

## Erskine May, Vol. II, Chapter VII, pp. 39-53

### The House of Commons and the Printers, 1771

On the 8th February, 1771, Colonel George Onslow made a complaint of 'The Gazetteer and New Daily Advertiser,' printed for R. Thompson and of the 'Middlesex Journal,' printed by R. Wheble, 'as misrepresenting the speeches, and reflecting on several of the members [40] of this House.' The printers were ordered to attend,—but not without serious warnings and remonstrances from those who foresaw the entanglements, into which the House was likely to be drawn. They kept out of the way, and were ordered to be taken into custody. The Sergeant proceeded to execute the order, and was laughed at by their servants. Thus thwarted, the House addressed the king to issue a proclamation, offering a reward for their apprehension.

Meanwhile, the offences for which the House was pursuing Thompson and Wheble, were practised by several other printers; and on the 12th March, Colonel Onslow made a complaint against the printers of six other newspapers. The House had not yet succeeded in apprehending the first offenders, and now another host was arraigned before them. In some of these papers, the old disguises were retained. In the 'St. James's Chronicle' the speeches were entitled 'Debates of the representatives of Utopia;' Mr. Dyson was described as 'Jeremiah Weymouth, Esq., the d—n of this country,' and Mr. Constantine Phipps as 'Mr. Constantine Lincoln.'<sup>(1)</sup> None of the errors of Parliament have been committed, without the warnings and protests of some of its enlightened members; and this further onslaught upon the printers was vigorously resisted. The minority availed themselves of motions for adjournment, amendments, and [41] other parliamentary forms, well adapted for delay, until past four in the morning. During this discussion there were no less than twenty-three divisions,—an unprecedented number. 'Posterity,' said Burke, 'will bless the pertinaciousness of that day.'

All the six printers were ordered to attend at the bar; and on the day appointed, four of the number appeared, and a fifth,—Mr. Woodfall,—being already in the custody of the Black Rod, by order of the Lords, was prevented from attending. Two of them, Baldwin and Wright, were reprimanded on their knees and discharged; and Bladon, having made a very humble submission, was discharged without a reprimand. Evans, who had also attended the order of the House, went home before he was called in, in consequence, it was said, of an accident to his wife. He was ordered to attend on another day: but wrote a letter to the Speaker, in which he questioned the authority of the House, and declined to obey its order. Lastly, Miller did not attend, and was ordered into custody for his offence.

### The City Magistrates Intervene

On the 14th March, Wheble, who was still at large, addressed a letter to the Speaker, inclosing the opinion of counsel on his case, and declaring his determination 'to yield no obedience but to the laws of the land.' The next day, he was collusively apprehended by Carpenter, a printer,—by virtue of the proclamation,—and taken before Alderman Wilkes! This dexterous and cunning agitator had encouraged the printers to resist [42] the authority of the House, and had concerted measures for defying its jurisdiction, and insulting its officers. He immediately discharged the prisoner, and bound him over to prosecute Carpenter, for an assault and false imprisonment. He further wrote a letter to Lord Halifax, the Secretary of State, acquainting him that Wheble had been apprehended by a person who 'was neither a constable nor peace-officer of the city,' and for no legal offence, but merely in consequence of the proclamation,—'in direct violation of the rights of an Englishman, and of the chartered privileges of a

citizen of this metropolis,'—and that he had discharged him.

On the same day, Thompson was apprehended by another printer, and carried before Alderman Oliver at the Mansion House; but 'not being accused of having committed any crime,' was discharged. In both cases, the captors applied for a certificate that they had apprehended the prisoners, in order to obtain the rewards offered by the proclamation: but the collusion was too obvious, and the Treasury refused to pay them.

On the following day, a graver business arose. Hitherto the legality of apprehending persons under the proclamation, had alone been questioned; but now the authority of the House was directly contemned. In obedience to the Speaker's warrant for taking Miller into custody, Whittam, a messenger of the House, succeeded in apprehending him, in his shop. But Miller, instead [43] of submitting, sent for a constable,—accused the messenger of having assaulted him in his own house,—and gave him into custody. They were both taken to the Mansion House, and appeared before the Lord Mayor, Mr. Alderman Oliver, and Mr. Alderman Wilkes. Miller charged the messenger with an assault and false imprisonment. The messenger justified himself by the production of the Speaker's warrant; and the Deputy Sergeant-at-Arms claimed both the messenger and his prisoner. But the Lord Mayor inquired if the messenger was a peace-officer or constable, and if the warrant was backed by a city magistrate; and being answered in the negative, discharged Miller out of custody. The charge of the latter against the messenger was then proved; and Whittam, by direction of the Sergeant, having declined to give bail, was committed under a warrant, signed by the three magistrates. After his commitment, he was admitted to bail on his own application.

The artful contrivances of Wilkes were completely successful. The contumacious printers were still at large; and he had brought the city into open conflict with the House of Commons. The House was in a ferment. Many members who had resisted the prosecution of the printers, admitted that the privileges of the House had now been violated; but they were anxious to avert any further collision between the House,—already too much discredited by recent proceedings,—and the popular magistracy of the city. The Lord Mayor, Mr. Brass Crosby, being a member of the House, was first ordered to attend in [44] his place, on the following day; and afterwards Mr. Oliver, also a member, was ordered to attend in his place, and Mr. Wilkes at the bar, on other days.

### **The Lord Mayor and Aldermen Before the House**

At the appointed time, the Lord Mayor, though he had been confined for several days by the gout, obeyed the order of the House. His carriage was escorted by a prodigious crowd,—whose attendance had been invited by a handbill; and he was received with such acclamations in the lobby, that the Speaker desired it to be cleared of strangers. The Lord Mayor,—who was so ill as to be obliged to speak sitting,—justified himself by his oath of office, which bound him to protect the citizens in their rights and franchises. He stated that by the charters of the city, confirmed by Act of Parliament, no warrant, process, or attachment could be executed within the city but by its own magistrates, and that he should have been guilty of perjury, if he had not discharged the prisoner. He then desired to be heard by counsel, in support of the jurisdiction of the city. The Speaker intimated that the House could not hear counsel against its privileges; and while this matter was under discussion, the Lord Mayor, being too ill to remain in the House, was allowed to go home. It was at length decided to hear counsel on such points as did not controvert the privileges of the House; and the same right was afterwards conceded to Alderman Oliver. The scene was enlivened by Mr. Wilkes, [45] who having been ordered to attend at the bar, wrote to the Speaker, with his usual effrontery, claiming to attend in his place, as member for Middlesex.

So far the House had stood upon its unassailable privilege of commitment: but now it proceeded to a violation of the law, at once arbitrary and ridiculous. The clerk to the Lord

Mayor had been ordered to attend with the book containing the recognizance of Whittam the messenger; and on its production by that officer, he was ordered to expunge the entry at the table, which he accordingly did. While this scene was being enacted, most of the opposition members left the House, in order to mark their reprobation of an act, by which a record was effaced,—over which the House had no authority,—and the course of justice violently stayed. According to Lord Chatham, it was the 'act of a mob, and not of a Parliament.'

The House then ordered that no prosecution should be commenced against the messenger, for his pretended assault. He was nevertheless indicted; and a true bill being found against him, he was only saved by the Attorney-General, who entered a *nolle prosequi*.

Some delay ensued in the proceedings, in consequence of the continued indisposition of the Lord Mayor: but on the 25th March, he and Mr. Alderman Oliver attended in their places. They were accompanied to [46] the House by immense crowds, who cheered them on their way. Before their case was proceeded with, the order for the attendance of Alderman Wilkes, —the prime mover of all this mischief,—was discharged; the court and ministers being fairly afraid of another contest with so dangerous an antagonist. The Lord Mayor now declined being heard by counsel; and after the reading of the city charters, and the oaths of office, he briefly urged that he had acted in obedience to the laws and constitution, and appealed to the justice of the House. An endeavour was made to evade any further proceedings, by the previous question: but after an exciting debate, interrupted by the shouts and uproar of the crowd, by which the House was surrounded,—resolutions were agreed to, declaring that the privileges of the House had been violated. The Lord Mayor had been allowed to go home early in the evening when the crowd took the horses from his carriage, and bore him triumphantly to the Mansion House. Alderman Oliver being still in the House, was now called upon for his defence. In a few words he said that he gloried in what he had done; that he was unconcerned at the punishment intended for him, and which nothing he could say would avert; 'and as he expected little from their justice, he defied their power.' Motions were immediately made that he had been guilty of a breach of privilege, and should be committed to the Tower; and after a debate, protracted by earnest protests and [47] remonstrances against this proceeding, till half-past three in the morning, an order for his commitment was agreed to.(2)

At the next sitting of the House, the Lord Mayor attended in his place. Again he was accompanied by a crowd, larger and more tumultuous than before. The members with difficulty made their way through Palace Yard and Westminster Hall. Lord North's carriage was broken to pieces, and he himself escaped,—not without injury,—with the assistance of Sir W. Meredith. Mr. Charles Fox,—a violent champion of privilege,—and his brother Stephen, had their carriages injured; and several members were insulted and pelted with stones and mud. For some time, the House was unable to proceed to business. The magistrates tried in vain to disperse or tranquillise the mob: but the Sheriffs,—who both happened to be members,—being sent by the Speaker, at length succeeded in restoring order. In consideration of the Lord Mayor's state of health, it was at first proposed merely to commit him to the custody of the Sergeant-at-Arms: but as he boldly declined to accept this favour from the House, and desired to bear his friend Oliver company, he was committed to the Tower. Meanwhile Wilkes, the chief offender, was still at large. He had been again ordered to attend on the 8th April: but ministers discreetly moved the adjournment for the Easter Holidays until the 9th; [48] and thus the dreaded culprit was eluded. This subterfuge may have been prudent: but it was not magnanimous.

### **The Lord Mayor in the Tower**

The authority of the House of Commons had clearly been defied; and however ill-advised the proceedings which had led to the contest with the city magistrates, the House could scarcely

have flinched from the vindication of its privileges.(3) But Parliament has no means of punishing a popular offender. The Lord Mayor, on leaving the House, accompanied by the Sergeant-at-Arms, was surrounded by the crowd, who took the horses from his carriage, and bore him to Temple Bar. Here they shut the city gates, and would have rescued him from custody, but for the adroitness of the Lord Mayor, who assured them he was going home, accompanied by his friends. He slept that night at the Mansion House, and early the following morning reached the Tower, without observation. Here the prisoners received every mark of public attention and sympathy. Visited by the most distinguished leaders of the opposition,—attended by deputations,—flattered in addresses,—complimented by the [49] freedom of many cities,—and overloaded with presents,—their imprisonment, instead of being a punishment, was a long-continued ovation. They failed to obtain their release under writs of habeas corpus, as the legality of their commitment could not be impeached: but on the 8th May, after six weeks' confinement, the prorogation of Parliament set them at liberty. Attended by a triumphal procession, they proceeded from the Tower to the Mansion House; and the people exulted at the liberation of their popular magistrates.

### **Victory of the Reporters**

Thus ended this painful and embarrassing conflict. Its results were decisive. The publication of debates was still asserted to be a breach of privilege: but the offence was committed with impunity. Another contest with the press, supported by a powerful opposition and popular sympathies, was out of the question; and henceforth the proceedings of both Houses were freely reported. Parliament as well as the public has since profited by every facility which has been afforded to reporting. The suppression of the names of the speakers, and the adoption of fictitious designations, had encouraged reporters to introduce other fictions into their narratives; and to impute arguments and language, which had never been used, to characters of their own creation.

But reporters were still beset with too many difficulties, to be able to collect accurate accounts of the debates. Prohibited from [50] taking notes, they were obliged to write mainly from memory. If notes were taken at all, they were written surreptitiously, and in fear of the Sergeant-at-Arms. Nor was this the only impediment to reporting. The accommodation for strangers was very limited; and as no places were reserved for reporters, they were obliged to wait upon the stairs,—sometimes for hours,—before the doors were opened, in order to secure admission. Under such restraints, imperfections in the reports were to be expected. However faithfully the substance of the debates may have been rendered, it is not conceivable that the language of the speakers could have been preserved. It had probably been no vain boast of Dr. Johnson, when, to a company lost in admiration at one of Mr. Pitt's most eloquent speeches, he exclaimed, 'That speech I wrote in a garret, in Exeter Street.'<sup>(4)</sup> And long after his time, much was left to the memory or invention of reporters.

Nor were any further facilities conceded to the press, after the struggle of 1771. Lord Malmesbury, speaking of Mr. Pitt's speech, 23rd May, 1803, on the renewal of hostilities with France, said: 'By a new arrangement of the Speaker's, strangers were excluded till so late an hour, that the newspaper printers could not get in, and of course, no part of [51] Pitt's speech can be printed.' A sketch of this speech, however, has been preserved: but the whole debate was very imperfectly reported. Even so late as 1807, it was noticed in the House of Lords, that a person was taking notes in the gallery.

### **Continued Exclusion of Strangers**

Another interruption to which reporting was still exposed, was the frequent and capricious exclusion of strangers, at the desire of a single member. During the discussions upon the American War in 1775 and 1776, the galleries were repeatedly closed.<sup>(5)</sup> On the 29th

January, 1778, seven years after the contest with the printers, Colonel Luttrell complained of misrepresentation in a newspaper; and said he should move the exclusion of strangers, in order to prevent the recurrence of such a practice: upon which Mr. Fox made this remarkable observation: 'He was convinced the true and only method of preventing misrepresentation was by throwing open the gallery, and making the debates and decisions of the House as public as possible. There was less danger of misrepresentation [52] in a full company than a thin one, as there would be a greater number of persons to give evidence against the misrepresentation.'(6)

In 1798, the debate on Mr. Sheridan's motion for a committee on the state of Ireland, was lost to the public, by the exclusion of strangers. The Lords also discussed the same important subject with closed doors. In 1810, Mr. Yorke enforced the exclusion of strangers during the inquiries, at the bar, into the expedition to the Scheldt; when Mr. Sheridan vainly attempted to obtain a modification of the rule, which vested in a single member the power of excluding the public. And on several later occasions, the reports of the debates in both houses have been interrupted from the same cause.(7)

But when the fear of punishment was abated, the reports became more systematic; and were improved in character and copiousness. There were still [53] delays, and other shortcomings: but mainly by the enterprise and ability of Almon, Woodfall, and Perry, the system of reporting and printing the debates gradually attained its present marvellous rapidity and completeness. And what a revolution has it accomplished!

#### Footnotes.

1. One represented Weymouth, and the other Lincoln.
2. He was allowed to sleep at his house that night, and early the next morning the Sergeant took him to the Tower. (*Gentleman's Mag.*, cited in *Parl. Hist.*, xvii. 155, n.)
3. Lord Chatham condemned all the parties to this contest. 'Nothing appears to me more distinct than declaring their right to jurisdiction, with regard to printers of their proceedings, and debates, and punishing their member, and in him his constituents, for what he has done in discharge of his oath and conscience as a magistrate.' Lord Chatham to Colonel Barré, March 26th, 1771.—*Chatham Corresp.*, iv. 136. Again, writing to Earl Temple, April 17th, 1771, he said, 'Great is the absurdity of the city in putting the quarrel on the exercise of the most tenable privilege the House is possessed of,—a right to summon before them printers printing their debates during the session. Incomparable is the wrong-headedness and folly of the Court, ignorant how to be twenty-four hours on good ground; for they have most ingeniously contrived to be guilty of the rankest tyranny, in every step taken to assert the right.'—*Grenville Papers*, iv. 533. See also Junius, Letter xlv.
4. Sir J Hawkins' *Life of Dr. Johnson*. The editor of Cobbett's *Parliamentary History* bears testimony to the general accuracy of Dr. Johnson's reports, and discredits the statements of Sir John Hawkins and others, who had regarded them as the works of his own imagination; but there can be little doubt that the language of the composition was often that of the reporter.—*Prefs.* to vols. xi. and xii.
5. In the debate on the budget, 24th April, 1776, Governor Johnstone observed that 'it was a little extraordinary that the gallery should be open on that day and shut up upon almost every other since the commencement of the session, on which matters of importance came under discussion.' *Parl. Hist.*, xviii. 1322. Mr. Fox said: 'As strangers were admitted here for one day, it was necessary for him to repeat what he had often urged.'—*Ibid.*, 1325. The Speaker said: 'An hon. gentleman had, at an early period of the session, desired the standing order to be read, and he had ever since punctiliously kept to it.'—*Ibid.*, 1327. See also *Walpole's Journ.*, ii. 194.
6. *Parl. Hist.*, xix. 647. A few days afterwards, strangers were ordered to withdraw. This order was enforced against the gentlemen; but the ladies, who were present in unusual

numbers, were permitted to remain. Governor Johnstone, however, remonstrated upon the indulgence shown to them, and they were also directed to withdraw. But they showed no disposition to obey this ungracious order, and business was interrupted for nearly two hours, before their exclusion was accomplished. Among the number were the Duchess of Devonshire and Lady Norton. The contumacy of the ladies on this occasion unhappily led to the withdrawal of the privilege, which they had long enjoyed, of being present at the debates of the House of Commons. Feb. 2nd, 1778. London Chronicle, cited in note to Parl. Hist., vol. xix. p. 673. Hatsell, Prec., ii. 181, n. See also Grey's Deb., iii. 222. Parl. Hist., xix. 674, n.

7. E.g., 4th and 5th March, 1813, during debate concerning the Princess of Wales. Lord Colchester's Diary, ii. 430. In 1849, the doors of the House of Commons were closed against strangers for nearly two hours; and no report of the debate during that time was published. In 1870, strangers were twice excluded.

[Next](#)

[Contents](#)

[Previous](#)