supposed that political offenders of every grade were to be treated with less rigour than other offenders; political offences were of various degrees, and he wished it to be understood that he did not consider the offences of these men came under the description of that class which ought to be treated with leniency.

Subject at an end.

House adjourned.

HOUSE OF COMMONS,

Friday, January 29, 1841.

MINUTES.] Petitions presented. By Mr. Humphery, from the Borough of Southwark, for the Erection of a New Street leading to Blackfriars Bridge.—By Mr. Easthope, from Leicester, for the Abolition of Church Rates, and the Discharge of Mr. Baines.—By Mr. O'Connell, from the Bricklayers of Dublin, for a Repeal of the Legislative Union.—By Captain Winnington, from Worcester, for the Introduction of a Bill for the Improvement of the Navigation of the River Severn.

ANSWER TO THE ADDRESS.] The *Speaker* reported that the House had yesterday attended her Majesty with the Address, to which her Majesty had been pleased to return the following most gracious answer:—

"I receive with great satisfaction your loyal and affectionate Address. I thank you for your congratulation on the increase of my domestic happiness. I shall not cease to direct my earnest attention to every measure which may tend to the advancement of the public welfare, and the maintenance of the peace of Europe."

PRINCE ALBERT AND REPEAL.] Captain *Polhill* wished to ask the noble Lord, the Secretary for the Colonies, if he was aware of a letter addressed to "B. M. Rae, Esq.," and dated from "Buckingham Palace, January the 20th, 1841," and signed "G. E. Anson," returning thanks, on the part of Prince Albert, to the "Loyal Repeal Association of Ireland," for their address of congratulation on the birth of the Princess Royal. He wished to ask the noble Lord whether he was aware of such a letter having been written?

Lord *John Russell* said, he was not aware of such a letter having been written. He had never heard of it until it was mentioned by the hon Gentleman.

Captain *Polhill* then gave notice that he would repeat the question on Tuesday next, when he hoped the noble Lord would be prepared to say whether the letter was genuine or not.

Lord *J. Russell* said, that if the hon. Gentleman gave notice of any question as to any act done by the advice of her Majesty's Ministers, he would be prepared to reply. But he could not undertake to be so prepared in reference to any act done by Prince Albert.

Subject dropped.

COPYRIGHT.] On the Motion of Mr. Sergeant *Talfourd*, the Order of the Day for the Adjourned Debate on the Copyright Bill having been read,

Mr. Sergeant *Talfourd* said, he would, with permission of the House, detain them for a few minutes on the question. He thanked the hon. Member for the opportunity he had given him of offering some explanations to the House, though he should not enter into the discussion of the merits of the case. He would simply call to the recollection of the House an outline of the history of the bill. He had, on five different occasions, moved for leave to bring in that bill, and it had been so frequently opposed, that it must have received ample attention from the House. It had received the sanction of considerable majorities. On one occasion more than three hundred Members had recorded their votes on the subject, and he found that there had then been a majority of nearly two to one in favour of the principle of the measure. Under those circumstances he would appeal to the House whether he were not justified in abstaining at that stage of the question from entering into any discussion of the merits; and whether he had not a fair, a just, and a Parliamentary claim to move that the bill should be introduced for the purpose of receiving their consideration. The bill had also been the subject of numerous petitions from both sides of the House and he might say from almost all the great ornaments of our literature. When he coupled with the presentation of those petitions the support which the measure had received by the votes of the House, he could not help thinking there was sufficient reason why the Motion he was making should be granted, and why it should be followed by the introduction of the bill into the House. It was rather remarkable that notwithstanding the zeal—and, he was sure, the honest zeal—with which his hon. Friend had opposed the bill, he had never consented fairly to take the sense of the House on the subject on its first introduction. On the contrary, his hon. Friend had been

present on two former occasions, when he brought in the measure, though he had not sought to prevent its being laid before the House. He thought he would be doing injustice to those whose interests he advocated, if he consented to have the measure discussed at that early stage. He would simply call on the House to allow him to bring in his bill as a matter of justice which he could fairly claim, and he trusted the House would recognize that claim, and that the Motion for leave to bring in the bill, if opposed by his hon. Friend, would be carried by a large majority.

Mr. *Warburton* had expected that the hon. and learned Gentleman would have stated whether the bill which he now wished to introduce was of the same character, and contained the same provisions, as the bills which he had introduced on this subject in former Sessions.

Mr. Sergeant *Talfourd* had, he thought, explained the other evening that the bill was in all respects similar to that of last Session.

Mr. *Warburton* was then to understand that the bill was of a precisely similar character. The hon. and learned Member had alluded to the support which that bill had already received, and the majorities by which it had been carried on the second reading. What he complained of, as he had stated the other night, and which he was happy again to state in the presence of more than one Cabinet Minister, was that when the measure had been before introduced, either on its introduction or on its second reading, Cabinet Ministers or the Attorney-General or Solicitor-General had said that they were entirely opposed both to the principle and the details of the bill, but that they thought it uncivil to the hon. and learned Member not to allow him to introduce his bill, and that therefore they should vote for the second reading, in order to allow the hon. and learned Gentleman to get his bill into committee, in order that the details of it might be considered; and on that principle, not on the merits of the bill itself, the hon. and learned Gentleman had obtained the great majorities to which he had alluded. Now he had certainly expected the presence of those right hon. and learned Gentleman when the bill was in committee, but so far from that, when the bill had come into committee he had been left to fight the battle single-handed. But he believed that on any occasion when the bill came to be fully considered the hon. and learned Gentleman would find that the great majority in that House was against him; therefore he contended that he had been unfairly treated, and therefore he hoped that what had occurred in former years would not be likely to happen again. The hon. and learned Gentleman had stated that he considered himself unfairly treated by his (Mr. Warburton's) opposing the bill at the present stage; but he begged to remind the hon. and learned Gentleman that except on the last occasion, a discussion had always taken place on his moving for leave to bring in his bill. There was no division upon his moving for leave to bring in that bill, but there was a discussion upon it; he recollected the attendance of Members that took place upon the nights which the hon. Member had chosen for going on with the bill; they were either just after Easter, or upon the Derby day, when it was certain there would be few, if any, Members present. Now, he had chosen a night for his opposition to the measure when it was almost certain there would be a full attendance, and therefore he thought the hon. and learned Member had no right to complain of the course he had adopted. At the outset of the present question the hon. and learned Member and himself were completely at issue. The hon. Member stated that the following was the principle upon which he founded his defence of the bill, namely, that it was to prevent an unwarrantable encroachment on the natural rights of property which every man had in the productions of his own mind; and that when it was considered that all other property was placed under the safeguard of the law, the same protection should be extended to those works of genius which enlightened the community, exalted the national character, and added to the powers and resources of the country. The principle the hon. and learned Member set up was the inherent right in every man to his mental labour, that he thought antecedent to all other considerations, so that in short the principle was, that whatever a man produced by his own hands and his own mind was his, and his only. He did not acknowledge such a thing as natural rights. He only acknowledged rights growing out of convenience and general expediency. He did not confine himself to simply denying the existence of these rights as a proposition; but he would say that he could not acknowledge this Wat Tyler doctrine, that

whatever a man produced by his own hands was his, and his alone. Suppose he applied that doctrine to the general production of men's labour, what would be the consequence? Why, there would be no such thing as taxes—no such thing as rent—no such thing as interest for money. Men who cultivated the fields did not receive the profits of their own labour. In short the matter did not admit of a moment's consideration. All the profits of labour were to be considered in the light of a question of expediency. In every case it was expediency that governed the disposal of those profits. Take the French law of inheritance. In that country, a man even at his death, could not dispose of property solely as he desired. In other countries the laws interfered more directly, especially in the disposal of literary property. There they were entitled to interfere with the author's right, even before the first publication, and that arose from a far different view of the question being taken than was now sought to be established. The doctrine of giving all the profits of their mental labour to authors could not, he insisted be admitted for a moment. It was that position of antecedent natural right which authors had to the production of their own labour, that was the foundation of the opinions laid down by the judges before the House of Lords upon the question of copyright. It was also the foundation of the opinions of the Judges in the cases reported in Fuller's Report. Not once had the judges who said there was a Common-law right to literary property antecedent to the statute of Anne, pretended to say they could found that position on any previous decision which had taken place in the courts of justice. Mr. Justice Gascoigne said, "Our Common-law has its foundation in private justice, moral fitness, and public convenience," and it was on that doctrine and not on precedent that the judges laid down the Common-law on the subject. The judges and the hon. and learned Member were therefore at issue, their determination of the Common-law right being founded solely on expediency. Therefore it was on the ground of expediency alone the subject ought to be considered. The question had been brought before the French Chamber of Peers, and two reports had been made on the subject, and this antecedent natural right which the hon. and learned Member advocated had been set up, but he (Mr. Warburton) was glad to find that the Minister of Public Instruction had abandoned this ground, and founded his plan solely on the question of expediency. This being the case, it was on the question of expediency this question must be argued, and in considering the question of expediency, they must consider the interest of authors, the interest of publishers, and the interest of the public. In considering the interest of authors, they were bound to consider what was their interest under the present law. The present law gave authors a copyright in their works of twenty-eight years certain from the time of publication, and if an author lived longer than twenty-eight years he had a copyright during the remainder of his life. This the hon. Gentleman did not think sufficient. The hon. Gentleman would not, like him, consider the interests of the public collectively, but those of authors alone. He was ready to admit there might be inconvenience in certain cases under the present law, such for example as the case of an author having prepared a new edition of his work with improvements, and dying before publication, but he would in such cases give a further term of copyright for five years, to give the improved edition priority of publication to reprints of the old edition of the work by publishers generally, but this also would not satisfy the hon. and learned Gentleman. Authors were not contented with five years, or with thirty years, as was the case in Prussia, and in the proposed new law of copyright in France, but the hon. and learned Member said, that they must have sixty years after the author's death, and nothing less would satify them. Various other amendments had been proposed in committee, but nothing less than sixty years would satify the hon. and learned Gentleman. The present copyright lasted for twenty-eight years at least; at what were they to estimate the additional term of the author's life and the sixty years which were proposed now to be given? Why, at the most moderate estimate, from eighty to ninety years at least must elapse before the copyright would revert to the public. It would be eighty or ninety years at least before they would give to the public the inestimable advantage which must be derived from the free publication of works. When the question had been last discussed, the right

hon. and learned Member for Ripon, had very properly characterized the hon. and learned Gentleman's bill as tantamount to a perpetual copyright, and how could it be considered otherwise, when they recollected what a small number of works would be worth republication after a lapse of ninety years? But suppose they conceded to the hon. and learned Gentleman and his supporters the present measure? Would that satify them? In accepting sixty years they say that they are still subjecting the author to injustice by depriving him of a perpetual copyright; but that was not all, for he found from the work of the American author to which he had before alluded, that it was not a mere copyright that would satisfy them. He claimed, besides the exclusive right of multiplying copies, the exclusive right of reading works. That author said that it might become an important question, whether the purchaser of a book had a right to assemble multitudes together to read to them the contents of a work unaccompanied by protection to the copyright. Therefore if they once opened the door to this claim of copyright there was no knowing to what extent its supporters might carry their fantastic notions of exclusive right as well to reading as to multiplying copies of a work. He would next come to the effects which the proposed law would have on the interests of authors themselves. He found a passage in a report of the Minister of Public Instruction in France, to the Chamber of Deputies, in which he very properly stated the extension of copyright beyond a moderate term of years would be attended with effects injurious to authors themselves in the highest and most elevated view that could be taken of the subject. It would injure them in this particular, that it would afford great facilities towards the suppression and mutilation of their works. That was not an imaginary evil—it was one which had recently occurred in an edition of the works of one who, like the Mover of the bill, was himself a distinguithed poet. A similar event had taken place in the case of the poem of Joan of Arc, which, in the recent edition published by the author, was given to the public with many suppressions. And yet by the proposed bill all the passages of that work could not appear for a period perhaps of ninety years in the form which would be most acceptable to the friends of liberty. The bill would, therefore, enable the descendants of authors to prevent the public from reading works of genius. An hon. and learned person, Sir James Dalrymple, who was counsel for the defendants in the Scotch case before the House of Lords, had characterised the Licensing Act as "a base compromise between publishers having regard to their interests, and the Court having a view to politics." Did they never know suppression take place from political motives? An illustration of this was found in Mr. Pepys's work, from which it appeared, that some religious works of Milton, which were in the hands of Elzevir, the printer at Amsterdam, were suppressed. The publication of any religious opinions of Milton was considered so likely to be dangerous to the interests of the crowned heads of that day, that the matter became the subject of a correspondence between Mr. Secretary Williamson and Elzevir, and the result was that the works were then suppressed. Various arguments had been adduced on former occasions by the hon. and learned Member to show that the bill introduced would not only be favourable to authors but to their descendants, so that if his Copyright Bill had existed years before, Milton's *Paradise Lost*, or Shakspeare's works might have been suppressed. He (Mr. Warburton) had endeavoured to show that the greater part of authors were either necessitous, or were not acquainted with the value of their works. But he believed the generality of literary works were disposed of with considereble advantage to authors themselves. The term of years during which copyright, under the existing law, existed, was twenty-eight years. During that period the author might improve the first edition, and suppose at the expiration of that time, namely, the first twenty-eight years, the author would have an exclusive right to the work, the term would be extended to fifty-six years. Now, suppose thirty years were allowed for the life of an author, and the above period of fifty-six years were added to that time, the right would be extended to eighty years. Now, the works of the present day were of the most flimsy character, generally speaking, and few were of such a character, that after the expiration of fourteen years, would fetch anything like a good price in the market,

Authors did not now-a-days labour as of old to compose works that would be handed down to posterity. They seldom produced works that would merit a reward being given to them at the age of eighty-five years, and unless they did, the question of copyright should be adjusted in a far different way than was now sought. They had the reports of former years, in which publishers informed committees of the House that works, as they were generally penned, were not in circulation for more than from fourteen to twenty years. Having said thus much he would only say a few words on the interest of the public. This was an interest the hon. and learned Gentleman entirely repudiated and disclaimed, at least so he was given to understand. But as an illustration on this point, he would refer to the monopoly of printing the Bible. If ever there was a work of which the sale ought to be extensive—if ever there was a work which ought to be afforded to the public at the cheapest possible rate, with the least portion of profit, it ought to be so in the case of the Bible, the monopoly of which was in the hands of the Queen's printer, and the Universities. He had read the statements of those gentlemen who had advocated the doing away with the monopoly, as well in England as in Scotland; and from those statements he found that they would reduce the present cost of publication, by a very large per centage; and he took that as a conclusive example that the granting the monopoly of publication, was not likely to cheapen the price of works. Therefore, as a friend to the public, wishing that after a fair remuneration had been given to the author which was secured to him by the present law, these works should be given to the public at those moderate prices which free competition ensured, he opposed this measure of the hon. and learned Gentleman as unjust and injurious. He implored the House to consider that if they suffered this bill to pass, vested interests would arise under it, which would render it impossible for them to retrace their steps, unless they went to the enormous expense of buying up all existing copyrights, as if it were now for only a single Session, legal settlements would take place on copyrights, in the same manner as on land, or any other description of property, which would render it impossible for them ever again to stand on the ground which they now occupied. For these reasons he should oppose the motion.

Mr. *Hume* wished to say, that he considered he was doing an act for the benefit of the public at large, in opposing the introduction of the bill. He agreed with his hon. Friend, that the period to which the privilege of copyright should be extended, was a matter for the most serious consideration. But when he looked to the profits which authors had heretofore derived from their labours, he considered the monopoly they at present enjoyed as amply remunerating. The proposed bill would increase the difficulties of acquiring knowledge, and thus seriously injure the community. When the publication of Bibles was confined in Scotland to certain printers they were forty per cent. dearer than they were now that the monopoly had been abolished. For these reasons he hoped that the House would not countenance the introduction of the measure.

The House divided:—Ayes 142; Noes 30:—Majority 112.

List of the AYES.

Ainsworth, P.
Ashley, Lord
Baillie, Colonel
Baring, rt. hon. F. T.
Barnard, E. G.
Barrington, Viscount
Basset, J.
Bentinck, Lord G.
Berkeley, hon. C.
Bewes, T.
Blackburne, I.
Blakemore, R.
Bodkin, J. J.
Boldero, H. G.
Botfield, B.
Broadley, H.
Broadwood, H.
Brodie, W. B.
Brotherton, J.
Brownrigg, S.
Bruges, W. H. L.
Buck, L. W.
Buller, C.
Buller, Sir J. Y.
Bulwer, Sir L.
Burdett, Sir F.
Burr, H.
Busfield, W.
Calcraft, J. H.
Canning, rt. hn. Sir S.
Chalmers, P.
Chichester, Sir B.
Cholmondeley, hn. H.
Clive, E. B.
Clive, hon. R. H.
Corry, hon. H.
Cowper, hon. W. F.
Darby, G.
D'Eyncourt, rt. hon. C. T.
Dick, Q.
D'Israeli, B.
Divett, E.
Donkin, Sir R. S.
Dunbar, G.
Eaton, R. J.
Eliot, Lord
Elliot, hon. J. E.
Ellice, Captain A.
Estcourt, T.
Feilden, W.
Fector, J. M.
Fenton, J.
Filmer, Sir E.
Fitzroy, hon. H.
Fort, J.
Fortescue, T.
Fremantle, Sir T.
Gaskell, J. M.
Gladstone, W. E.
Glynne, Sir S. R.
Gordon, R.
Gore, O. J. R.
Goulburn, rt. hon. H.
Graham, rt. hn. Sir J.
Grey, rt. hon. Sir C.
Grey, rt. hon. Sir G.
Grimsditch, T.
Halford, H.
Hamilton, Lord C.

Handley, H.
Hardinge, rt. hn. Sir H.
Harland, W. C.
Herries, rt. hn. Sir C.
Hinde, J. H.
Hodgson, R.
Hope, hon. C.
Hoskins, K.
Howard, F. J.
Howard, hn. C. W. G.
Hughes, W. B.
Hurt, F.
Irton, S.
Irving, J.
Kemble, H.
Knatchbull, right. hon. Sir E.
Knight, H. G.
Litton, E.
Lockhart, A. M.
Lowther, hon. H. C.
Lygon, hon. Gen.
Mackenzie, Wm. F.
Mackinnon, W. A.
Mahon, Viscount
Marton, G.
Milnes, R. M.
Morpeth, Viscount
Morris, D.
Murray, A.
Needd, J.
O'Connell, D.
O'Connell, J.
O'Connell, M. J.
Ossulston, Lord
Packe, C. W.
Parker, M.
Peel, rt. hon. Sir R.
Perceval, Colonel
Pigot, R.
Planta, rt. hon. J.
Plumptre, J. P.
Ponsonby, hon. J.
Power, J.
Pringle, A.
Rawdon, Col. J. D.
Redington, T. N.
Rice, E. R.
Round, J.
Russell, Lord J.
Sanford, E. A.
Seymour, Lord
Shaw, right hon. F.
Sheppard, T.
Shirley, E. J.
Smith, R. V.
Somerset, Lord G.
Stanley, hon. J.
Stanley, Lord
Steuart, R.
Stuart, W. V.
Stock, Dr.
Strickland, Sir G.
Tancred, H. W.
Tufnel, H.
Turner, W.
Verney. Sir H.
Villiers, Viscount
Waddington, H. S.
Wilshere, W.
Winnington, Sir T. E.
Wood, Colonel
Yorke, hon. E. T.
Young, J.

TELLERS.
Talfourd, Mr. Serjeant
Inglis, Sir R. H.

List of the NOES.

Blake, W. J.
Duncombe, T.
Ellice, E.
Gisborne, T.
Greg, R. H.
Hollond, R.
Humphery, J.
Leader, J. T.
Lushington, C.
Muskett, G. A.
O'Brien, C.
O'Brien, W. S.
O'Connell, M.
Pattison, J.
Pechell, C.
Protheroe, E.
Pryme, G.
Salwey, Colonel
Stansfield, W. R. C.
Strutt, E.
Style, Sir C.
Thornely T.
Villiers, hon. C. P.
Wakley, T.
Walker, R.
Wall, C. B.
White, A.
Williams, W.
Wood, B.
Yates, J. A.

TELLERS.
Warburton, H.
Hume, J.

Leave given, the Bill brought in and read a first time.

POOR-LAW COMMISSION.] Lord *John Russell* rose, pursuant to notice, to move for leave to bring in a "Bill to continue the Poor-law Commission for a time to be limited, and for the further amendment of the Laws relating to the Poor in England." He did not feel it to be necessary to go into any general statement upon the present occasion, the House having formerly not merely sanctioned the principle of the measure, but passed, last Session, two other bills, in order to continue and extend its operation, the one to continue the Poor-law Commission till the close of the present Session of Parliament; the other embracing certain amendments, chiefly for the purpose of facilitating the measures of the commissioners, and extending the operation of the bill by enabling them without the consent of the guardians to unionize the parishes which were under what was called Gilbert's Act. Clauses very nearly to the same effect he proposed to introduce into the present bill. He proposed in the same bill to introduce clauses to continue the Poor-law Commission, and as they had exercised their powers most beneficially to the public, as the Goverment considered their services not only of essential benefit, but necessary to the continuance of the system, he proposed that their powers should be continued for ten years. With these observations only, he begged leave to move for leave to bring in "A Bill to continue the Poor-law Commission for ten years, and for the further amendment of the Laws relating to the Poor in England."

Mr. *Grimsditch* could not suffer that opportunity to pass without entering his protest against the unconstitutional character and tendencies of this bill. Its great principle was to govern by unions, and to place enormous powers in the hands of an irresposible and most objectionable body. When the measure was first introduced, it was distinctly stated by Lord Althorp, that the powers of the commissioners (which he admitted were of an unconstitutional character) were vested in them merely for a temporary purpose, and not only should not be continued beyond five years, but he understood the noble Lord to go the length of giving a pledge, that no attempt would ever be made to renew the commission. [Lord *John Russell:* No, no.] The noble Lord dissented; perhaps he knew better what Lord Althorp meant to say, and he was not disinclined to defer to anything which fell from the noble Lord upon that point. His opinion, however, was diametrically the reverse of the noble Lord's with