready to prove, and as a Knight, to put my body in devoir against any person, to whome it fitteth me to answer, that wol take upon hym to lay any charge upon me of the said matter, or of any other, that in any wyse mought founde to the blemishing of my trouthe to my said Soveriegn Lord: desir- yng, exhortyng, and requiring you so to take, repute, holde and accepte me, and that my declaration and offer herein, ye wold enact tofore you of recorde in this Parliament."

"Post cujus quidem declaratio nem factam & auditam, pre-
fati Domini tam Spirituales quam Temporales una voce dix-
erunt."

"We knewe nevere, nor at any time could conceyve, but that
"ye be, and have been, true and faithful Liegeman, to the
"Kyng our Soverain Lord, as it belongeth to your astate to
"bee—and so we know, take, accept, repute, holde, and de-
"clare you."

This record will serve to prove to demonstration, without any comment or observation, in what a wretched state of submission and prostration the whole House of Commons at that time lay at the feet of the House of Peers. For the man whom they with one voice declared to be, and to have been, a faithful and loyal subject to the King, had, not two years before they made this dishonourable declaration, levied open war against the King, and marched with an army to the gates of his capital, and
was

was, at the very moment, known to be contesting the King's title to the crown. Sir Grey said, he would next shew, by a record of unquestionable authority, that the House of Commons was, at the very same time, in an humble, helpless, and disgraceful state of dependence on the same power. He cited the Roll of Parliament, touching the Lords, with some regret; but the case he was now about to lay before the House,

Animus meminisse horret luctuque refugit.

It appears that the Lord Chancellor, on the second day of July, prorogued the Parliament to Reading, to the 7th day of November following; and that on that day it was from thence adjourned to the 11th day of February, and then prorogued to the 14th of February:—

That the Duke immediately after the adjournment, sued Thorpe in the Exchequer, by Bill, and prosecuted him so close, though Speaker, and a Baron of the Exchequer, in his own court; that between the 23d of October, and 11th of February, he got both a verdict against him by a Jury of Middlesex, for 1000l. damages, and 10l. costs of suit, and likewise a judgement, and took and detained him prisoner in the Fleet thereon, between this adjournment and the Parliament's meeting, some few days before their re-assembling.

Indeed, the method of proceeding, as well as the expedition that was used throughout the whole of this case, appear, at first sight, very extraordinary. First, That the Commons should apply to the Lords, as well as to the King, for redress, in a matter in which their own privileges were essentially concerned: Secondly, That notwithstanding the opinion of the Judges most formally declared, "That persons arrested for any other cause than for Treason, Felony, or Surety of the Peace, or for a Condemnation, had before the Parliament, ought to be released," the Lords should adjudge, that Thorpe, who came within none of these descriptions, should, according to the law, remain still in prison: and Thirdly, That the Commons should so easily acquiesce in this decision, and immediately proceed to the Election of another Speaker, and the whole of this transaction was but the business of three days, the 14th, 15th, and 16th of February.

But, when we compare the uncommon expedition, with which this very important affair was hurried over; the judgement of the Lords, so directly contrary to the conclusion which ought to have been drawn from the opinion delivered by the Chief Justice; the command of the Bishop of Ely to elect another Speaker, signified immediately subsequent to the judgement, and, as far as appears, without any communication with the King; and the obedient submission of the Commons; I say, all these circumstances,

stances, compared with the very high situation in which the Plaintiff, Richard Duke of York, then stood; being, as appears from the Parliamentary History, that very day, the 14th of February, appointed President in the said Parliament, and himself present, and taking a part in the hearing of his cause; may be thought fully to justify the opinion of Sir N. Rich, who, when this precedent was cited in a debate on the 8th of March, 1620, says, "It is a case begotten by the iniquity of the times, when the Duke of York might have an over-grown power in it, and I therefore wish it may not be meddled with."

Upon the reading of these records, as the strongest and most searching evidence, and as the dissection of this most inauspicious precedent, might he not venture to ask the House, whether, some feelings of resentment and indignation did not rise in their breasts, against those, who have proposed this precedent as a pattern for their conduct, in one of the most important and momentous emergencies, that ever presented itself to Parliament, and in which all the great energies of government, all the rights of the highest and most illustrious persons, and the first principles of the constitution are concerned; and at a time too, when from the surprize and suddenness of the calamity, the Houses of Parliament were *inopes consilii*. He agreed with Sir N. Rich, that it was a precedent begot in the iniquity of the times, and he consigned it to eternal contempt and oblivion. He said he would close what he had to observe on this precedent, with a passage from the admirable historian Rapin.

"The contrary Resolutions of Parliament, in regard to the quarrel between the Houses of York and Lancaster, clearly show that those assemblies acted not with freedom, but were swayed by the events which happened before their deliberation. Their determinations are properly of no force, since they had not the liberty to judge according to their understandings; unless it be said, that their understandings directed them always to side with the strongest." They carried the profligacy of their conduct so far, that they made Richard, Duke of York, Prince of Wales, Duke of Cornwall, and Earl of Chester; when the heir apparent to the crown (whose family had been in possession for fifty-six years) was seventeen years old. In the beginning of the year 1455, the King was somewhat recovered from his indisposition, and the Queen moved him to resume his authority, and to release Somerset from the Tower. The Duke of York was forced to retire. He raised another army. He complained in his Manifesto of the King's Ministers, and demanded a change of government. The battle of St. Alban's was fought in May 1455. This was a compendious way of doing business. The Duke of Somerset, and many of the Ministers were killed in battle, and the King taken prisoner. This was

was the first battle of that most cruel and ferocious civil war, which, for thirty years, deluged the kingdom with blood, and involved the whole nation in confusion. This famous precedent is taken from the very threshold of it, and thus raised from the dead, to prejudice the clear and irresistible pretensions of the Prince of Wales to the Regency of the kingdom. Those pretensions were admitted, and allowed by the first legal authority in that House. The Attorney General; at the same time that he denied, that the Prince had any right to assume, or to exercise the office of Regent; admitted that his pretensions were so strong, so clear, and unquestionable, from his high station and proximity to the crown, that these pretensions could not be denied or rejected; except for such causes and such reasons, as would well nigh justify a bill of exclusion, or, in other words, for such causes as would exclude him from the crown.

Mr. Martin said, he had not staid out the whole of the debate last Wednesday morning, because he found himself so much *exhausted* after nine hours close attention to the different arguments, that he was obliged to go home; which he the less scrupled to do, as he was aware that, on the Report, he should have an opportunity of explaining his sentiments, as well in compliance with what, if he recollected rightly, had been the request of more than one Gentleman, viz. that, on a question of that importance, every Member should avow his sentiments. As he never wished to *blink* any question that came under agitation in that House; he made no scruple to declare that, had he staid the debate out, he should have given his vote for not leaving the Chair; because it appeared to him, that the resolution was a very proper one, and what the House, under its present circumstances, did right to vote. Strongly impressed as he was, with the danger of popular tumult, he conceived the sooner the business was disposed of, the better it would be.

In the course of the debate in the Committee, the Right Hon. Gentleman over the way had talked of a change of Administration. What had passed that day, a friend of his had observed to him, reminded him of a scene in Shakespeare's play of Henry IV. where Falstaff reckoned upon what would be done for him and his associates, when the Prince should come to the Crown, which was then daily expected; and was assigning places of dignity and character to the most deserving of his friends. *Mr. Martin* said, he hoped, if the Right Hon. Gentleman came into office, he would not provide for all who had claims upon him; but would recollect that it had been urged against the Right Hon. Gentleman near him, by some of those who most advised him, that his companions were not all equally well approved. He said, he was persuaded, *Mr. Fox* had too noble a mind to be swayed by avarice, or any of the meaner passions; he thought, however, the

Right Hon. Gentleman had too much ambition, which inclined him to temporize for the sake of getting into power. Nothing but that could, he thought, have induced him to come into that odious measure, the coalition; and, in like manner, on the present occasion, he ascribed the whole line of conduct which Mr. Fox had pursued, solely to temporizing with a view to get into power. Had not the fact been so, Mr. Martin said, he was persuaded, the Right Hon. Gentleman would not have held doctrines so incompatible with the usual language held by him on constitutional points. Mr. Martin said, as he always voted according to his conscience, it had happened that he had occasionally voted with both the Right Hon. Gentlemen; and he could not help saying, that the Right Hon. Gentleman near him had proved himself a NOBLE Minister; his conduct was *noble* in the extreme (*a hearty laugh.*) In the very delicate situation in which he had lately stood, his conduct had been most consistent, steady, and noble; in short, such as, in his opinion, entitled him to the praise and confidence of the public. He declared, he believed the Right Hon. Gentleman near him was *on his retreat*, and, therefore, he was glad to take that opportunity of speaking as handsomely of him as he could. In the conclusion of his speech, Mr. Martin recurred to the subject of the Resolutions, and, in a summary way, repeated his approbation of them.

The *Attorney General*, SIR ARCHIBALD McDONALD, rose to maintain the legal opinions stated by him, in Tuesday's debate, when he had laid it down as a position, which he would then abide by, that the common law knew no such person as a Regent. The common law only recognized three descriptions of governors of the kingdom, viz. King's *Custodes Regni*, and King's Lieutenants. He explained the distinctions between each clearly, and said, the *Custodes Regni* was a *pro Rex*, endowed with limited powers, which had been occasionally enlarged, and the power of bestowing benefices, and other specific exercises of authority given; and the Lord Lieutenant of Ireland, was a living instance of the nature of the office of a King's Lieutenant. With regard to the King's preserving his political capacity entire, notwithstanding his illness; he said, he should differ with Lord Coke, with Chief Justice Hale, Mr. Justice Forster, and every other great legal authority, if he did not maintain that doctrine. In answer to Sir Grey Cooper, he desired to put in his plea, and to tell the Honourable Baronet, that if he would give himself the trouble once more to look over into a book, the Hon. Baronet had often consulted, Mr. Justice Forster's Treatise on the Principles of the Revolution, he would find he was mistaken in one part of his argument. Mr. Attorney General canvassed Sir Grey's account of the transactions in the reign of Henry the Sixth, and said, at that time, it was the law of the land, that there was no privilege, nor was it till the reign of Elizabeth, when

when a statute was passed expressly for that purpose. The proceedings, therefore, that the Hon. Baronet had so strongly reprobated, with regard to the appeal to the Judges, in the case of the detention of the Speaker of the House of Commons, who had found that Privilege would lay in the Speaker's case, and the reference of the Judges' opinion to the House of Lords, were not so extraordinary; but let them be ever so worthy of censure, let Richard, Duke of York, be ever so great a tyrant, it served the better to support his reasoning, and the more to strengthen and confirm the precedent selected from that period; because, it proves, that in the worst of times, the transaction, the precedent stated, had been constitutionally regular. To argue against all precedents, selected from troublesome times, was, he said, a sort of reasoning that he lamented, and to pronounce, that no precedent taken from such times was to be relied on, was to go the length of declaring *Magna Charta* no act of Parliament.

Mr. Wyndham began a very neat argument, with some pointed observations on what had fallen from Mr. Martin, respecting the gentleman on his side of the House. He declared, that if that Hon. Gentleman had not considered what he had said, as of high consequence; in his own opinion, he surely would not have come forward with assertions altogether unfounded, and for which he had assigned no reason. He knew not whether there was any mystery to be divined from what the Hon. Gentleman had said; since superstition assigned to animals of no great estimation the power of revealing secrets. *Macbeth* told us, that the greatest perils had been discovered by the screaming of *magpies* and *choughs*. As an individual member of the body of men, whom the Hon. Gentleman had lashed and censured so pointedly and sarcastically; whilst, at the same time, he had been so good to inform and instruct the House, in his information of the party he liked best—he must, Mr. Wyndham said, as an individual, under the lash of his satire, tremble for himself and his friends.

In respect to myself, says he, delicacy induces me to say little, but with respect to the characters the Hon. Gentleman has alluded to, I must say, that in point of rank, of family, of fortune, of splendid talents, of known character and tried abilities, they disclaim a comparison with the Hon. Gentleman and his friends; where triumph could not obtain them honour, or comparison consequence. The Hon. Gentleman, therefore, must suppose some peculiar consequence to be annexed to his opinion, or the House never would have heard the body of men, he had been describing, humbled as they had been by the Hon. Gentleman; but as he would not on that, or any other occasion, follow the Hon. Gentleman's example, he would quit all mention of his Right Hon. friend, who had been so peculiarly distinguished, as to have been made the special subject of a debate, and not only of a debate, but of a resolution of that House.

Having

Having also alluded to the adjournment of the House the preceding day, on account of Mr. Fox's illness, Mr. Wyndham proceeded to deliver his opinion on the topics stated and maintained on the different sides of that House. He said, he concurred with the doctrine of his Right Hon. friend in its fullest extent; that he had intended to deliver his opinion upon it to the Committee, but had been so much exhausted, that he was obliged to forego his intention; that he was then glad he had done so; for he had been able since, more maturely, to consider the subject; and he was, by reflection, confirmed in his opinion. He then adverted to the arguments of the *Attorney General*, who had said, it was totally inconsistent with the *civil law*, to allow a full right to the Regency to the Heir Apparent; and even this strange and preposterous proposition, was attempted to be supported on the basis of analogy—analogy, if that could be called such, which was drawn from precedents irrelevant to the case in point, and from musty records, to confound reason, and wound the constitution. The true jet of the argument was, he said, to be drawn not from written law, not from precedent; but it depended upon the plain, broad ground of analogy only—analogy too clear to be mistaken, and too forcible to be resisted. Not to consider the right of the Prince of Wales to the Regency as an hereditary right, was to go the length of maintaining, that the two Houses of Parliament had a power of new moulding the constitution. The consequence of hazarding any thing, which would approach so awful a measure, should be most carefully avoided; cabal and tumult must succeed, and men should therefore adopt that, which is not critically constitutional, (though he did not mean to infer, that any act is so, which invests the Prince with his full and legal powers) than even, by adhering to the strict spirit of the constitution, involve its ruin in the cabal of party, and the tumult of the nation. Such a struggle, is not a struggle for the preservation of the constitution, but a struggle for its destruction. He reasoned upon this, with great logical acuteness, and said, that he rather judged the goodness of a precedent by its consequence, and what the effects of that consequence might be, than by the precedent itself. According to the doctrine laid down, Mr. Wyndham said, a foreigner might justly observe, that whenever there was occasion for a Regent, the two Houses of Parliament stepped in, and gave away the country. He took notice of the various arguments that had been advanced, as to what the law was, with respect to the case in point, and declared, that, in his opinion, one of the surest ways of determining what was the law, was by determining what ought to be the law. We can never see what is right, he observed, until we are in a situation to know what is wrong. It was not in respect to the precedents and statutes that were quoted, that the House was to look in the present instance, we are to look, he insisted, to the applicability of

of the laws, to our present situation, and not to the intention of the framers. If it could be proved, that it would be better for the country, and more consistent with the constitution, to have the right of electing a King to rest in the two Houses of Parliament, in preference to an hereditary monarchy, it would be a legitimate argument; but if it cannot, by practice or experience, be proved, that such a change would be better, the House would do an essential mischief, by acquiescing in the preposterous demands of the Minister. He adverted to the motives of the Minister, and said, they well knew what was working at the bottom; but men were not looking at the consideration they ought to look to, but were making it a personal question.

They had been told, properly enough, that they should not consider the virtues of the Great Personage, who had the strongest preferable claim to the Regency, as any argument; and yet, if the virtues of his Majesty, (which all must readily admit) were held out as reasons for limiting the powers of the Regent; they ought to take in the virtues of the other Personage as the security for his Majesty's returning to the Government: but it was thought that the custody of the King's Prerogatives were more secure in the hands of the Parliament, than in those of the Heir Apparent. Mr. Wyndham paid many handsome compliments to the good sense and noble disposition of the Prince of Wales. He was sorry to find that the dangerous experiment of curtailing the Prerogative, should begin with so amiable a character; and whatever the Chancellor of the Exchequer's reasons might be for diminishing it, he was happy to think, that it was not from a suspicion, that his Royal Highness would not fill his exalted station with wisdom, truth, and justice. Mr. Wyndham next took notice, that in one of the last Regencies, the latter of those in the reign of Henry the Sixth, the Duke of York was made Regent, because he was Presumptive Heir to the Crown; and thence he argued, that the Prince of Wales, being Heir Apparent, had a better plea, and the public had a better security for his taking due care of the interests of the kingdom; as no other person was so much interested in its prosperity. He reprobated the project proposed in the third Resolution, and said, his mind revolted at the idea of such a *coarse fiction*, for so it was, let what would be said of it. He declared for one, he did not place great reliance on the reasoning of lawyers upon such subjects. He insisted, that without attempting to detract from their merit, such was the nature of their proceedings in Westminster-Hall, that although a person may be well qualified to acquit himself there, yet, in the present Question, their assistance may prove more injurious than otherwise. The House, he presumed, wished to bring matters to a crisis, the most favourable to the welfare of the kingdom, and, therefore, Gentlemen in the practice of the *perversion of*
Rights

Right, and encouragement of *Wrong*, may be capable of succeeding in such cases, though totally inadequate to judge properly on the present important constitutional Question. Mr. Wyndham said, he did not like those maxims, which could not be comprehended; nor did he admire precedents drawn from times of such tumult and confusion, as those that distinguished the period, from the appointment of the Duke of York to the Regency, in the latter part of the reign of Henry the Sixth. The fatal consequences that followed, was a sufficient condemnation of the precedent in his mind. He added a variety of other reasoning in support of Mr. Fox's opinion, which, with such analogy on the one side, and such clear and strong reasoning on the other, appeared to him to be unquestionably the better argument of the two that had been advanced upon the subject.

Mr. Martin said, the Hon. Gentleman had accused him of not having spoken to the Question; he appealed to the House, whether he had not spoken to it in a general way, both at the beginning and end of his speech. The reason why he had alluded to a change of Administration, he said, was the having heard the Right Hon. Gentleman over the way introduce the subject in his speech in the Committee; and, he had always understood, that a debate on a report of a Committee, was considered as a continuation of a former debate. Mr. Martin said, he was willing to impute the personal rude treatment of him, rather to the heat of the moment, than to any intentional departure from that good breeding, that made so essential a part of the Hon. Gentleman's character.

Mr. Christian said, after the vote he had given, he took the earliest opportunity of coming forward, and boldly meeting the Question. He professed he was sorry the Question was brought forward at all; but, as it had been brought forward, he thought it was the duty of that House to assert its rights, and decide them for the benefit of posterity. He was not, however, prepared to go the length of the third Resolution, and begged not to be considered as precluded by his vote of Wednesday, from dissenting with the Right Hon. Gentleman at the head of the Exchequer on that question. Mr. Christian said, that after the glorious effects of the Revolution, he thought we ought to act in the same way, to declare the Prince of Wales Regent, as our ancestors had declared the Prince of Orange King, and to address his Royal Highness to accept the Regency. He said, he did not think it right to place any restrictions whatever on the Prince, while acting as Regent.

Mr. Hardinge, (the Welch Judge) observed, that so important a question, as that under discussion, had not engaged their attention since that same memorable Revolution, that gave us a free Constitution, and secured our liberties. In an unfortunate crisis like

like the present, when there was a suspension of the exercise of the Royal Authority; the people of the land ought to repair the defect. He said, he agreed with many Gentlemen on the other side, in their premises, but not in their application. No man had a greater dislike to make parliamentary declarations of constitutional rights than he had, nor would he ever consent to any such declarations, but where the necessity absolutely required it; his opinion was, that the House of Commons ought to speak by its actions, and not in words; in the present case, he thought an unavoidable necessity did require a declaration of the rights of the House, and he would tell the House why. The Question of Right had been challenged. The Right Hon. Gentleman over against him, at the very first moment, when the Royal Incapacity was established, in a manner satisfactory to that House, had risen, and asserted the Prince's Right. Let him remind the House of what the Right Hon. Gentleman had himself said, for the manner of the declaration was material. With a frankness that did him honour, the Right Hon. Gentleman asserted the Prince's Right; and he had since told them, that he had long lived in confidential habits with the Heir Apparent. The assertion struck every man with its novelty, and it went forth, and made as much impression on the minds of the public, as it had done on the minds of that House. An opinion coming from such a quarter, with all the weight of amazing talents, and high character, and with the known confidence, with which that Right Hon. Gentleman was honoured by the Prince, could not possibly be overlooked. It afterwards appeared, that the Right Hon. Gentleman's words had been misconceived, but, according to his own explanation, it turned out, that his argument was not mistaken. A noble relation of his, who had long stood distinguished as a tried and faithful watchman of the land-marks of the Constitution, stated in another place, the doctrine that the Right Hon. Gentleman had broached in that House, as it had been conveyed to him; and it was no wonder that he caught at it with avidity, and took the opportunity of declaring, in the first public assembly he could address, that so novel a claim had been made; to have done less, would have sunk his character. Happy had that indiscretion, in such a character, and at such a moment, proved, since it had obtained the House the favour of hearing a full explanation, what was the meaning of the Right Hon. Gentleman. Mr. Hardinge said, he admired the wonderful abilities of the Right Hon. Gentleman; but even with those abilities, he did not think he would be able to support his own argument, and he would presently explain why he thought so. It had indeed been averred, by an illustrious personage, in another place, that the Heir Apparent would never come forward to make his claim,

as of a *Right*; but who was there who could inform the House, that the Right had been, in any instance, disavowed? The challenge of Right, therefore, remained undecided; and ought a question of that nature to be shrunk from, and suffered to go down to posterity unresolved? What was the pretence for not agitating it? Civil tumults, and a variance, might possibly take place between the two Houses. He denied the chance of either; but suppose civil tumults had ensued, was a British House of Commons to be deferred from doing its duty, by a dread of popular misconstruction of their proceedings. By the Right Hon. Gentleman's declaration, he would state what he took to be the Right Hon. Gentleman's meaning, that on the incapacity of the King to exercise the Royal Authority, there attaches a right to the Heir Apparent, to exercise the Royal Authority, *the same as if his Majesty had undergone a natural demise*. Mr. Hardinge said, he would stop a little to examine the fences and outworks of such a position, before he entered on the substance of it. He then desired the House to take notice, that the Right was not to attach, till *after* the King's incapacity *had been declared* by the two Houses of Parliament, and the two Houses had adjudged the Right to belong to the Heir Apparent. This circumstance he laid a stress on, and asked how it was possible for any man to conceive, that such a Right could so attach? What, was the Heir Apparent to *wait*, not only for the declaration of the two Houses, but for their adjudication? On the actual demise of the Crown, did the new King wait for a declaration of Parliament of his father's death, or for their adjudication of his Right? Certainly not, it would be absurd in itself, and highly inexpedient that he should. The Right Hon. Gentleman, he observed, had compared it to the case of an election of a Member of Parliament: but, surely, there was no analogy between the two cases; the proof that a candidate is eligible, a majority of good votes, a free election, and a return constitutes the one case, and makes a Member of Parliament. He would say a very few words to the Right Hon. Gentleman, because a very few words would shew that the Constitution itself decided the point. Mr. Hardinge observed, that there were different degrees of incapacity. The child on the knee, the second child (the dotage of old age) the perpetual child (the idiot) the delirium of a fever, the delirium with *data*, absence, and a variety of others, all cases in point. The infant on the mother's knee, was provided for by the precedent in the infancy of Henry VI. when the Duke of Gloucester was the Regent. There was, he said, no one case of a Regent who had not been fettered one way or another, nor one that had been self-appointed, nor one that had pretended a Right to assume it. Having stated these propositions, he said, he would pursue an idea started by a learned friend of his, viz. with regard to the

two Regency Bills, one agitated in the reign of George the Second, the other in the reign of the present King. He held a copy of the Preamble to the two Bills in his hand. He then proceeded to state the tendency of each, and shewed, that they both recommended the disinherison of the right Heir, who was the Duke of Cumberland in one case, and the late Duke of York in the other; and yet nobody thought it a hardship, although the Duke of Cumberland was at that time in the plenitude of his popularity, and the Administration was peculiarly a *whig* Administration under Mr. Pelham, who, though not a very brilliant, was an able Minister, and an honest man. But no person had complained of the measure, as a measure of injustice; nor did it suggest itself to the mind of any one man, that the restraints imposed on the Princess of Wales (who was named as the Regent, and not the Duke of Cumberland) was unconstitutional. The second Bill was chiefly copied from the first, and created great debates in that House, the walls of which almost rung yet, as it were, with the echo of a *pocket* Regent. He saw a Gentleman, who was a Member in both Parliaments, and, most probably, in the House when each Bill was debated (Mr. Welbore Ellis); he called upon that Right Hon. Gentleman to state, if in either case, there had once occurred, any idea of doing an injury to the right of the Heir Presumptive, or any other person. Besides, who were the lawyers of those days, when the last Bill was agitated? Had the House heard of such men as Sir Dudley Ryder, Lord Mansfield, Lord Hardwicke, and other great Constitutional Magistrates? After dwelling for some time on these two Regency Bills, Mr. Hardinge took notice of what Sir Grey Cooper had said of the history of the times in the 31st and 32d of Henry VI. and said, that if the Duke of York was the tyrant, that he had been described, how much stronger did it make the case in favour of the argument on their side? The better was that precedent surely, which was taken, from troublesome times, and had undergone considerable discussion and dispute. But the case of the Revolution had been mentioned, and relied on as a case that applied. At the time of the Revolution every one of the incapacities, stated on the present occasion, had been canvassed, and it was wonderful how nearly the doctrines, of the high Tories, resembled those of the Right Hon. Gentleman opposite to him; but the Revolution and the present case were parallel cases; although the noble Lord in the blue ribband, who he was sorry he did not see in his place, had laid so much stress upon it, and urged the House to do as the House had done at the time of the Revolution—go straight forward to their point, and immediately declare a Regent, as their ancestors had, at the Revolution declared, a King. The noble Lord, he confessed, had made a most ingenious speech, and had reasoned with great force and acuteness; but although, in general,

general, his memory was equally ready and correct, it happened that the noble Lord was materially incorrect in almost every one instance of reference to the Revolution. The noble Lord had repeatedly said, that House declared the Throne vacant, and the Prince of Orange King, without entering on the discussion of theoretical questions. The fact was notoriously otherwise. So far from it, that one of the most subtle theoretical questions was discussed and decided in that House, that ever was framed. A declaration respecting the appointment of William and Mary, to be King and Queen jointly, with a definition of the separate powers of each. The noble Lord had said, he was not for legislation;—why?—because we had a King upon the Throne. That House did legislate at the period of the Revolution, and, as a proof that they had legislated, Mr. Hardinge produced and read a copy of the Resolution of the Lords Spiritual and Temporal and Commons respecting King William and Queen Mary, which, with some degree of irony, he said was a trifle, a mere spirit of legislation, not worth notice! After marking the strong difference between the Revolution and the present case, since, in the former, the natural and political capacity of the King was gone; whereas, in this case, his Majesty's political capacity remained entire, although his natural capacity would not permit him to exercise it; Mr. Hardinge proceeded to observe, that the Right Hon. Gentleman seemed to confound hereditary and elective Right. In point of law, King James was a King after he left Great Britain, and continued so till the end of his life; but the Constitution said *no*, and would not permit him to act as King of England after his abdication. The Right Hon. Gentleman would probably ask, was the Crown hereditary or elective? He would say hereditary, and it undoubtedly was so; but if the King upon the Throne conducted himself in such a manner as to forfeit his Crown, it became elective. And there the advantage of the Heir Apparent came round again, as Serjeant Maynard had said at the time of the Revolution, "where there was a defect in the exercise of the executive power, that House had a right to make a provision for it, but they must not violate the hereditary right of the Crown." In proof that care was taken of this, he mentioned the Act of Settlement, which was so much in favour of Mary, whose issue had preference to the Heirs of William. After a great many ingenious and apposite observations, Mr. Hardinge concluded a very able speech, with declaring, that it was highly necessary for the House to vote the Resolution then under consideration.

Mr. Aufrüther and *Mr. Burke* rose together, but the former obtained the hearing. He began a very animated reply to Mr. Hardinge, with contradicting his assertion, that James the Second was a King to the end of his life. He attacked the third
Resolution

Resolution as contradictory of the principal resolution. He took notice of Mr. Pitt's declaration, that every man in his Majesty's dominions had as good a right to the Regency as the Prince of Wales, a doctrine which he reprobated and condemned. Every situation in society, he said, had certain duties attendant on it, but the country had an interest in the person of the Prince of Wales, which they had not in any other person; whence the Prince was in an especial manner protected by the laws, and had many peculiar rights and privileges, and whence resulted his Royal Highness's Right to the Regency of this Country. He was acknowledged to be the only person, who could be proposed as a candidate, and the only one who could be elected. Between these claims to the supreme authority, and an actual Right, those who could must define the difference. Yet by the mode now proposed, it was not impossible but *two* Regents might be *elected* by the two Houses of Parliament. And if any person existed, that claimed the sovereignty on different grounds from the reigning family, it was not impossible that such person might be nominated.—Why then was this hazard to be incurred? And why were they, in their proceedings, to depart from every rule of analogy, and every principle of the constitution? He observed, that the monarchy of Great Britain was hereditary, only on account of its public utility, and contended that public utility was equally dependant on the Regency being hereditary; if we made it a matter of appointment, we made it a perfect matter of canvas, and might have one Regent appointed by the House of Lords, and another by the House of Commons. After mentioning the Prince's strict right in one part of the kingdom, viz. Scotland, Mr. Anstruther admitted, it was not quite fair to pursue the analogy of the Prince's rights, to private estates, however it might apply. He next corrected what he termed a complete mistake in Mr. Hardinge, and at length returned again to the third Resolution, the meaning of which he said was, that the Houses of Lords and Commons were to forge the great seal of England, and issue out a commission to pass a bill legislated by the two Houses; he asked, would a bill so issued have his Majesty's consent? Most undoubtedly it would not; their own Resolutions on the table would give the lie to it; and if they could pass one bill, they might pass more. They might continue forging the great seal for a day, a week, a month, a year, and if they pleased for ever. Mr. Anstruther asked; if this could be so easily done, and was to pass for law, why had not our ancestors, at the period of the Revolution, dragged the Thames for the great seal, and done the same as was meant to be done now. They might by the help of the same sort of forgery, have kept the kingly power in their own hands, and had nothing to do with William and Mary. If it could be done in one instance,

it might be done in any ; they might lop off one branch of the prerogative, and then another, and so by degrees, till there was no prerogative left. Mr. Anstruther reprobated the precedent in Henry the Sixth's time, and in terms of great asperity censured the mode of passing the bill proposed in the third Resolution. He called it a clumsy, absurd, wicked project, and said the Commissioners would be such perfect puppets, that they would have no voice of their own of assent or dissent. He recapitulated the cases of Edward III. Richard II. and Henry VI. and said what had been called a Council of Regency in the latter's reign, had been no such thing, but a Council which the Barons meant to have put above the King himself. The Council consisted of five of his brothers, and the rest were his near relations. A learned friend of his, in justification of precedents taken from troublesome times, had said, if they condemned those precedents merely on that account ; they might as well say, Magna Charta was no Act of Parliament. He should be sorry to say, that Magna Charta was no Act ; but he had ever considered Magna Charta as an object of admiration and reverence, on account of its intrinsic merit. After some casual remarks on offices executed by minors, he concluded his speech with declaring, that he never would consent that the House should vote the third Resolution.

Mr. Beaufey made a short speech in reply, but the House happened to be so much out of order, that what he said, could not be heard with sufficient distinctness to collect the line of his argument, further than that he thought, the urgency of the occasion made it necessary to appoint a Regent ; but that Gentlemen on the other side, seemed to think it necessary to appoint a King.

Mr. Dempster begged leave to propose an amendment to the second Resolution, which would rescue them from the greatest solecism he ever saw. Mr. Dempster said, the Revolution was no precedent in point for the present proceeding. Our King was not likely to be expelled the throne, because he was a King loved by his subjects ; but he was a man, and consequently subject to all the calamities and infirmities of human nature. We had at this time a Prince of Wales, the Heir Apparent to the throne, of full age. Why then should we have a King made up like nothing that ever was conceived before, an un-whig, un-tory-like, odd, awkward, anomalous monster ! He declared he stood up as an independent man, connected with neither party ; the amendment he had to propose, was an amendment of his own, without consultation, and without connivance ; he did not even know, whether his amendment would be seconded ; but such as it was, he would move it, that he might at least endeavour to preterve the Constitution from what appeared to him to be

be dangerous. His first amendment was, to leave out the word "*Right*," because their *best* way of declaring their *Right*, was not to express it by a word, but by the exercise of it; and with that view, he should farther move to leave out the words "*in such manner as the exigency of the case may appear to require*," and insert, "*by presenting an address to the Prince of Wales, Heir Apparent, and of full age, humbly beseeching him to take upon himself the administration of the civil and military government of the country, during the incapacity of his Majesty, and no longer.*" Mr. Dempster took notice of the reports that were abroad, that the measures now going on in that House, were with a view to prevent a change in the Ministry; he said, he thought no such paltry considerations ought to sway their minds in the progress of so important a proceeding. He had sat in that House near twenty years, and seen a new Ministry almost every year. He concluded with moving to leave out the word "*Right*."

Mr. Courtenay seconded the amendment.

The *Speaker* read the amendment, and put the question upon it.

Mr. Powys said, he conceived the present question would turn merely on the word "*Right*." If any law existed, it ought to be, that the Prince of Wales should take upon himself the Regency, but there being no law, it would be more constitutional than the other mode of proceeding.

The question was then put, and carried, that "*the word right*" stand part of the Resolution.

The question was also put, that the words "*in such manner as the exigency of the case may appear to require*," stand part of the Resolution.

Mr. Powys rose again and said, had the question been suggested three days sooner, he should have been one of the first to have risen to second it. He said, he should always consider the honourable and learned Gentleman over the way, whether in or out of office, as one of the first legal authorities in that House; and as he was ready to confess, when he was convinced by argument, which he sometimes was, by what he heard in that House; so he now acknowledged, that by the Hon. Gentleman's distinction, between the case of the Revolution and the present case, and the difference that he had laid down, between the natural and political capacity of the King being both at an end, whereas in this case, his Majesty's political capacity was entire, altho' he was not in a state of natural capacity to execute his kingly office; he was convinced, the opinion that the Revolution afforded a case in point, was erroneous; and that those precedents, which he had not thought much in point, he now conceived were very much in point. That of Henry VI. was not strictly so, because, when the Duke of York was Regent, he represented a King; and there was a Parliament at that time, a commission being legally issued, giving a general power to hold it. Mr. Powys said, he thought the Resolution liable to objection. He wished the

first person in the kingdom, might be called upon to take the government. In protecting the rights of the crown, he protected the interests of the people. For what were the rights of the crown? only the powers vested in the crown, for the preservation of the interests of the people. As the Resolution stood, they were putting themselves in disguise to maim and mutilate the Constitution. They were putting into the hands of the crown, the royal assent, without the regal will.

The *Chancellor of the Exchequer* said, he would trouble the House with a very few words, because he thought that discussion would come more regularly, in another stage. He read the amendment, and said that the words, "*An Heir Apparent*" seemed to justify the Prince's claim to right, and so by an equivocal turn to contradict the Resolution. Now, as he conceived every part of the House would agree with him, that such a claim, if asserted, should not be asserted obliquely, and by a side wind, he thought it would be better that the Resolution stood, as it did before. With regard to the question, Whether the Prince of Wales, as Regent, should have the whole royal power, or only a part; till that point was ascertained, it had better not be discussed; at any rate, the House ought not to be taken by surprise, and have such an amendment put upon it, on a sudden.

Mr. Fox said, no man less than he, would approve of giving the question a new turn, without the House having a proper time to consider of it. He apprehended, from the words of the third Resolution, that one of the points was determined; not, that he meant by any means to say, that he approved, he had contended against it; but having contended in vain, he should make his stand at another post. He was prepared to contend, that the third Resolution, by putting the two Houses into a capacity to pass a bill, did, what he had great doubts the House could not do, antecedent to the declaring a Regent. *Mr. Fox* then stated, that the amendment then moved, and the Resolution itself, were equally taking the House by surprise, and that possibly the natural way of proceeding, would be to adjourn the debate till next day or Monday.

Mr. Dempster said, he expected the debate to finish, but he was willing to waive the words "*Heir Apparent*."

Mr. Burke said, they did not in the smallest degree tend to overturn the Resolution. A person of full age was the fittest to be guardian of a person in a state of incapacity. The name of the Prince of Wales, when they considered who he was, was such, that he was certainly properly described in the amendment.

Mr. Fox thought the House had decided that already, at least he was convinced it had been carried against him, and to that decision

decision he bowed. He asked, Whether the Hon. Gentleman might not waive the Resolution. He should not wish, any more than the Right Hon. Gentleman, that should be done by a side wind, which had been expressly decided before,

The *Chancellor of the Exchequer* said, that he must still consider the third Resolution, as connected with the second, and as giving the true description of the only way of proceeding constitutionally, to take the necessary measures in this important crisis.

Mr. Burke, with some warmth, called upon the country gentlemen, to be more careful how they voted in future. They might now see the consequences, of blindly voting with a Minister for they scarcely knew what. He wished to awaken their vigilance, that their honour and integrity might be preserved from danger, and that they might not be entrapped. One person, he said, had a scheme against their simplicity, which he had practised step by step, till he had them so fast entangled, that they could not get back. The Right Hon. Gentleman had persuaded them to vote a first Resolution, and then a second, and now he told them they must vote a third.

The *Chancellor of the Exchequer* rose with much heat, and expressed astonishment at what the Right Hon. Gentleman (*Mr. Burke*) had said. He desired gentlemen to recollect, whether, in his conduct throughout the proceeding, he had ever done any thing that looked like a design to entangle or entrap them. The third Resolution was, in his opinion, the only constitutional mode of carrying the second into effect. If any person could shew another mode equally constitutional, and better calculated for supplying the deficiency, he was ready to adopt it. He hoped, he should not again be told, that he was endeavouring to entrap gentlemen.

Mr. Marjham rose; he said, he hoped the country gentlemen would not be led away, by the sophistry or ingenuity of the great men on either side of the House. He begged to say, that after what he had heard said in that House, and without doors, he thought it necessary for Parliament to declare, that it was their right, and their duty, to provide the means for supplying the defect in the exercise of the Royal Authority. *Mr. Marjham* did the *Chancellor of the Exchequer* the justice to declare, that throughout the whole of the business, he had not only conducted himself unexceptionably, but in a manner highly to his credit. He did not, he said, mean to insinuate, that the Prince had no Right. He had, he said, but plain common sense, but he could not help thinking, there was a more plain method of coming to the point. He was desirous of receiving every light the united talents and information of the House could cast; but much in the dark he confessed himself to be, relative to the restrictions

intended to be imposed on the power of the Regent. The Resolutions, he conceived, were very far from being plain and intelligible: but fraught with that subtlety and intricacy, which, in a business of such vast concern to the Empire, ought to have been proscribed. Why not at once go up with an Address to the Prince? and *pray him*, in this *sad suspension* of Royal Authority, to take the executive Government under his protection. What an illustrious character (the Duke of York) had said in another place of his Royal Brother, augured well of the Prince, and strikingly illustrated his attention to the true interests of the nation. The Prince's delicate situation ought to be considered; he felt it as much as them all, and with additional poignancy. For his part, he thought it the interest of the Prince of Wales, in common with them all, to do any thing to make the kingdom flourish.

Mr. Christian declared, he scarcely knew which way he ought to vote. He did not wish to shrink from his duty; but the possibility of voting away the Rights of the Crown, under pretence of defending the Rights of the People, staggered him.

Mr. Rushworth very strenuously seconded the amendment. Their conduct, he said, had hitherto been wrong; it was time to think of what was right.—They had done wrong from the beginning, by letting any person come down to that House but the Prince of Wales.—They had passed the second of these Resolutions, as a reply to an assertion which had fallen from one Right Hon. Gentleman (Mr. Fox) respecting the Right of the Prince;—they should accede to this amendment, as a reply to the declaration of another Right Hon. Gentleman (Mr. Pitt) “That the Prince had no more Right to the Executive Authority than any other subject!”—Had George II. Mr. Rushworth asked very forcibly, been attacked in the year 1745 by the same malady with his present Majesty, and had any person thus impeached the Rights of Frederick, the then Prince of Wales—it were a singular matter of contemplation, how such a declaration would have been then received. Would a Minister dared to have made the same declaration? He must have found shelter somewhere else than there.

Mr. Harrison said, the only objection they could have to placing his Royal Highness in that situation, must arise from an idea, that he would not part with it, when his Majesty should recover. He asked, on what was so unjust a supposition founded? Let the House consider his Royal Highness's filial attention, and tender regard to his mother and sisters, during the dreadful period of the family's severe affliction. Let them view all his private virtues, and then say if he ought not, to be declared sole Regent, with all the Royal Prerogatives, which was the only proper means of restoring the third branch of the Legislature.

Mr.

Mr. Edwards, Sir Matt. W. Ridley, and other Members spoke, but the House was so disorderly they could not be heard.

Mr. Dempster then withdrew his amendment from the second Resolution, which was carried as it stood originally. He then moved to leave out all the third Resolution, from the word "determine," and insert his amendment.

Mr. Marsham moved the House to adjourn.

Mr. Pitt said, although he felt much anxiety for dispatch, he did not wish to deprive a subject so deeply interesting, of due deliberation.

Mr. Fox wished the Motion to pass, from a conviction that it would change the mode of proceeding with the Minister, for it was indispensably necessary to restore vigour to every function of Government, and render it as complete as possible, prior to the execution of any public business.

Mr. Pitt wished to satisfy the public expectation as soon as possible; for the suspense of the minds of men at this crisis, he conceived to be extremely unpleasant. From the severe cold under which he laboured, it would be a personal accommodation to him, and not inconsistent with the public interest; he therefore consented to adjourn the consideration of the subject till Monday.

At ten o'clock the House adjourned to Monday.

MONDAY, DECEMBER 22.

HOUSE OF COMMONS.

ADJOURNED DEBATE, ON THE REPORT OF THE COMMITTEE, ON THE STATE OF THE NATION.

THE public anxiety was never more apparent, than in the general eagerness, to be present at the discussion of the momentous subject at this time before the House.

At one o'clock this day the galleries overflowed; and what is more remarkable, there were upwards of *three hundred* Members attended at three o'clock to prayers.

At half past four o'clock, the *Chancellor of the Exchequer* having moved the order of the day, the Speaker read the third Resolution.

"That for this purpose, and for the maintaining entire, the constitutional Authority of the King, it is necessary that the said Lords Spiritual and Temporal, and Commons of Great Britain,

“ Britain, should determine on the means whereby the Royal
 “ Assent may be given in Parliament to such a Bill, as may be
 “ passed by the two Houses of Parliament, respecting the exer-
 “ cise of the powers and authorities of the Crown, in the name,
 “ and on the behalf of the King, during the continuance of his
 “ Majesty’s present indisposition.”

The Speaker then read Mr. Dempster’s amendment, which was to omit the latter part of the Resolution after the words, “ determine on the means,” and insert in their stead, “ that a humble Address should be presented to his Royal Highness the Prince of Wales, praying that he would take care of the civil and military government of these Realms, during the continuance of his Majesty’s illness, and no longer.”

Mr. Burke rose, and in a speech of more than two hours continuance, entered very much at large into the whole of the Question. He began with stating, that in the course of twenty-three years, during which time he had enjoyed the honour of a seat in Parliament, he had never arisen to deliver his opinion on so important an occasion; that in no one instance, in which he had ever given his sentiments to the House, had he delivered his opinion, either with a view to power, with a view to flatter that House, or from motives of conciliating the favour of the people; but had declared the suggestions of an unbiassed mind, impressed with what he conceived to be the best means of providing at once for the safety and honour of the Sovereign, and the welfare of the nation. He had brought forward and supported measures, that might render him obnoxious to the frowns of the Sovereign; and he had opposed and withstood the prejudices of the people, when he saw them acting contrary to their own interest, or hastening madly towards the accomplishment of their own destruction. He had always supported the independance of opinion, in a Member of Parliament; and he thought himself no less irresponsible for what he should say in Parliament, (provided he did not overleap the boundaries of law) than the King himself. He was not, and never should be, subservient to any power, or influenced by any views of self-interest; his only anxiety was, that his conduct should be irreproachable, when summoned before the TRIBUNAL OF HIS OWN HONOUR. Allusions had, he observed, been made to a change of opinion, to an accommodation of sentiment in Members of that House. He was ignorant of the truth of such an imputation, so far as it affected others; he believed there might be such persons, (*looking at the opposite bench*) but he was sure that he was himself innocent of any such indirect motives. A probability of a change of Administration had been suggested, he knew nothing of it; whatever might be thought of his looking forward to a place in a new Administration, he would give the independent sentiments of a plain citizen

zen on the question now pending. He knew not of any place he was to have. He had not exchanged a syllable with his Royal Highness on the subject; and was as little acquainted with the inside of Carleton House as with the inside of Buckingham House. Should he be noticed in a new arrangement, should his humble abilities be called into play, he was certain his situation would be a very subordinate one indeed, and that his profit or advantage from it could be but little, because a return would be necessary in *drudgery* and *exertion*. In his conduct, on this occasion, he could not therefore be guided by self-interest, or misled by ambition.

The two Houses of Parliament were, Mr. Burke said, in a state of inactivity, arising from the vacancy in the exercise of the third branch of the Legislature; and that whatever measures they had recourse to, were justifiable only in proportion as they were founded in the necessity of the case, beyond which point they could not go. Their situation, he said, was by no means an exalted one; for *necessity* had no reason to be *proud*. They were to act under a humiliating pressure of circumstances; yet the arguments of some persons had been, as if the authority of the House expanded under its depression. All proceedings, that are grounded on *necessity*, should be cautiously conducted. Other matters might go on in a progressive state of improvement, but *necessity exists for its own destruction*. In a dangerous situation, a step beyond what is absolutely necessary, might carry them from security to ruin. The most cautious and considerate deliberation was necessary; the *ignis fatuus* of private judgment was little to be relied on in a discussion of so important a nature. The question was, whether there existed a necessity for issuing a commission in the King's name, under the Great Seal, to pass a Bill for the establishment of the Regency? This point he would discuss with all the lights he had derived from his imperfect study of the Constitution. When the two Houses were deprived of the aid and co-operation of the third branch, they were not a Parliament, but incompetent to the exercise of any one act of legislation. So situated, they were, he thought, by no means justified in using the King's name, to a commission for giving the Royal Assent to a proposed Bill. In filling the vacancy now existing, the rules of hereditary Right ought to be reverted to; that hereditary Right which had been found an effectual bulwark against the encroachments of ambition, and the intrigues of faction.

The person who stood next in succession, provided he were of full age, was as much entitled to the Regency, during the Sovereign's incapacity, as he was to the Crown in case of a demise. But this doctrine had been peremptorily denied by the Right Hon. Gentleman opposite him, who had asserted, that an equal
Right

Right to the Regency exists in every individual of the nation; and who, in affirming the sentiment, had aimed a stroke at the Constitution of the country. If the Royal Assent was wanted, who had so great right to give it, during the King's inability, as the Heir Apparent?

But who were they that had set themselves up as arbiters on this occasion, in despite of the Statute of Charles the Second, which made such a declaration liable to the penalties of a *premunire*: the two Houses of Parliament had declared their right to legislate. It was intended, he had heard, to set up a man with *black eyebrows and a large wig*, a kind of scare-crow to the two Houses, [Mr. Burke was here supposed to mean the Lord Chancellor] who was to give a fictitious assent in the Royal Name; and this to be binding on the people at large! In spite of right, reason, and analogy of law, they declared their positive determination to elect a creature of their own, and to invest it with the *insignia*; but without any of the intrinsic power of Royalty. This attempt, which wanted the daring spirit of a robbery, had only the creeping meanness of low forgery. The contrivance which was thus set up, in lieu of a third Estate, was a fiction, a *chimera* more extravagant, than poets run mad had ever dreamed of! Instead of a King, active and efficient, it presented them with a mixture of absurd mechanics, and more absurd metaphysics? It was a *screw-press, a lump of copper—a small quantity of wax, and a shred of parchment*, altogether constituting what was termed the *great seal*!—The *fiction of law*, by which it was to be supposed a KING, was a *falsehood*, that could not impose, even upon his imagination. He could not approve of law metaphysics, still less of law ethics, or of law divinity. He, for his part, disclaimed all allegiance to such a political monster! If any substitute was to be placed in the room of the Crown, it should be what was a *parcel* of the Crown; it should be that person, who, in contemplation of law, was frequently reckoned one person with the Sovereign, and that was the Heir Apparent.—If he was to bow down and worship, it should be to something like a Deity; he would not prostrate himself before a *priapus*, a low creature, that might have been made from a *Bench*,

Cum faber incertus scammum, faceretne priapum.—

The farce reminded him of a priest among savages, who raised an idol, and directed its worship, merely that he might secure to himself the meat that was offered as a sacrifice.

After stating how ridiculous every mode must appear, which had not the establishment of the Prince's Rights for its immediate object, Mr. Burke asked, what the reason could be for an opposite conduct? Was it lest the Prince should refuse his assent

to any restrictions hereafter to be proposed? Of that, in his capacity of Regent, there could be little dread; William the Third, and George the First, the Second, and Third, had successively given their assent to the same. But why, in that case, were those proposed restrictions kept a secret! Were they so monstrous in their nature, that no person but the proposed *parliamentary puppets*, could give them his assent? and that they must, therefore, *resolve* themselves into a *Republic*, for the purpose of depriving the Crown of its judgment and its reason?

The ridiculous research after precedents, fitter for antiquarians than for members of Parliament, was the next object of Mr. Burke's satire. Those precedents, he observed, were drawn from times when the Speaker of the House of Commons had been carried to the King's Bench prison. The doctrine of *constitution* had also been carried so far; that it was to be feared, when the lawyers had made out a constructive King, they might also introduce a constructive House of Commons; and proceeding in the present line, it was not impossible—that they might see their Speaker taken from his chair to prison, and let out on a day-rule to give the assent of an empty House of Commons, to any ordinance that might be proposed to him at the bar of the other House!

They had, he said, compiled together a string of these precedents, from the most obscure and unsettled periods of the monarchy, and even these were not to the point. In any of them he would ask, had a Prince of Wales, of full age, and possessed of every qualification to discharge the functions of the executive power, been passed over, and another Regency appointed, in case of incapacity or lunacy in the Sovereign on the throne? He believed, that no absolute design had been entertained to throw him openly by, and to proceed to the immediate nomination of another Regent; but did they not wish so to clog the office, with humiliating restrictions, as to make it impossible for him, in honour, to accept it, and thus, that it should devolve to another person? and was it not this further confirmed, by the declaration made by the Minister, that any other subject, as, for instance, the Minister himself, would have an equal right to set up his pretensions to the Regency, with the Prince of Wales? They had formerly worn Toryism down to rags; now they disgorged all the principles which they had imbibed, and instead of professing their value for a limited Monarchy, became fifth Monarchy-men, and the wildest of Republicans.

The Restoration and the Revolution, had been among the precedents adduced. But surely the case was not the same now, as at either of those periods: the government was then not merely convulsed and disjointed, but annihilated and reduced to atoms. But how did our ancestors act on the memorable occasion

sion of the Revolution? In each of these, their first object was to return as soon as possible, after their first obliquity, to the straight principles of the Constitution; they did not change the form of Government into an Aristocratic Republic, but they considered the formation of the old world, and moulded the new one on the model of it. They, in the first place, filled the Monarchy that was then vacant, by addressing the Prince of Orange to assume the Crown. The Monarchy is at present not vacant, but the exercise of its powers is suspended. What then would they do, if they argued from the analogy of that precedent? They would address the Prince of Wales, to assume the office and the name—not of King, but of Regent. The Revolution, indeed, was an admirable precedent, and a noble example to Kings: it was a warning, and seemed to cry out to them,

Discite Justitiam moniti, et non temnere Leges.

The only rule for our conduct was in the observation, that they were too convinced of their precarious power, to dwell on any thing like the madness of a speculative proposition.

The manner, Mr. Burke continued to remark, in which the three Resolutions had been proposed, was suspicious and improper. The first had no sooner been voted, than the second was brought forward as a sequel to it, and the third as an appendage to the second; yet these Resolutions were of very different import, and should not thus have been huddled together. There was no manner of natural succession between them; though taken together, they went the length to suspend the succession of an hereditary monarchy.

The Resolution now before the House, was connected, he observed, with those that preceded, not so much in logical construction, as by forming a part of the same system of policy. It was couched however in the finest words possible. To preserve the Constitution inviolate was its ostensible purpose; but as far as it could be comprehended by his understanding, it went first to *suspend* and then to *transfer* the monarchy! to tear the temporary diadem from the brow of the rightful claimant, and to place it on the head of *another person*! It was as if, in the case of a private succession, the owner of the estate becoming distempere^d, were to find on his recovery, that instead of its being in the possession of his son, it had been seized on by the rapacious hands of his Steward and Attorney-at-Law?

[*This allusion, which created much risibility in the House, was supposed to be directed to the Lord CHANCELLOR and Mr. PITT.*]

This was to break down the barrier between the Sovereign and the subject. To admit the introduction of a subject within a single chink, would lead the way to destroy the whole chain of
suc

succession. The expression of "*devising means*," which he found in the Resolution, was one he did not relish. Why set about *devising* means to fill up the succession, when the only natural, proper, and constitutional one stared them in the face.

The present measure appeared to him, he said, as an attempt to refine on the constitution, which was already sufficiently good in his opinion. Of that constitution, hereditary monarchy, as circumscribed by laws, written and unwritten, was in fact the vital principle—that was the rampart against the assaults of ambition—it was the rock on which each rising wave was broken and dissipated—it was the part of the system, which, by removing the temptation, sustained the pre-eminence of the constitution. It would be the business therefore of those who meant to act against the law, to destroy those laws which would otherwise destroy them. They would direct their efforts to form new tribunals, such as was in fact the commission now proposed. They would, in the language of the present Resolution, devise the means of bringing in their own innovations!

But were there no means to be adopted without flying abroad in search of dangerous novelty? Was there nothing to be found for their guidance in the act of settlement? Was there nothing in the oaths which each member had taken, on his admission into that House? Were they, as if in the wilds of Africa, driven to the necessity of laying the foundations of a new Republic? To these enquiries, the answer was decidedly—No!—From whence, then, it was to be asked, sprung these novel proceedings? or were they not meant solely to exclude the Heir Apparent from his proper claims? If the attack was meant to be made on the privileges of the crown, let the assault be bold and manly! Let it be made when the regal functions were alive and energetic; not when, as now, they lay in a *delinquium*—in a trance. Let not the attack be made on him who, if the death of the body were as complete as that of the mind, would be our King by the best of all possible claims:—would be our King by *Lineage*, and our King by *Love*!

How could they hesitate a moment, when there was a numerous royal line; and a Prince at the head of it, full aged, and no wise incompetent to assume the exercise of that power, which they were going to assign over to a being of their own creation.

The Right of the Prince of Wales had (Mr. Burke continued) been very unnecessarily forced into debate. It was altogether unprecedented, he said, that a mere word, dropped by a Right Hon. Gentleman, had been made the foundation for a Resolution of such great importance as the second Resolution in the Report; from which the Resolution, now under debate, flowed as a kind of corollary, according to the Right Hon. Gentleman who had moved them; though he was not inclined to adopt that opinion.

opinion. It was reserved, he said, for the present period, to make a mere individual's words of such consequence as to be the ground-work of a formal Resolution of both Houses of Parliament.

Whether the Prince had an absolute inherent Right, or was in such a situation that he could not be passed over, was a distinction in which he could not perceive any essential difference. But the Right Hon. Gentleman opposite, could not resist his inclination to make it a personal question; it was a dish that had been reserved for his Right Hon. Friend, and he hoped that he would feast and diet upon it. However, he should say nothing, either in his praise, or his defence; in the first place, because his character was so well known, and in the second, because the pyramid of his abilities did not require the interference of the very small skreen, which he might bring forward to vindicate or protect it.

Those Resolutions had always been looked on as dangerous; inasmuch that Sir George Saville, when pressing for a declaration on the subject of General Warrants, thought it necessary to explain, by saying, the House was not called upon to declare the law, but merely their *sense* of the law. So averse, he added, were the two Houses, not long since, to such a measure, that when, in the year 1776, Mr. Alderman Beckford in that House, and a noble Lord in the other, had, on a proclamation having been issued by the Privy Council for the importation of corn, declared their sense of the King's dispensing power; the words of the former were taken down until retracted, and the oratory of Lord Mansfield was fulminated against the latter; but in neither instance was any idea entertained of a declaratory Resolution.

With respect to the right of the Prince, he would not now enquire whether it was a right *ad rem*, or *in re*—whether it was a right of entry, or a right of action; but a right of some kind must certainly exist in the contemplation of the Gentleman opposite him, who had declared the throne *vacant*.—A cry of *No! no!* coming from the Ministerial benches, Mr. Burke said, that he understood it had been so admitted. But if they even urged that, after the unnatural union of a living body and a dead understanding, the political capacity was still to exist in the same manner, and that the animal, not the man, was to be regarded, it still made little difference in the arguments. It was still to be asked, what injury would result to any branch of the constitution, from the admission of the Prince's right. The opinion of his Right Hon. friend was still more safe, than that of those who to enforce a theory, would convulse an empire.

Mr. Burke next considered and condemned the illiberal policy, that had suggested the proposed restrictions, particularly in depriving the Regent of the power of creating peers.

There

There might be some appearance at least in this proceeding, if the man who proposed those limitations, had himself observed any restraint, and had not made his peerages, like packed juries, by the dozen!—But even if the Prince was inclined to shew his friendship to those, who had loved and cultivated his intimacy; if, for instance, he were inclined to bestow a peerage on any of the young Princes—if he were to bestow a mark of his favour on the illustrious house of Cavendish—or to revive the title of the Marquis of Rockingham in the person of a near and illustrious relative (Lord Fitzwilliam): this could, in his opinion, furnish no good reason why the Heir Apparent should be deprived of his rights, or meet such as these, included in the *black-roll* of *proscription*! Mr. Burke mentioned the early ebullition of loyalty in the late Marquis of Rockingham who, when a boy, ran away from his parents to General Honeywood's camp, that he might go and fight against the rebels. Mr. Burke said he could mention several others, on whom should his Royal Highness be pleased to confer a peerage, it would not be a sufficient reason to disgrace him. The late Prince of Wales, the father of his present Majesty, it was well known, had at all times his court full of *Jacobites*, and yet on his nearest prospect of succession, no Sylla was then found to menace such a curtailment of his rights!

[Here Mr. Burke being interrupted by the noise of the opposite side, observed, that if they prided themselves in that clamour, it was no more than what he had often known better executed by a pack of fox-hounds. This observation, as it might be supposed, excited a good deal of mirth.]

Proceeding with his argument, he said, that inconsiderable as he was, he should feel it as a kind of mortification, if the road to honour was shut up from him. He should think it an unfair kind of proscription, like that practised by Sylla. While the Gentlemen over against him had access to the fountain of honour, they had not been sparing in their draughts. But when this was no longer open to them, they were determined that it should be shut up from all others. The Minister seemed to invite his associates, and to encourage them to hope for better days, than those they were likely soon to experience. I shall keep all these good things locked up safe for you—

Condo & compono, quæ mox depromere possim.

But there certainly could be no good reason for this reserve, of what was deemed the necessary power of the Monarchy, for weakening a Government; unless the exclusive possession of all the great offices of trust, among one set of men, could be called so. It would not tend to promote domestic happiness, and was
not

not calculated to increase our respectability, or our strength, with foreign nations.

Mr. Burke concluded with some hints, as to the danger of retrenching the regal powers, even to the convalescent sanity of the Sovereign. The caution necessary to be observed on this head, would naturally prolong the term of the Regency; and Gentlemen should consider, that with the limited powers now proposed to be given, the balance of the three estates would in that interval be totally destroyed.

The design, in the proposed diminution of the Regent's power, was so palpable, that it could not be misconstrued.—A weak government was to be established, under the Regency, for the purpose of gratifying the ambition of those persons; the hands of the Regent were to be tied up for the sake of preserving honours and emoluments for their friends, in case of their return to power; and as one King had been disabled by *nature*, another was in this manner to be disabled by *art*!

If the Regency, as his friends contended, could be conferred but on *one* candidate, then there might indeed appear some reason for these restrictions; but, as other Gentlemen contended, the place was *merely elective*, why take so much pains, and why not select a candidate perfectly obedient to their will?—If, as some legal Gentlemen had said, this was done in respect to the situation of his royal father, and in the expectation of his restored sanity, then the latter, whenever Providence, and his returning reason, made him conscious of the mockery, might address them in the words of Shakespeare,

“ You placed a fruitless Crown upon my head,

“ And put a barren sceptre in my gripe,

“ Thence to be wrench'd by an unlineal hand,

“ NO SON OF MINE SUCCEEDING !

When he should see his authority vested in a stranger-hand, and his next of blood, displaced from that efficient authority which he should possess, he could but exclaim, “ Restore me to my former state !—why did you recall me from the delusion ?—*Erat mentis gratissimus error* ; but clear my throne at all events, and take that *black-brow'd* phantom from my sight !”

This led Mr. Burke finally to consider the possible time of continuance, and the probable *degree of cure* of his Majesty's disorder. He seemed to hint, that even if a cure were effected, there might not be much confidence in it. In this respect, a Monarch stood in a very different situation from a subject. The rational faculties were not of so gross a composition as the corporeal frame, and did not so perfectly recover from a shock. He concluded a speech of much brilliancy, and of some inequality, with

with an observation on the self-assumed integrity and patriotism of Mr. Pitt; who took great merit to himself for not having secured a pension—that might be an argument for his exemption from avarice, but not from ambition.

The *Solicitor General* rose, and after many professions of respect for the last speaker, said, that he was greatly surprized to hear any such suggestion had been thrown out from any side, as that the throne was now vacant. He urged the expediency, as well as the propriety, of adopting the mode of procuring the royal assent, proposed by the Chancellor of the Exchequer, declaring, that from some of the arguments he had that day heard, a doubt had arisen in his mind, whether the Right Hon. Gentleman did not mean to sacrifice the Constitution. He asked, would any man dare to put a question, whether the King yet sat on the throne or not? For his part, he was determined to support the law, because the law supported the King on his throne. He would not contend, that no person of the royal family had then a right to the throne—a doctrine which had been attributed to his side of the House—but he would assert, that no person had at present a right to it, *save one*—that *one*, he would contend, was not now in contemplation of law *incapable*, though the functions of the kingly character, were at present impeded. The throne was at present full of the Monarch, and no man dared to say, that his Majesty was deficient in his politic capacity. He therefore should vote upon the simple ground of preserving the forms of the Constitution; and be it remembered, that upon the preservation of the forms, depended the substance of the Constitution. With regard to the pageant and the puppet that had been talked of, King William submitted to be that puppet, and if he had not, he could not have had the crown. He had heard a great deal about limitations, but he would not say one word upon that subject then; when it should come properly under consideration, he would freely speak his sentiments upon it. From what he had heard from the noble Lord in the blue ribband the other night, it had given him the comfortable hope, that if the noble Lord had ever forgot his Sovereign, the noble Lord would not now forget him. He adverted to what had fallen from Lord North last week, relative to the precedent in the infancy of Henry the Sixth, when the noble Lord had declared, that the Parliament then assembled, though the Great Seal had been put to the Commission, by a babe nine months old only, was a perfect Legislature, consisting of King, Lords and Commons. It had been said on a former day, that if the two Houses could do what was proposed, they could do any thing; if they could go so far as to procure the royal assent, in the way before stated, to the Regency bill; they might proceed to pass other bills in the same way: but this was neither a just nor

a fair conclusion; it was a maxim which ought to be attended to, that the right which is created by necessity, is also limited by the same necessity; consequently they were to provide merely for the necessity of the case, and not go beyond it. As a justification of the use of the Great Seal in the King's name, he observed, that, notwithstanding his Majesty's temporary incapacity, in the eye of the law, his politic character remained entire; that any measure taken to subvert or act contrary to that acknowledged maxim of law, would perplex and embarrass the consciences of the judges, who were to declare the law, and that, on this ground, there would be no illegality in applying his name to the bill in question. No Regent, he was persuaded, could be legally appointed but in this way. He defined the rights of the two Houses, and spoke of the last Regency bill in 1765, for the security of the hereditary succession, and to guard against the danger of the Crown's devolving into the hands of an infant. He said, he saw some Gentlemen present who at that time sat in Parliament. He appealed to them therefore to know, whether or not it was their meaning, when they passed that bill, to clothe the Regent with all the powers of a King? The succession to the throne was undoubtedly hereditary, but the exercise of the government, the wisdom of ages had left to other times to provide for, when a necessity like what existed at present should occur. However, all might reprobate the precedents that occurred in the reign of Henry the Sixth, the two Houses then, provided for the exigency by forms, they put in a puppet, and gave that puppet powers, extremely short of the powers of a King. A Regent was then appointed, as now, by the two Houses, nor could a Regent ever be appointed but by the two Houses. If a Commission had been made, before the two Houses met on the 20th of last month, to open the Parliament, he was of opinion, that it would have been legal. Those who asserted, that the quick and short way of making a Regent, was the best way of making a Regent, it was they who, in fact, declared the two Houses could make laws. They might talk what they pleased of legal metaphysics, the law was as he had explained it, and he could not help taking notice of a question, that had been put to him by an Hon. Gentleman, a worthy friend of his, whose mind ought to have been more full of the legal entanglements, as they had been called. That Hon. Gentleman had said, that if they could, by putting the Great Seal to a Commission, make a Legislature, why had they not dragged the Thames for the Great Seal at the Revolution, and then they might have gone on passing bills without calling in William and Mary? He would tell that honourable and learned Gentleman, that let the throne be vacant, and he cared not where the Great Seal was. When the throne was vacant, every function of the executive Govern-
ment

ment was at end; the Courts of Justice did not sit. Whereas, at that moment, let Gentlemen recollect the Courts were sitting, and the Judges proceeding upon that very maxim, that the political capacity of the Crown was entire. William, the great Deliver of the nation, was not ashamed of being the puppet that had been described. At the Revolution, the nation resolved on what they would have, and Parliament, after the legislature was complete, thought it proper to make an act, declaring that all was right. Sir John said, he was not to be told that they would do every thing, because they were endeavouring to adopt the constitutional mode to make Parliament complete. He added several other legal arguments, and concluded, with protesting solemnly, that the opinion that he had given was from principle, uninfluenced by any motive, but a regard for the Constitution, and a reverence for the wisdom of ages, on which he advised the House to act, by voting the original Resolution.

Sir John Aubrey then rose, and said, upon the present occasion, I find it impossible to discharge my duty as a Member of this House, without, in some degree, differing from those with whom I have for some time acted.

I *concur* with them in rejecting the doctrine of a Regency *de jure* in the Heir to the Crown; because it is against *precedent*, and against *the law of the land*, and was so declared in Parliament, in the reign of Henry VI. In fact, as I see the subject, it is *no case of Regency in any person*, except as the *whole* Parliament shall think fit so to treat it. The law of England, as I have been instructed, acknowledges neither infancy, nor delirium, nor any personal infirmity to belong to the King upon the Throne, (for, in this respect, law only refers to his political character), and supplies him with Councils, to enable his acting politically, even when naturally he is most incapable.

But, I *do not concur* with them in thinking the House, at this moment, competent to exercise any of its parliamentary functions, more especially its legislative one; or to do any thing tending to such an exercise. The King has not yet appeared either in his person, or by proxy, that is, by a Commissioner representing him. I take it to be the essence of Parliament, that the three branches of the legislature should be assembled, before one begins to act. But only two are now met, the first of the three being absent. Till this first branch shall appear, I agree with the sentiments contained in a very recent publication, by one, whose authority, is so justly and universally acknowledged, as a well read and consummate lawyer, and with whom I have the honour to be connected by friendship, that without the King, we are only a Convention; and, in the present case, there is no necessity for resorting to a mere Convention of the two Houses. The King's person may be constitutionally supplied by a Commissioner; and

that representative, in the present extraordinary situation, will, in point of propriety, be the Heir Apparent to the Crown.

Till this chasm in Parliament shall be filled, I cannot assent to joining in any vote, or any other business of the House, beyond voting for a previous question, or some other question tending to prevent our further acting as a House. When this chasm shall be properly filled up, when the Parliament shall be full by a representation of the King, I shall cheerfully and heartily concur in the seemingly general sentiments of making the Heir Apparent *sole Regent*.

As far also as my consideration of the subject hitherto can entitle me to speak, I confess that I am not in the least disposed to adopt those restrictions, which have been opened to the House, as probable parts of the intended Regency Bill. I dread the effects of a *distracted, curtailed, and, consequently, enfeebled* executive power. I wish sincerely to join in every proper respect to our most gracious and afflicted Sovereign, and in *providing every security for his returning to the personal exercise of his authority, the moment his present calamity shall cease to operate*. But I cannot think that the proposed restrictions would be approved by himself, was he restored to his former health. From his known love of his country, and from that liberal benignity of mind, which soars above the flights of envy, I must presume, that he would not wish to encrease the public distress from his present afflicting malady, by rendering the Heir Apparent to his Crown, and his intended Representative, less capable of performing the whole of the Royal functions, than he himself was, before the commencement of his illness.

The argument for restriction proceeds upon a supposition, which might warrant *future permanent* restrictions upon the executive power. If the Heir Apparent is not fit to be entrusted as a temporary Representative for his father, it claims from us restrictions to check the Prince, when he shall have the executive power as a principal, and in his own person. Had he committed any overt-act, indicative of a disposition to abuse the Royal Authority, he ought to be equally restrained in both cases. But, to restrain him in either case, without provocation, strikes me, as unjust to him, and dangerous to the state over which he is to preside for his father. In truth, the argument for restriction of the Prince as a Regent, seems more to favour of prejudice against a particular party in the State, than to concern the general and public welfare. And though I not only stand unconnected with that party, but have severely suffered by their violent opposition to the choice of me by the county, for which I sit in Parliament as one of its Representatives; yet this remembrance avails not, to influence my opinions upon so momentous a business, as that which now calls for our decision.

Such

Such are my general sentiments upon the present important crisis. They were the same when we met last Tuesday, and I then meant to have declared them. But, in the early part of the debate, I found no opportunity of addressing the House; and I was forced by the remnant of an illness, which has long had possession of me, to leave the House without waiting either to declare my opinions by speaking, or to act upon them by voting.

Lord North said, he had listened the last time he was there, with great attention to an Hon. and learned Gentleman. He expressed much surprize at what had fallen from the Hon. Gentleman, respecting the position which he had laid down on Tuesday evening, and which position he would now repeat. He then had said, that a Regency could never be established without the concurrence of the three estates. This, it appeared, the learned Gentleman had interpreted as an opinion in favour of the new commission. He agreed, his Lordship said, with the Hon. and learned Gentleman, that they must restore the third estate. He wanted to see King, Lords, and Commons once more; but he could not think Lords, Commons, and the Great Seal, were the three estates. He wished for three real estates, not three estates, made up by forms and fictions of law.

He knew not much of the Hon. and learned Gentleman who spoke last but one, but by character. No character, he understood, ranked higher in his profession than that Hon. and learned Gentleman; he had that night laid down many excellent, good, and true maxims, but he was sorry, after maxim had followed maxim, at last to find, so impotent and inconsistent a conclusion drawn from the whole series. The Hon. and learned Gentleman had said, the two Houses were assembled, to restore the third estate, and that what necessity creates, necessity limits. He admitted that it did so; then what had they to do? They had declared the defect in the exercise of the Sovereign Authority; what remained but to supply the defect, and to do no more? The necessity of the case, according to the Hon. and learned Gentleman's maxim, commanded them to go no one inch further; if they did, they usurped the prerogatives of the Crown, and would become themselves the third estate. There were, he observed, two ways of filling up the vacancy, one plain, clear, simple, and short. There was a person plainly pointed out by the universal consent of all men, as the only person fit to represent the King. Declare that person Regent, and give him the government of civil and military affairs. The other, that the Lords and Commons should determine on the means to supply the deficiency. His Lordship here repeated the words of the Resolution, and said, the way the Right Hon. Gentleman and his friends meant to carry that Resolution into effect, would be for the House of Lords and Commons to pass a Bill; which Bill was to receive the Royal Assent from a person not invested with the powers of a Regent, but merely appointed by

them to give the Royal Assent to their own act. There did not appear to him, that when that was done, there would be three estates; there would be only two. The Lords and Commons, and their deputy; without discretion, without any of the powers to dissolve, or any other of the functions of the third estate; in fact, therefore, the whole Legislature would consist of Lords and Commons only. The mode now proposed by the Resolution before the House, was to set up a person to represent the Royal Person, without any deliberative power, with only ministerial authority, a tool of their own, a creature of the two Houses, that must act in subservience to them. Would they call that enacting a law by the authority of the three branches of the Legislature? It was no such thing, and the fiction of the law, by which it was assumed, was an abomination, and an absurdity. An Act which had the Great Seal affixed to it in this manner, was an act only of the two Houses; or, if they will have it so, it would be the act of the House of Lords, and the House of Commons conjunctly. The person, who is employed to give, what is called the Royal Assent, is their own agent, their own nominee. He has no powers, but what he derives from them, he acts through their authority; and there is a maxim in law, *Qui facit per alium, facit per se*. He acts under the direction of the Lords and Commons, and, therefore, is subordinate to them. His Lordship illustrated this part of his argument, by a pleasant anecdote. He did not wish to be ludicrous, on so solemn a subject, but the only mode of reasoning, at all resembling this, was the famous cause, *Stradling versus Stiles*; reported by Martinus Scriblerus. The cause was as follows: Sir John Swale had bequeathed to Mr. Matthew Stradling all his black and white horses, and Sir John left behind him six black horses, six white, and six pyed horses. Stradling claimed the whole, and reasoned thus; the black horses are mine, because they are black, and Sir John left me six black horses; on the same principle the white horses are mine, and again, I contend, that the pyed horses are mine, because Sir John left me all his black and white horses. In like manner, the three estates of the legislature were to be made out; first, there was the House of Lords, then there was the House of Commons, and then there were both Lords and Commons.

The Hon. and learned Gentleman had said, the forms of the Constitution were the substance of the Constitution, if so, could they introduce the forms to destroy the substance? His Lordship declared his quarrel was not with the Great Seal, but with those who would not allow them to have any thing else. He wanted a real existing third estate, capable of exercising its functions, capable of using its discretion, capable of preserving the balance of the Constitution. Let the House turn to the period that had been so often mentioned, the Revolution; let them look at the

Bill

Bill of Rights, they would see in the body of that Bill, a Declaration of Rights which the two Houses had come to, and sent to the Prince of Orange, as their claims of established Rights, and as the condition of his having the Crown. The two Houses had only declared, and prepared such a claim, but had no power to enact it; nor did they enact it till the third estate was added. The same line of conduct ought to be now pursued. They ought not to think of enacting anything like a law, till they had supplied, not with a meer *in General* straw, a tool of power, a puppet, a creature of their own, but with a substantial body, the vacancy in the executive department. The Hon. and learned Gentleman had dwelt on the perfection of the King's political capacity; but if that idea served as the foundation of a commission under the Great Seal for passing one bill, as if the Throne was completely occupied, it might be carried to a much greater extent; and they would have no occasion to think of supplying the vacancy. If it was to be filled up, let them adopt the simple mode of acting, recommended by the Hon. Gentleman's amendment; let them address the Prince of Wales, desiring him to take the reins of Administration in his own hands; and then would be the time, after the Parliament should have been regularly opened, to propose any bill that might be deemed necessary, with regard to limitations or restrictions. His Lordship said farther, that as soon as they had appointed the Regency, and rendered the legislature complete, it would be their duty to take effectual care that his Majesty, as soon as God Almighty should be pleased to restore him to his people, might again resume his powers. They would have further to provide for the care of his Royal person, and he held it as a clear line of policy, that the Regency and the guardianship of the Royal Person should be in different hands. In the Bill, that the two Houses might adopt for such purposes, could be included every restriction, thought necessary to be proposed by that House, and to what the two Houses should agree, there was not any probability, that it would not receive his Royal Highness's Assent. Had not his Royal Highness given every favourable intimation that could have been expected, of his love and reverence for the Constitution, in the message that had been, with his authority, delivered in the Upper House? or, if they could not depend on the inferences, that might be drawn from his past conduct; was there any reason to apprehend, that a Prince of the Brunswick line, would, when Regent, exercise any of the harsh prerogatives; when none of the Kings of that family had been culpable of any such ungracious conduct, since their accession to the Throne of these realms. The negative power was certainly vested in the Monarch; but had there been an instance, since the Revolution, of its exercise, without the utmost necessity? In the whole reign of King William the Third, it had not

occurred once, and, it is not to be imagined, that any Minister would have the temerity to advise his Master, to a harsh or ungracious exercise of that almost exploded branch of the Prerogative. As to the apprehension of a dissolution of Parliament, that could have still less real foundation in truth. Gentlemen must be sensible, that it would require money to carry on the business of Government; and if the Parliament was dissolved, *where could the Regent draw the supplies.* These circumstances of the times corresponded with the character of a liberal Prince, to avert the apprehension of any violent measure. His Lordship then took notice of some of the metaphysical notions, and fictions in law, of the Solicitor General. He observed, that between *physics* and *metaphysics*, they were strangely confounded. The physicians assured them, that the King was *incapable*; the metaphysical lawyers, that he still retained his entire capacity. Such were the differences between the Gentlemen of the red and the black robe! His Lordship, after a short panegyric on the present conduct of the Prince, concluded, with observing, on the ungracious appearance, the proceedings of the House must have to his Royal Highness, and by declaring himself for the amendment.

Lord Fielding rose immediately after Lord North sat down, but the House was so disorderly, that he could not at first be heard so distinctly. Enough of what his Lordship said, however, was collected, to understand, that his Lordship reprobated the Resolution as originally moved, declaring that it would form a dangerous precedent to future times. As Archimedes once boasted, that he could move the world, if he could get another to stand upon; so a bad Minister, with such a precedent in his possession, might make it the means of subverting the Constitution. His Lordship gave it, as his opinion, that an immediate declaration should be made of the Prince of Wales, Regent. They had not, he said, any reason to distrust his Royal Highness, or to imagine that he would not submit to any restrictions or limitations that Parliament might think proper to impose, after the Legislature should be complete.

At the period of the Revolution, a confidence had been placed in the King; nor was it till after he had been declared King, that the Bill of Rights, and other settlements and securities of our liberties were adjusted, and passed into laws, and, surely, the chance of his Royal Highness's submission to the will of Parliament, after the gracious declaration that had been made from such high authority in another place, was much greater than that of the Prince of Orange's consenting to give the Royal Assent to the Bill of Rights had been.

Let Gentlemen consider the difference of the two characters. The Prince of Orange was a foreigner, and had an army of foreign troops in the kingdom, and the greatest part of that army near London.

Whereas

Whereas the Prince of Wales, was a Prince born among us, whose filial tenderness, and natural goodness of heart, had already endeared him to all who knew him, and gave the best promise of his being as anxious, with the Legislature, to secure his father's rights, as that or the other House of Parliament could wish or expect. His Lordship declared he should vote for the amendment.

Mr. Fox then rose, he expressed some regret at not having spoken after the Solicitor General, when the words of that Gentleman were fresh on the minds of his hearers. He had delivered, Mr. Fox said, many excellent maxims, which he should not only admit, but contend for, as making strongly for the argument which he had now to propose. Two of these he should press most particularly on the attention of the House. The first was, that the Right which necessity creates, it also limits—a position which held good not only in this state, but in every other, framed on wise principles. Another was—that we should not, in many instances, consider what the law ought to be, but what it is.—But with respect to the *forms* of law, which had been mentioned with so much respect from the same quarter, he had ever regarded them merely as the *guards* of the substance; but, whenever they departed from that secondary office to a principal, they were no longer entitled to his respect; it behoved them, to watch them with a jealous eye, and to see that they were not used to betray the Constitution, and thus the substance be given up, while the forms were preserved with a scrupulous affectation.

In proceeding on this measure, he observed, there were three courses which might have been taken, including the one now before the House, which he would undertake to prove, was infinitely the worst that could possibly have been adopted! The first of these was suggested by the forms pursued in the first year of Henry the Sixth, a precedent which had been so often quoted; he would accept of it as being nearly similar, though not completely so; there was much difference between a *minor* and an *insane* King; and, as a learned friend of his (Mr. Anstruther) had observed, there were many acts to which the former was competent, and which the latter could not possibly perform. The mode, then pursued, was by granting a commission under the Great Seal, to the heir next of blood, empowering him to *convene* the Parliament, with all the regal privileges annexed to that act, of proroguing, dissolving, &c. This was, in his opinion, infinitely a more eligible manner of attaining the Royal Assent, than that now adopted: in the one, the assent was obtained by a *fair fiction*, in the other by a *low fraud*. The consent to be given, naturally, implied its opposite, and no consent could be alledged as fairly given, when there was not, at the same time, an opportunity of dissent!—Two circumstances were always to be inferred from

from this and other precedents of the same date,—that the Regency was ever conferred on the next of blood—and that it was then given, with the power he had stated, in all its plenitude. Little could be drawn from the limitations afterwards laid on the Duke of Gloucester, which sprung not from the reason of his situation, but from the exigency of the moment. The whole of the transaction was worth some degree of contemplation. On the demise of Henry V. the Crown devolved to his son, an infant of only nine months old. On the death of his father, the Council, at that time in existence, repaired to the infant King, and the Bishop of Durham, then Chancellor, delivered the Great Seal; not, he supposed, into the personal hands of Henry the Sixth, because he could hardly be capable of receiving it. The Duke of Gloucester, the nearest of kin to the King, took the Seals, and delivered them to the Master of the Rolls, directing him to put the Great Seal to a Committee, appointing him Protector, in the name, and on the behalf of the King; also to a great variety of commissions, and to a number of writs, summoning a Parliament to meet at Westminster. In that Parliament, one of the first things done, was to pass an Act of Ratification and Indemnity, for having summoned a Parliament in that manner, and to declare it a legal Parliament. Here then was a regular Legislature, which recognized the third estate, in the person of the Duke of Gloucester, who represented the Crown, and had all the powers and prerogatives in their full extent, in like manner as if he had been the Sovereign; and, it was observable, that such was the responsibility annexed to the Duke of Gloucester's high office, that amidst all the various acts of indemnity, passed by that Parliament, the Duke desired no indemnity for having thus employed the Great Seal. This instance clearly made not in favour of the amendment moved by the Hon Gentleman behind him, to address the Prince of Wales to take upon him the Regency; but, at the same time, it went directly against the Resolution, as originally moved by the Right Hon. Gentleman, because, by that they were called upon, to set up a pageant, without the exercise of the right of discretion, in giving either an assent to a bill, or a dissent from it; a mere puppet, a creature of the two Houses of Parliament, directed to obey them, and obliged, without any discretion, to give the assent to such bill or bills as they should think proper to pass. The other precedents, in the reign of Henry the Sixth, were those of the 32d and 33d years of Henry, when, through a temporary infirmity of the King, the Duke of York was appointed Regent. Mr. Fox commented on these two precedents, and shewed, that in both, there was an actual third estate, exercising all the discretion as to the giving the Royal assent or dissent, enjoying the power of dissolving, proroguing and convening Parliament. The remainder of that reign was not worth much at-

tention. The Parliament, which could admit the King's capacity to govern, at the age of *nine* years, and, afterwards, deny the same at *thirteen*, could not be supposed to have acted without bias, or to exhibit a general rule in their conduct.

It was to be observed, however, that this business—the transfer of the regal authority, was, in those days, made by the Council, which was then an executive Council, or by the House of Peers, which, at that time, frequently acted in the same capacity.—The first time that it had been done, *auctoritate Parliamenti*, was in the instance of the Duke of York, and immediately after the battle of St. Alban's! when the sound of arms had been heard, and when sober deliberation had, of course been put to flight.

To avoid ambiguities, however, in this discussion, it became necessary to remark, that whenever he spoke of the two Houses acting of themselves, and without the concurrence of the *third* Estate, he should speak of them as the two Houses of *Parliament*; whenever they had the sanction of the kingly power, he should mention them as the Legislature.—This distinction, taken properly, would enable the House, puzzled as it had been in a maze of laboured intricacies, to distinguish fairly for themselves.

He then proceeded to animadvert to the Revolution, as a leading precedent in this instance, the circumstances of which he distinguished as applicable to the present case, or the contrary. The one was an occasion arising from the misconduct of an arbitrary monarch; the other a circumstance springing from accident. The one was an occasion, where wise men looking, of course, to the *end*, and indifferent about the *means*, made every form give way. They were afraid, lest a foreign invader might take advantage of their domestic discontents, and join an external to an intestine war!—All the actions springing, from such a fear, were, of course, inapplicable at the present moment, when no such assault was to be dreaded. He said, he should wholly lay out of the case, as inapplicable in point of analogy, all the circumstances of the alarm that prevailed, from the danger to the nation, of losing its liberties, religion and constitution; on which account the Convention set aside King James and his son, the Prince of Wales; did not appoint Queen Mary; and declared William and Mary, King and Queen; obviously for the reason, that ~~he~~ ^{she} was the only person fit for them to choose, because he was the only person capable of defending their liberties and religion, and preserving the nation from the imminent danger with which it was threatened. At the Revolution the two Houses proceeded to declare William and Mary, King and Queen. They looked to the only Sovereign whom they could elect, and they proceeded not by mockery and fiction, but by an immediate address to the object of their choice.

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They knew the distinction between the organs which the Legislature can use, and those which the two Houses of Parliament are compelled to employ. The former proceeds by act or bill—the latter, by address or declaration; and thus it was in the case now mentioned. A part of their grievances was stated as being violations of existing laws; another, as resulting from the inadequacy of the laws to the protection of the subject. Between these a broad line of distinction was drawn—they declared the former as matter of fact; they reserved the latter to be guarded against by the provisions of a future statute. An attentive retrospect to these cases would serve to shew, that the former precedents tended to sanction the mode which he had hinted at, of a commission granted to the Prince of Wales;—the latter cases went rather to justify the address proposed by the amendment—but the expedient contained in the Resolution was completely damned, by a comparative recurrence to either class of precedent!

The statute of the 13th of Charles the Second was positive in its tenor, that any person, mentioning the power of the two Houses to legislate without the concurrence of the Sovereign, should incur the penalties of a *premunire*; yet, in this instance, they were, in fact, to proceed to legislate—*without the King*. But whom, he would ask, was the person, appointed by the commission, to consult or to obey? Was he to apply to the Sovereign in his present state? He trusted, that such a thing would not be mentioned. Was he to consult with the council? No! there was no council at present. The two Houses of Parliament were, in fact, to legislate, and to perform between themselves the kingly functions.—The statute of the 13th of Charles the Second had been made for the purpose of condemning the conduct of the *long* Parliament, which had past so many ordinances without the consent of a legal Sovereign. But if Sir John Scott, said Mr. Fox, had been Attorney General at that time, instead of Sir Oliver St. John, the case would have been very different. The former would have certainly suggested the easy expedient of putting a *man of straw*, by a commission, in the place of the King; he would have issued every act in his name under the Great Seal; and who could then doubt their legality or propriety?—And yet, said Mr. Fox, if this were so argued in the House of Commons at that time, it is matter of doubt to me, whether the *tyranny* would have been looked on as more deplorable, or the *sophistry* more miserable.

The first alarm to war, in the preceding unfortunate reign, had been given by the notice that the King's messages were not to be received, but through that House. This was again contradicted in the Parliament of Charles the Second, by whom it was declared, that the King's authority should not be conveyed
but

but by himself or his deputy. This was a sufficient proof that regal authority was by no means so communicable as had lately been supposed. The distinction laid down by a learned Gentleman, required only to be more strictly analysed. If the House did that which was dictated only by necessity, the exigency of the case would be their justification; but if they went farther, the Judges would certainly not pursue, nor act according to their acts. But what was yet more, if they proceeded as a Convention, their proceedings were constitutionally limited to a declaration or address; but if they even erected themselves into a legislature, they could be controlled by no powers on earth, but their own temperance and moderation.

Having fully argued upon the precedents of the Revolution, and recommended it to the House, as a fit example for them to follow upon the present occasion; he said, he would admit, that, which ever way they proceeded; whether by address to the Prince of Wales, to take upon himself the Regency, or by adopting the method suggested by the original Motion.

It would, by him, be readily admitted, that the first act performed in such a case, must be necessarily informal; but they should hasten to recur from the winding path of novelty, as soon as possible, to the beaten road.—If the commission were given in the first instance to the Prince, then every part of the Constitution would be restored to life and energy:—in the other mode it would be totally incomplete in substance.—It was also to be considered, that *one* step in their return to the constitutional path was preferable to many, and that the *intermediate Regent*, now proposed, was a being unknown to the Constitution.

[Mr. Fox was here compelled to make an apology for not entering, at the length he had proposed, into the remaining parts of the business, his indisposition permitting him only to touch on the principal heads of his argument.]

With respect to the antecedent restrictions on the executive government, he admitted, that were they seriously intended, the value of their possibility ought to be minutely considered; but as he was of opinion, that they could not be made, without the assistance of the *Legislature*, he thought their discussion might be dispensed with for the present.

He enquired concerning the *Right* mentioned in the second Resolution, and where that Right was supposed to exist. Did it exist in the Legislature?—Of, that no person entertained a doubt, nor was any declaration necessary. Was it to rest in the *two Houses of Parliament*? Yes! for so it had been declared; but on a farther enquiry into their faculties, it appeared, that they could not appoint the Prince of Wales, until they had first erected themselves into a *Legislature*?—The question was modestly asked, in the first instance, *who* was to appoint the Regent?

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The answer was—the *Legislature*: but gaining confidence, on the next question, *what was the Legislature*, the two Houses boldly replied—OURSELVES!

If any antecedent restrictions, Mr. Fox concluded with saying, were to be made, they might, with an obvious precedent, be made, as in the address to King William, in which all the declarations were included, which were afterwards conveyed in the Bill of Rights.—He was free to say, however, that he did not approve of this mode; and he admonished the House of the danger of flying, in the absence of a real, to an ideal power. Should they agree to the present resolution, they would, undoubtedly, facilitate the way to all the inroads of usurpation, and lend an aid to hasten the destruction of a fabric the most beautiful, that human wisdom had ever reared, or long experience endeared to its delighted possessors.

The *Chancellor of the Exchequer* rose, and began with complimenting Mr. Fox on his having that day delivered his opinion, free from the smallest appearance of that asperity and warmth, of which he so frequently had occasion to complain; he assured the Right Hon. Gentleman, that he sincerely lamented, that the reason of his not having gone into so ample a discussion of the Question, as he otherwise would have done, was owing to ill-health; he wished to have had the Question sifted to the bottom, because he was convinced, that the more it was agitated, the more it would be found to be drawn, agreeably to the true fundamental principles of the Constitution. He said, he should have no occasion to take up much of the time of the House, because the true point of the Question appeared to him to be within a very narrow compass. He was not fearful of treading over the ground of the Right Hon. Gentleman, which he would endeavour to shew in a very different light, and draw very different conclusions from, before he would submit to the House those particulars, on which he wished to rest the grand Question. The precedents before the House, which had been on a former day reprobated, as in no manner analogous, and as precedents that could not, for a moment, be borne with; were now referred to the House, not to judge of, as forming a fundamental principle of the Constitution, but as shewing the modes which ought to be adopted in the present crisis. He would contend, however, that they tended to shew, that upon the suspension of the Royal Authority, the power rested with the two Houses of Parliament to provide for such deficiency; they tended to shew the solemn opinion of Parliament given, upon a claim of Right being made. In the case of the infancy of Henry VI. his name was used, and he was made the instrument to give vigour to the measures, taken by the two Houses of Parliament: there was, however, a material difference between those times and the present.

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At the death of Henry the Fifth, there was no Parliament: the case was now the reverse; a Parliament existed, and had been summoned by the King's own writ. The Right Hon. Gentleman, in alluding to the reign of Henry the Sixth, said, that acts of indemnity had been passed in the first Parliament assembled during his reign, for every trivial measure that had been adopted; even for every writ that had been issued under the Great Seal; but that no Act of Indemnity had been passed for the great and important office the D. of Gloucester had taken upon himself; the Hon.^d Gentleman would, however, upon the investigation of the first Act of Indemnity, find himself mistaken, for the Act included the Duke of Gloucester, by granting an Indemnity for all other commissions. He wished not to allude, for a precedent, to the times subsequent to the battle of St. Alban's, the power the Duke of York supported was shewn by the Parliament long before that battle. He not only disagreed with him in the statement and conclusion of the precedents of Henry VI. but also in the conclusion he had drawn from the period of the Revolution. He agreed with him, that there was much inapplicable, and some applicable. He agreed with the Right Hon. Gentleman, that the proceedings of those times, when influenced by the arms of their natural enemy the French, or by any other political measure, ought not to be considered in point; but such as were, according with the forms of the Constitution, he considered as applicable; the inference to be drawn was, that not having a King, they proceeded to fill up the Constitution, and in so doing, they did not take the choice of a King, but had recourse to that person who appeared to them the most likely to protect their liberties and their rights. Feeling the necessity of the case, they had taken measures nothing short of a Legislative Act; they had proceeded upon the principle of the Constitution, though not according to the forms of the Constitution; and what was deduceable from those measures was, that in cases of necessity, to provide for the public safety, the power belonged to the people, through their representatives, the Lords and Commons, up to the fullest extent of his argument; whatever included with it, in the measures taken at the Revolution, the principles of the Constitution, he considered as applicable to the present moment. Upon what principle did they proceed to an Address to the Prince of Orange? Their situation was widely different from that of the present times; they had to provide for the filling a Throne that was vacant; at the present moment the Throne was full. The Right Hon. Gentleman had said, that, according to the 13th of Charles II. the two Houses of Parliament cannot proceed to legislate without a King; the conduct of the Revolution had contradicted that assertion; they had acted legislatively, and no King being present, they

they, consequently, must have acted without a King. He asked, could the Throne be vacant during the life of a King? He trusted, that no man would assert the affirmative, though he had heard something of such an idea from the Right Hon. Gentleman (Mr. Burke.) [Here a cry of *no! no!*] Was it possible, that our situation could be similar to that of the Revolution when we had a King on the Throne who had never forfeited his Right; his political capacity remained as entire and as perfect as ever, but from a natural incapacity he could not act; the two Houses of Parliament could not, therefore, abide by the Act of Charles the Second, any more than it was abided by at the Revolution; they were as much prevented, in the present instance, by the act of God, as they had been at the Revolution by the absence of the Sovereign; and were as much justified now to deviate from it, as they were at that glorious æra; that Act might have been, with equal propriety, pleaded, as an irresistible bar to the Revolution, as to the measures now intended to be taken. The Right Hon. Gentleman had asserted the use of the Great Seal to be irregular, if applied to form the two Houses into a Parliament. The Address proposed would be equally exceptionable, for his arguments went to prove, that to put us speedily in the situation in which we want; the Prince might be appointed by Address, or might act under the Great Seal: it was then asserted by that Right Hon Gentleman, who had just before declared the use of the Great Seal, without the King's consent, to be a gross fiction; that the two Houses of Parliament, who could not do it directly, might, by an Address to a third person, appoint the use of the Great Seal, which neither he nor they had a right, by the former argument, to use at all. The shortest, and the easiest way, to obtain the completion of the Legislature, as stated by a noble Lord (North) was, in his opinion, the mode most dangerous to the Constitution, and that which tended to the most violent use of the King's name, without his consent. Was the Regent so appointed to act in his own name, or in the name of the King? One or the other he must do; if in his own name, he dethroned the King; if in the name of the King, it must be without his consent: the using of the King's name, without his consent, had been asserted to be a gross, a clumsy fiction; but by that fiction the courts of law were now upheld. That fiction was the support of hereditary monarchy, so strenuously argued for; the grand principle and foundation on which hereditary monarchy had rested, was the political capacity of the King ever remaining entire, and it could never be set aside while living, and not having forfeited the Crown. That was the grand principle that supported hereditary Right; what else could have protected the infant monarch in a cradle, or the infirm diseased old King on his bed of sickness?

ness? When it had been asserted, that any act done without the King's name was a fraud, and a gross attempt to impose on the Constitution, he begged to be informed, how was this *Regent*, who opposes the King, to escape the censure of animadversion? The King, he insisted, was in the contemplation of the law, not in a state of incapacity. He had the sanction of the wisest sages of the law to say, that the manner, which appears the wisest from experience, as well as the most consonant to law, of investing a Regent with proper constitutional powers, is that, which is prescribed in the Resolutions. He was well founded in his opinion, and adduced many cases to prove, that any Act, passed by Parliament, in its present situation, was an ostensible Act; if it appears under the Great Seal, no matter how obtained, no person would insist that the Act was not valid; it was recorded by Parliament, that the King is insane, it is the part of the Great Council of the Nation to guide his political conduct.

If the doctrine now attempted to be advanced, of the Right of an Heir Apparent to assume the exercise of the Royal Authority on the infancy or indisposition of a King, should be once established; an adieu might be bid to all hereditary succession, or even to the enjoyment of kingly power during life. If the *Ld. Chancellor* should put the Great Seal to any Act, no power in the country could say it was not law. It would be presumption in the Chancellor, on his own opinion, to put the Great Seal to any Act, purporting to give the King's assent; but if that assent could not be implied, without the Great Seal, no man, he presumed to think, would say, that the wisdom of the whole Council of the Nation to guide the political capacity of the King, in a moment of such pressing exigency, was a coarse, a clumsy forgery, and an idle fiction.

By the second Resolution of the Committee, and to which the House had agreed, they declared it to be their Right and duty to provide the means of supplying the defect of the personal exercise of the Royal Authority; having asserted that Right, they would be betraying their duty if they abdicated a part of that Right, which might eventually put the remainder out of their power to exercise. If the Prince was put in possession of the Regency, with the full powers and prerogatives of a King, he might immediately dissolve the Parliament; but it had been said, that he *probably* might not; he might, however, with those powers, previous to the discussion of the Restrictions, prevent their taking effect, by pouring in a number of Peers into the Upper House, during the agitation of the limitations in the Lower House. Whether the limitations ought, or ought not to take place, they ought to be discussed while they had the power of discussion; it might be the opinion of some, that during so short