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The judgment pronounced by the Court of Queen's Bench, in the case of "STOCKDALE vs. HANSARD," however unpalatable to the House of Commons, will stand until the House is strong enough, as in the days of the "Long Parliament," to overthrow the laws and the constitution.

The House, by directing its officer to plead the assumed privilege, put itself on the judgment of the Court of Queen's Bench in reference to such assumed privilege, and it is now too late for the House or the Attorney-General, its advocate, to deny the RIGHT of the court of law to determine a question of Privilege which those who now dispute that right had thus referred to their jurisdiction.

Did the House of Commons, when it directed its officer to plead the assumed Privilege as an answer to an action at law, notify to the JUDGES through its SPEAKER, that they must not allow it to be made a matter of argument? No; for the Attorney General, as their advocate, treated the privilege as an *arguable* one, by actually *arguing* it. If the judges, then, are delinquent for pronouncing judgment against the privilege, the Attorney-General is still more delinquent for submitting it as an arguable matter to their decision. But if, in so doing, the Attorney-General only obeyed the instruction of his client—the House of Commons—then the House of Commons is most delinquent of all, for asking a court of law to decide upon a claim of privilege, which, according to its own showing, that court had no right to determine.

The House of Commons has originally taken very high ground indeed in regard to this question. The public cannot have forgotten in what angry and insulting terms Lord Denman's decision at *nisi prius* was alluded to in that House, when he ruled that the claim lately set up by the House of Commons to privilege the SALE of libels was contrary to the Laws of England. Then a select committee of the House was appointed to report on the subject, and their report was tantamount to a claim on the part of the House of Commons to give its own resolutions the force of law, and to take away, if it pleased, the protection of the law from every man in England. If that report was good for anything it was good to show that the House of Commons might privilege the commissions of any crime, even murder or treason, and the courts of common law could have no right to interfere!

If the resolutions founded on that report were to have the validity of law, England would have been placed under the most terrible democratic tyranny that ever afflicted and oppressed any nation, and, henceforth, it would have been utterly ridiculous to call this country a free state. Life, property, and liberty, would have been held entirely at the sufferance of one branch of the legislature exercising an absolute power and subjecting all law to the caprices of its arbitrary will.

Under such a tyranny the crown would have become a bauble, the aristocracy a shadow, the people slaves, and nothing short of a revolution would have restored the equilibrium of the constitution—and it is just this tyranny which the Whig ministers have wished, and still do wish to establish. This is one of the patriotic efforts of the bastile-loving liberals in office which Mr. Macauley has forgotten to enumerate in his magniloquent catalogue of Whig merits. The endeavour to enforce the new poor law by a Bourbon system of centralised police is another.

It was at one time thought that the House of Commons would have summoned Lord Denman to the bar, and at that time the tone of the Attorney-General was high enough. Then, though with evident peril to our own liberty, we did not shrink from coming forward and denouncing the assumed privilege of the House of Commons as incompatible with the safety of a free state, and essentially tyrannical. In a series of articles we gave our reasons for that opinion, and we need not repent them now. We cited authorities enough to prove that this is not the first time in which the courts of law have resisted, and successfully resisted, claims of privileges, set up by the arbitrary will of the House of Commons. The public mind felt the appeal made to its reason by others as well as ourselves against this doctrine of inherent power in the House of Commons to make its own declarations law. The voice of public opinion, calm, enlightend and determined, backed the judicial decision of Lord Denman. The House of Commons, instead of calling the Lord Chief Justice to its bar, or sending him to the Tower, chose to direct its officer, as we have stated, to plead the alleged privilege, and the Attorney-General to argue it. The court listened with exemplary patience to his reasoning in support of the plea, and to that of Mr. Curwood on the other side, and having taken time to consider their judgment, unanimously decided that the plea was not sustainable in law.

The *Standard* has only done justice to Mr. Curwood by its warm commendation of his learned, well reasoned, and perspicuous argument. This is the barrister who was some years ago a candidate for the Recordership of a western borough, and had the recommendation of the majority of the burgesses. But Mr. Curwood, though a whig or liberal, had the misfortune to be a Churchman, and so Lord John Russell gave the appointment to a young gentleman not as many month's at the bar, as Mr. Curwood was years, but who had the eminent merit, in Lord John's eyes, of being an unitarian. Such is Whig justice—whig religious toleration—and whig liberality.

But why did not the House of Commons send Mr. Curwood and his junior counsel, Mr. Carrington, to Newgate or the Tower? A former House of Commons established a precedent of that sort by committing counsel and solicitors to prison for daring to give their professional assistance to a subject of the Crown, in endeavouring to obtain a compensation in damages for having his vote wrongfully refused by returning officers at a contested election. Such are the lengths to which democratic tyranny can dare to go. A celebrated man in later times exclaimed, "Thank God, we have a House of Lords," and it was a House of Lords that at the period to which we allude stood the friend of the endangered rights and liberties of the people, against a House of Commons not only asserting, but exercising, tyrannical power.

The first action ever brought against a returning officer for the tortuous refusal of a vote for members of Parliament, was that of *Ashby v. White*, which arose out of a contested election for Aylesbury. The House of Commons considered the bringing such an action a *breach of privilege*, that House assuming to be the sole judges of all matters touching elections. Chief Justice Holt held that the action was maintainable, but the other three judges of the Queen's Bench differed, and judgment was given for the defendant. Upon that judgment a *writ of error* was brought in the Lords,' and the Lords reversed the judgment of the Queen's Bench, and this was the substance of their Lordships' judgment.

That *by the known laws of the kingdom every freeholder or other person having a right to give his vote at the election of members to serve in parliament, and being wilfully denied or hindred from doing so by the officer who ought to receive the same, may maintain an action in the Queen's Courts against such officer, to assert his right and recover damages for the injury.*

Subsequently five persons, namely, *John Patey, John Oviat, John Paton, Henry Basse*, and *Daniel Horne*, electors of the same borough, brought a similar action against *White*, and other returning officers, whereupon the House of Commons passed the following resolution:—

"That *it appears to this House that* JOHN PATEY, *of Aylesbury, has been guilty of commencing and prosecuting an action at common law against the late constables of Aylesbury* (the returning officers), *for not allowing his vote in the election of members to serve in parliament, contrary to the* DECLARATION, *in high contempt of the jurisdiction, and in breach of the* KNOWN PRIVILEGES *of the House.*"

Similar resolutions were passed in regard to the four other plaintiffs, and also against *Robert Meade*, the attorney-at-law who solicited the suits, and then a string of "orders" was made, of which the first was as follows:—

"Ordered,—*That the said* JOHN PATEY *be, for his said offence, committed prisoner to her Majesty's gaol of Newgate*, and that Mr. Speaker *do issue his warrant accordingly.*"

Under these orders the five plaintiffs in those several actions, and *Meade*, their attorney, were all committed to Newgate, there to remain, without bail or mainprise, for alleged contempt and breach of privilege in daring to draw within the cognizance of a Court of Law, matters only determinable in Parliament.

These tyrannical proceedings on pretence of privilege occasioned writs of *habeas corpus* and writs of error to be sued out, the latter of which the House of Commons vainly endeavoured to debar the parties of by addressing the throne. Failing in that, the house *appointed a committee* to examine what persons had been concerned in *soliciting, prosecuting or pleading* on the *writs of habeas corpus* or writs of error, on behalf of the persons committed to Newgate for breach of the privileges of the House, or what other persons have promoted or abetted the same. The committee having reported, a series of resolutions were passed, the first of which was the following:—

"That James Montague, *in pleading upon the return to the writ of habeas corpus* on behalf *of the prisoners committed by this House, as guilty of a breach of the privilegee of this House;*" and then it WAS ordered that "*for the said breach of privilege he be taken into custody of the sergeant at arms.*"

Similar resolutions and orders were made with regard to Mr. Nicholas Lechmere, Mr. Alexander Denton, and Mr. Francis Page, counsellors-at-law; also with regard to Mr. Wm. Lee, and Mr. John Harris, attorneys-at-law—and they were all taken into custody accordingly.

Thus did a tyrannical House of Commons not only imprison the subject for daring to seek at law a remedy for a legal wrong, but also incarcerated every barrister and attorney who afforded professional assistance in trying the legality of such imprisonment!

In these proceeding the British public may see a sample of democratic tyranny, arising out of the assertion of an unfounded claim of privilege, such as no people could endure and continue free.

What power interposed between the people and this monstrous tyranny of the House of Commons? The answer will be found in the following admirable resolutions of the House of Lords:—

"It is resolved by the Lords spiritual and temporal, in parliament assembled, that *neither house* of parliament hath any power, by any *vote or declaration*, to create to themselves any NEW PRIVILEGE that is not warranted by the *known* laws and customs of parliament.

"That every freeman of England who apprehends himself to be injured, has a right to seek redress by *action at law*, and that the commencing and prosecuting an action at common law against any person (not entitled to privilege of parliament) is *no breach of the privilege of parliament.*

"That the House of Commons in committing to Newgate Daniel Horne, Henry Basse, John Patey, John Oviat, and John Paton, for commencing and prosecuting an action at common law against the late constables of Aylesbury, for not allowing their votes in election to members to serve in parliament, upon the pretence that their so doing was contrary to a declaration, a contempt of the jurisdiction, and a breach of the privileges of that house, have *assumed to themselves a legislative authority*, by pretending to attribute the force of law to their declaration—have claimed a jurisdiction NOT WARRANTED BY THE CONSTITUTION—and have assumed a NEW PRIVILEGE to which they, can show no title by the law and custom of parliament, and have thereby, as far as in them lies, SUBJECTED the RIGHTS of ENGLISHMEN and the FREEDOM OF THEIR PERSONS to the ARBITRARY VOTES of the HOUSE of COMMONS.

"That every Englishman who is imprisoned by any authority whatever, has an undoubted right, by his agents or friends to apply for and obtain a writ of *habeas corpus*, in order to procure his liberty by due course of law

"That for the House of Commons to censure or punish any person for assisting a prisoner to procure a writ of *habeas corpus*, or by vote or otherwise, to deter men from soliciting, pleading, and prosecuting upon such writ of *habeas corpus* in behalf of such prisoner, is an *attempt of dangerous consequence, a breach of the many good statutes provided for the liberty of the subject, and of pernicious example by denying the necessary assistance to the prisoner, upon a commitment of the House of Commons, which has ever been allowed on all commitments by any authority whatsoever.*

"That a writ of error is not a writ of grace, but of right, and ought not to be denied to the subject when duly applied for (though at the request of either House of Parliament), the denial thereof being an *obstruction of justice, contrary to* Magna Charta."

In those resolutions the descendants and representatives of the founders of the GREAT CHARTER of English liberty evinced a spirit and determination worthy the successors of the ancient barons. A collision between the two houses was, of course, the consequence, which, after many unavailing conferences, was put an end to by a dissolution of parliament.—But the cause and the principles which the Lords supported against the usurping tyranny of their democratic branch of the legislature triumphed, and it is now the acknowledged law of the land that any person, whose vote has been wilfully and tortuously refused at an election, may have an *action on the case* at common law against the returning officer.

In the case *Ashby and White*, and the over five cases arising out of the same transaction, we have seen what a monstrous power the House of Commons dared to exercise upon an *erroneous impression* of privilege; and we venture to say not a more erroneous impression than that which possesses it at the present day in reference to the alleged right of *privileging* the *sale* of libels—a privilege certainly not supported by *prescription*, nor *conferred* by statute, nor authorised by the ancient known customs and usages of parliament.

It is true the House of Commons, in its assertion of assumed privilege, does not dare to go the same lengths to-day that it did in the reign of Queen Anne, or it would have committed to Newgate Messrs Curwood and Carrington, and also the plaintiff, and whoever was attorney in the cause. This omission, however, Mr. Daniel O'Connell has endeavoured to make atonement for by suggesting that Lord Denman and his learned brethren should be dragged to the bar of the House! This suggestion was worthy of the tyrant demagogue who formerly sought to have the late learned and venerable Baron Smith impeached or disgraced, because he referred much of the crime which he was in the habit of trying to that prolific source of violence and bloodshed in Ireland, political Agitation. We tell such members of the House of Commons as would, if they dared, repeat the scenes of the days of Queen Anne, that the judges of the Queen's Bench will have the sympathy and support of the people of England, and that they who assail them for their righteous judgment will have to struggle against the LAW, the CONSTITUTION, and the irresistible power of PUBLIC OPINION!

FAMILY NAME OF THE WELLESLEYS—COWLEY.—The name has been written Cooley, and Colley, which last is the modern mode of spelling it in Ireland; but with regard to its English descent there can be no doubt, from many well authenticated facts. In Glaiston church there is a monument to Walter Colley, and Agnes, his wife. T[illegible] was lord of the manor in [illegible] Alexander's *Life of the Duke* [illegible] *ton.*

Lieut. Col. [illegible] 74th regiment, has been appointed acting Lieut. Governor of Trinidad, in the room of the late right hon. Sir George Fitzgerald Hill, Bart.

The Earl of Dartmouth has most liberally offered a piece of land near Hill Top, [illegible] of West Bromwich, for a new Church, and [illegible] of £1,000 towards the edifice, and £500 to be invested as a fund for keeping it in repair. His lordship's offer has been accepted, and a subscription has been entered into to carry this desirable object into effect. *Wolverhampton Chron.*