

are too many already, unless you were going for a better purpose; disperse! depend upon it, the laws will be too strong for you; you are going with halters about your necks." Three men took shelter in the office of the works; one man, Isaac Ludlam, who was afterwards convicted and executed, was exhorted by Mr. Goodwin not to go on; but he answered, much agitated, "I am as bad as I can be; I cannot go back." After a short pause, Brandreth gave the command "March." Soon after, this main body was followed by about fifty other men. On the morning of the 10th of June, Mr. Rolleston, a magistrate, went from Nottingham on the road towards Eastwood, about six miles from Nottingham, and meeting there a considerable body of men armed with pikes, he returned to Nottingham, and procured some troops from the barracks, eighteen privates, commanded by a captain and a subaltern. Upon hearing that the soldiers were coming, the insurgents fled. The captain in command of the Hussars deposed that the military were kept on the alert during the night. He was ordered out with a party, on the road towards Derbyshire, about six in the morning, and approached about sixty men, who fled across the fields. A man in the road tried to form them, but they paid no attention to him. A number of prisoners were taken, and about forty guns and other arms were collected together.

Thus ended "the Derbyshire insurrection." For these offences, three men were executed; eleven were transported for life; four were transported for fourteen years; and five were imprisoned for various terms.

The acquittal of Watson, for high treason, appears to have had no influence on the measures of Government. The second suspension of the Habeas Corpus was passed by large majorities in both Houses; and the Prince Regent, in his Speech closing this Session on the 12th of July, averred, that "a favourable change was happily taking place in the internal situation of the country, which was to be mainly ascribed to the salutary measures which Parliament had adopted for preserving the public tranquillity." The private records of lord Sidmouth's life show that he had no great confidence in the "favourable change." At the end of July, lord Sidmouth established his family at Malvern, intending to remain there a short time himself, "and then back," as he said, "to sedition, and treason again," his under-secretary being left in charge during the interim. Before his lordship's departure, however, as he informed his brother on the 20th, he "revised all the cases of persons committed and detained under the Suspension Act; and the result, he trusted, would be the release of some upon

their own recognizance, and increased indulgence to those who could not be released."*

On moving the second reading of the Habeas Corpus Suspension Bill, lord Sidmouth made the following statement:—"Some noble lords had complained, that prosecutions had not been instituted against the authors, printers, or publishers, of infamous libels; but it was but justice to Government to state, that they had not neglected their duty with regard to these publications. As soon as they reached the hands of ministers, they were transmitted to the law officers of the Crown, who felt that these publications were drawn up with so much dexterity,—the authors had so profited by former lessons of experience,—that greater difficulties to conviction presented themselves than at any former time." Within a month from this declaration, lord Sidmouth entrusted the administration of the law of libel to less scrupulous hands than the law officers of the Crown. On the 27th of March the Secretary of State addressed his famous Circular Letter to the Lords-Lieutenants of Counties, in which, urging the importance of preventing the circulation of blasphemous and seditious pamphlets, he stated that he had obtained the opinion of the law officers, that "a justice of the peace may issue a warrant to apprehend a person charged before him upon oath, with the publication of libel; of the nature in question, and compel him to give bail to answer the charge." He called, therefore, upon the lords-lieutenants to communicate this opinion at the ensuing quarter sessions, so that all magistrates might act thereupon. Such a proceeding as this, was, perhaps, the most daring invasion of public liberty that had been attempted since the time of the Stuarts. It called forth from lord Grey, on the 12th of May, one of the most luminous speeches which that statesman ever delivered. By the libel bill of Mr. Fox, he said, it was at last established, that in prosecutions for libel, both the law and the fact were within the province of the jury, and to be determined by them. "But, my lords, what avails this just and beneficent statute,—what security is there either for the freedom of the press, or the liberty of the subject,—if, whilst you have imposed this salutary restraint upon the judges in trials for libels, you give to them, and to justices of the peace before trial a right to decide that difficult question; and to commit to prison (in many instances, perhaps, to inflict a severer punishment than the Court upon conviction would adjudge), upon a charge which, after all, may turn out to have had no foundation, but in the false interpretation of words perfectly innocent by the justice before whom the

* Lord Sidmouth's "Life," vol. iii. p. 196.

charge was brought? If such be the power of the magistrate, and if this be the law, where, I ask, are all the boasted securities of our independence and freedom?" The House of Lords was indifferent to the preservation of these boasted securities. Writing four months after this debate to the bishop of Durham, lord Sidmouth says, "The attempt to check the progress of treason and blasphemy, by apprising the magistrates that they had the power of apprehending and holding to bail the publishers or venders of either, was one of the charges brought against me in the course of the last Session. Such a charge it shall be my constant endeavour to deserve; and I am happy in being able to assure your lordship, that the activity of the itinerant dealers in these articles is materially controlled, and their number greatly diminished."* We apprehend that there cannot be the slightest doubt in many minds, at the present day, that this proceeding of lord Sidmouth was most unconstitutional; and that he speaks and writes in defence of his conduct with all the self-approval of the worst political bigot of the worst periods of tyranny.

It is difficult to imagine a more degraded and dangerous position than that in which every political writer was placed during the year 1817. In the first place, he was subject, by a Secretary of State's warrant, to be imprisoned upon suspicion, under the Suspension of the Habeas Corpus Act. Secondly, he was open to an *ex-officio* information, under which he would be compelled to find bail, or be imprisoned. The power of *ex-officio* information had been extended so as to compel bail, by an Act of 1808; but from 1808 to 1811, during which three years forty such informations were laid, only one person was held to bail. In 1817 numerous *ex-officio* informations were filed, and the almost invariable practice then was to hold the alleged offender to bail, or, in default, to commit to prison. Under this Act Mr. Hone and others were committed to prison during this year. To complete a triple cord with which the ministers believed they could bind down the "man-mountain" of the press, came forth lord Sidmouth's Circular. The entire course of these proceedings was a signal failure. There was only one solitary instance of success—William Cobbett ran away. On the 28th of March he fled to America, suspending the publication of his 'Register' for four months.

On the 12th of May earl Grey mentioned in the House of Lords that a Mr. Hone was proceeded against for publishing some blasphemous parody; but he had read one of the same nature, written, printed, and published, some years ago, by other people,

* "Life of Lord Sidmouth," vol. iii. p. 176.

without any notice having been officially taken of it. The parody to which earl Grey alluded, and a portion of which he recited, was Canning's famous parody, "Praise Lepaux;"* and he asked whether the authors, be they in the cabinet or in any other place, would also be found out and visited with the penalties of the law? This hint to the obscure publisher against whom these *ex-officio* informations had been filed for blasphemous and seditious parodies, was effectually worked out by him in the solitude of his prison, and in the poor dwellings where he had surrounded himself, as he had done from his earliest years, with a collection of odd and curious books. From these he had gathered an abundance of knowledge that was destined to perplex the technical acquirements of the Attorney-General, to whom the sword and buckler of his precedents would be wholly useless; and to change the determination of the boldest judge in the land to convict at any rate, into the prostration of helpless despair. Altogether, the three trials of William Hone are amongst the most remarkable in our constitutional history. They produced more distinct effects upon the temper of the country than any public proceedings of that time. They taught the Government a lesson which has never been forgotten, and to which, as much as to any other cause, we owe the prodigious improvement as to the law of libel itself, and the use of the law, in our own day,—an improvement which leaves what is dangerous in the press to be corrected by the remedial power of the press itself; and which, instead of lamenting over the newly-acquired ability of the masses to read seditious and irreligious works, depends upon the general diffusion of this ability as the surest corrective of the evils that are incident even to the best gift of heaven,—that of knowledge.

On the morning of the 18th of December there is a considerable crowd round the avenues of Guildhall. An obscure bookseller, a man of no substance or respectability in worldly eyes, is to be tried for libel. He vends his wares in a little shop in the Old Bailey, where there are, strangely mingled, twopenny political pamphlets, and old harmless folios that the poor publisher keeps for his especial reading as he sits in his dingy back parlour. The door-keepers and officers of the court scarcely know what is going to happen; for the table within the bar has not the usual covering of crimson bags, but ever and anon a shabby boy arrives with an armful of books of all ages and sizes, and the whole table is strewn with dusty and tattered volumes that the ushers are quite sure have no law within their mouldy covers. A middle-

* *Ante*, vol. vii. p. 89.

aged man,—a bland and smiling man,—with a half sad, half merry twinkle in his eye,—a seedy man, to use an expressive word, whose black coat is wondrous brown and threadbare,—takes his place at the table, and begins to turn over the books which were his heralds. Sir Samuel Shepherd, the Attorney-General, takes his seat, and looks compassionately, as was his nature to do, at the pale man in threadbare black. Mr. Justice Abbott arrives in due time; a special jury is sworn; the pleadings are opened; and the Attorney-General states the case against William Hone, for printing and publishing an impious and profane libel upon the Catechism, the Lord's Prayer, and the Ten Commandments, thereby bringing into contempt the Christian religion. "It may be said," argued the Attorney-General, "that the defendant's object was not to produce this effect. I believe that he meant it, in one sense, as a political squib; but his responsibility is not the less." As the Attorney-General proceeded to read passages from the parody upon the Catechism, the crowd in Court laughed; the Bench was indignant; and the Attorney-General said the laugh was the fullest proof of the baneful effect of the defendant's publication. And so the trial went on in the smoothest way, and the case for the prosecution was closed. Then the pale man in black rose, and, with a faltering voice, set forth the difficulty he had in addressing the Court, and how his poverty prevented him obtaining counsel. And now he began to waver in the recital of what he thought his wrongs; his commitments; his hurried calls to plead; the expense of copies of the informations against him; and, as Mr. Justice Abbott, with perfect gentleness, but with his cold formality, interrupted him, the timid man, who all thought would have mumbled forth a hasty defence, grew bolder and bolder, and in a short time had possession of his audience as if he were "some well-graced actor," who was there to receive the tribute of popular admiration. They were not to inquire whether he were a member of the Established Church or a Dissenter; it was enough that he professed himself to be a Christian; and he would be bold to say, that he made that profession with a reverence for the doctrines of Christianity, which could not be exceeded by any person in that Court. He had his books about him, and it was from them that he must draw his defence. They had been the solace of his life. He was too much attached to his books to part with them. As to parodies, they were as old at least as the invention of printing; and he never heard of a prosecution for a parody either religious or any other. There were two kinds of parodies; one in which a man might convey ludicrous or ridiculous ideas

relative to some other subject; the other, where it was meant to ridicule the thing parodied. This latter was not the case here, and therefore he had not brought religion into contempt. This was the gist of William Hone's defence. To show fully how this argument was worked,—with what readiness, what coolness, what courage,—would be to transcribe the trials of three days,* on the first of which the defendant spoke six hours, on the second seven hours, and on the last eight hours. It was in vain that the Attorney-General urged that to bring forward any previous parody was the same thing as if a person charged with obscenity should produce obscene volumes in his defence. It was in vain that Mr. Justice Abbott repeated his wish that the defendant would not read such things. On he went, till interruption was held to be in vain. It was worse than vain, it was unjust. Truly did Hone reply to Mr. Justice Abbott, "My Lord, your Lordship's observation is in the very spirit of what Pope Leo the Tenth said to Martin Luther,—'For God's sake don't say a word about the indulgences and the monasteries, and I'll give you a living;'"—thus precluding him from mentioning the very thing in dispute. I must go on with these parodies, or I cannot go on with my defence." Undauntedly he went on, from the current literature of the time, such as grave lawyers read in their few hours of recreation, to the forgotten volumes of old theology and polemical controversy, that the said grave lawyers of modern days are accustomed to regard as useless lumber. The Editor of Blackwood's Magazine was a parodist,—he parodied a chapter of Ezekiel; Martin Luther was a parodist,—he parodied the first Psalm; Bishop Latimer was a parodist, and so was Dr. Boys, Dean of Canterbury; the author of the "Rolliad" was a parodist, and so was Mr. Canning. Passage after passage did Mr. Hone read from author after author. He thought it was pretty clear that Martin Luther did not mean to ridicule the Psalms; that Dr. Boys did not mean to ridicule the Lord's Prayer; that Mr. Canning did not mean to ridicule the Scriptures. Why, then, should it be presumed that he had such an intention? As soon as he found that his parodies had been deemed offensive, he had suppressed them, and that he had done long before his prosecution. It was in vain that the Attorney-General replied that Martin Luther was a libeller, and Dr. Boys was a libeller. The judge charged the jury in vain. William Hone was acquitted, after a quarter of an hour's deliberation.

But Guildhill "saw another sight." With the next morning's fog, the Lord Chief Justice rose from his bed, enfeebled by illness,

* The three trials were printed as separate pamphlets.

but undiminished in the energy of his talent. He had been deeply mortified by the acquittal of Watson for high-treason. He was now resolved that the libeller should not go unpunished. "He swore," says Lord Campbell, "that at whatever cost he would preside in Court next day himself, so that conviction might be certain, and the insulted law might be vindicated."* With lowering brow lord Ellenborough took his place in that judgment-seat which he deemed had been too mercifully filled on the previous day. The mild firmness of the poor publisher, and his gentlemanly sense of the absence of harshness in the conduct of his first trial, had won for him something like respect; and when on one occasion Mr. Justice Abbott asked him to forbear reading a particular parody, and the defendant said, "Your lordship and I understand each other, and we have gone on so good-humouredly hitherto, that I will not break in upon our harmony," it became clear that the puisne judge was not the man to enforce a verdict guilty on the second trial. Again Mr. Hone entered the court with his load of books on Friday, the 19th of December. He was this day indicted for publishing an impious and profane libel, called "The Litany, or General Supplication." Again the Attorney-General affirmed that whatever might be the object of the defendant, the publication had the effect of scoffing at the public service of the Church. Again the defendant essayed to read from his books, which course he contended was essentially necessary for his defence. Then began a contest which is perhaps unparalleled in an English court of justice. Upon Mr. Fox's libel bill, upon *ex-officio* informations, upon his right to copies of the indictment without extravagant charges, the defendant battled his judge,—imperfect in his law, no doubt, but with a firmness and moderation that rode over every attempt to put him down. Parody after parody was again produced, and especially those parodies of the Litany which the Cavaliers employed so frequently as vehicles of satire upon the Roundheads and Puritans. The Lord Chief Justice at length gathered up his exhausted strength for his charge, and concluded in a strain that left but little hope for the defendant: "He would deliver the jury his solemn opinion, as he was required by Act of Parliament to do; and under the authority of that Act, and still more in obedience to his conscience and his God, he pronounced this to be a most impious and profane libel. Believing and hoping that they, the jury, were Christians, he had not any doubt but that they would be of the same opinion." The jury, in an hour and a-half, returned a verdict of Not Guilty.

* "Lives of the Chief Justices," vol. iii. p. 224.

It might have been expected that these prosecutions would have here ended. But the chance of a conviction from a third jury, upon a third indictment, was to be risked. On the 20th of December lord Ellenborough again took his seat on the bench, and the exhausted defendant came late into court, pale and agitated. The Attorney-General remarked upon his appearance, and offered to postpone the proceedings. The courageous man made his election to go on. This third indictment was for publishing a parody on the Creed of St. Athanasius, called "The Sinecurist's Creed." After the Attorney-General had finished his address, Mr. Hone asked for five minutes' delay, to arrange the few thoughts he had been committing to paper. The judge refused the small concession; but said that he would postpone the proceedings to another day, if the defendant would request the Court so to do. The scene which ensued was thoroughly dramatic. "No! I make no such request. My lord, I am very glad to see your lordship here to-day, because I feel I sustained an injury from your lordship yesterday—an injury which I did not expect to sustain. . . . If his lordship should think proper, on this trial to-day, to deliver his opinion, I hope that opinion will be coolly and dispassionately expressed by his lordship. . . . My lord, I think it necessary to make a stand here. I cannot say what your lordship may consider to be necessary interruption; but your lordship interrupted me a great many times yesterday, and then said you would interrupt me no more, and yet your lordship did interrupt me afterwards ten times as much. . . . Gentlemen, it is you who are trying me to-day. His lordship is no judge of me. You are my judges, and you only are my judges. His lordship sits there to receive your verdict. . . . I will not say what his lordship did yesterday; but I trust his lordship to-day will give his opinion coolly and dispassionately, without using either expression or gesture which could be construed as conveying an entreaty to the jury to think as he did. I hope the jury will not be beseeched into a verdict of guilty." The triumph of the weak over the powerful was complete. "The frame of adamant and soul of fire," as the biographer of lord Sidmouth terms the Chief Justice, quailed before the indomitable courage of a man who was roused into energies which would seem only to belong to the master-spirits that have swayed the world. Yet this was a man who, in the ordinary business of life, was incapable of enterprise and persevering exertion; who lived in the nooks and corners of his anti-quarianism; who was one that even his old political opponents came to regard as a gentle and innocuous hunter after "all such reading as was never read;" who in a few years gave up his

politics altogether, and, devoting himself to his old poetry and his old divinity, passed a quarter of a century after this conflict in peace with all mankind, and died the sub-editor of a religious journal. It was towards the close of this remarkable trial, that the judge, who came eager to condemn, sued for pity to his intended victim. The defendant quoted Warburton and Tillotson, as doubters of the authenticity of the Athanasian Creed. "Even his lordship's father, the bishop of Carlisle, he believed, took a similiar view of the Creed." And then the judge solemnly said, "Whatever that opinion was, he has gone, many years ago, where he has had to account for his belief and his opinions. . . . For common delicacy forbear." "O, my lord, I shall certainly forbear." Grave and temperate was the charge to the jury this day; and in twenty minutes they returned a verdict of Not Guilty.

Lord Campbell has an anecdote of the Chief Justice, which indicates the struggle he made against any display of his deep mortification at the issue of this prosecution. "Bishop Turner, who was present at the trial, and accompanied the Chief Justice home in his carriage, related that all the way he laughed at the tumultuous mob who followed him, remarking, 'that he was afraid of their saliva, not of their bite;' and that passing Charing Cross he pulled the check-string, and said, 'It just occurs to me that they sell the best red herrings at this shop of any in London; buy six.'" * Lord Campbell adds, "The popular opinion, however, was, that lord Ellenborough was killed by Hone's trial, and he certainly never held up his head in public after." There is a more conclusive evidence of his feelings than popular opinion. On Sunday, the 21st of December, the day after this last trial, lord Ellenborough wrote thus to lord Sidmouth: "The disgraceful events which have occurred at Guildhall within the last three or four days have led me, both on account of the public and myself, to consider very seriously my own sufficiency, particularly in point of bodily health and strength, to discharge the official duties of my station in the manner in which, at the present critical moment, it is peculiarly necessary they should be discharged. . . . I wish to carry my meditated purpose of resignation into effect, as soon as the convenience of Government, in regard to the due selection and appointment of my successor, may allow." †

The proceedings of the Government in the libel matters of 1817 were signal failures. A few miserable hawkers were held to bail, or sent to prison under lord Sidmouth's Circular; some *ex-officio*

* "Lives of the Chief Justices," vol. iii. p. 225.

† "Life of Lord Sidmouth," vol. iii. p. 236.

informations were filed, with only one conviction,—that of a printer in the country, who republished one of Hone's parodies, and was tried before Hone himself was tried. As to the three acquittals we have described, it is perfectly evident that three juries, consisting of respectable London merchants, would have assuredly convicted the defendant, had they not felt that the real sting of the alleged profaneness was the severity of the political satire. Although the indictment stated that these parodies were seditious as well as profane, the sedition was studiously kept in the background. Had they not been really prosecuted for their political doctrines, their unquestionable indecency and impropriety must have carried a verdict against them on the first trial. The second and third trials looked like persecution; and public opinion threw its shield over the offender. There was a feeling, moreover, that political passions were influencing the judgment-seat. The severity of the Lord Chief Justice to the reforming member for Westminster, lord Cochrane, was not forgotten.

When we look back upon this unhappy period, we may honestly infer that the real danger was not so much that the people should be irritated and misled by mob-leaders and unscrupulous writers, as that a general feeling should grow up in the nation that Government was a power antagonistic to the governed—an oppressive and not a protective power—a power of separate interests from the interests of the people. This grew into a very widely-diffused feeling, and was found deeply rooted, long after the first sufferings that attended the transition state of peace had passed away—a feeling that was far more dangerous to the national welfare than any insurrectionary outbreak of the masses of the working population. Deluded these masses unquestionably were—acted upon by demagogues—ready for riot and violence; capable of serious mischief, but incapable of resisting the law wisely administered. The eagerness of the Government to suspend the constitutional protections for the liberty of the subject; to call for new enactments to repress sedition; to fetter the expression of opinion by rendering the plain-speaking of the public journals very perilous; to employ the spy-system, with the certainty that it would excite the violence which it pretended to discover—these were the causes why the Government had no love from any class; very little respect; intense hate from many; slavish fear from more. A large number, indeed, of the upper and middle classes were alarmed into a prostrate adhesion to the menacing policy of the Government, and were ready with "lives and fortunes" to put down the revolutionary spirit which they were assured was working under the

guise of Parliamentary Reform. From this year we may date the retrogression of public opinion on the question of an improved representation of the people. As long as the middle classes were afraid of its agitation, and naturally associated the idea of Reform with the rash movements of the operative classes,—with their violent declamations and their tumultuous meetings,—the differences of principle took the unhappy form of a contest between wealth and poverty, between capital and labour. The humbler classes had been taught by the demagogues that all the evils of civilization are political evils, and that democratic institutions would at once sweep away all social miseries. The upper and middle classes opposed all changes, in the belief that the preservation of existing institutions, however decayed and imperfect, was necessary for the maintenance of the security of property. There were, nevertheless, many of the wealthy and educated classes who, in 1817, thought, as Mr. Wilberforce then thought, when he wrote, "I continue friendly to the moderate, gradual, and almost insensibly operating Parliamentary Reform, which was last brought forward by Mr. Pitt;"* but who, nevertheless, were "adverse to the measure," on account of the character of its advocates and their followers. The reciprocal distrust of reformers and anti-reformers must have ended in a convulsion, had not alarm and violence gradually shrunk before a growing intelligence. The English mind had been trained by its historical experience to know that all the triumphs of liberty had been won quietly and legally. The time was not far distant when this forbearance would have its reward.

Amidst the democratic agitations of 1817, which necessarily produced a corresponding violence in the tone of political parties, it is pleasant to turn to an "affecting, improving, and most memorable scene" † in the House of Commons, on the 3rd of March. Francis Horner had closed his valuable and blameless life at Pisa on the 6th of February. Lord Morpeth, in moving a new writ for the borough of St. Mawes, in the room of Mr. Horner, delivered what Macintosh describes as "a speech so perfect, that it might have been well placed as a passage in the most elegant English writer." In the eulogies upon this statesman, so prematurely cut off from that career which opened the widest expectations of his future eminence, the leading men of all parties concurred, in a spirit which was calculated to inspire hope and confidence amidst the fears and doubts of that gloomy time. "Never was so much

* "Life of Wilberforce," vol. iv. p. 315.

† Sir James Macintosh—Diary, in his "Life," vol. ii. p. 339.

honour paid in any age or nation to intrinsic claims alone. A Howard introduced, and an English House of Commons adopted, the proposition of thus honouring the memory of a man of thirty-eight, the son of a shopkeeper, who never filled an office, or had the power of obliging a living creature, and whose grand title to this distinction was the belief of his virtue. How honourable to the age and to the House! A country where such sentiments prevail is not ripe for destruction." *

* Sir James Macintosh—Diary, in his "Life," vol. ii. p. 339.