

THE
QUEEN OF ENGLAND'S
Claim to be Crowned,
&c. &c.

THE
QUEEN OF ENGLAND

Claim to the Crown

by

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THE
CLAIMS OF HER MAJESTY,

CAROLINE AMELIA ELIZABETH,

Queen of England,

TO BE CROWNED

WITH HER ROYAL HUSBAND

KING GEORGE IV.



Her Majesty's Memorial to the King in Council—The ELOQUENT and ARGUMENTATIVE APPEALS of her Majesty's Attorney and Solicitor-General to the Privy Council, embracing a

LEGAL AND HISTORICAL REVIEW

Of the CORONATION OF QUEENS-CONSORT OF ENGLAND, from the remotest period of English History to the present time.—Also, the Speeches of his Majesty's Attorney and Solicitor-General in Reply—The Report of the Privy Council to the King—The Decision—and

HER MAJESTY'S REPLY.

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The Queen's Right to be Crowned, &c.



WHITEHALL, THURSDAY, JULY 5th, 1821.

AT ten o'clock this morning the Privy Council met at White hall, to hear her Majesty's Counsel in support of the Queen's legal right to be crowned with the King at the approaching solemnity of the Coronation. There were at the Council table—

Their Royal Highnesses the Dukes of York and Clarence; and within the railing the Lord Chancellor, the Earl of Harrowby, the Earl of Westmorland, the Earl of Liverpool, the Marquis of Londonderry, Earl Bathurst, Lord Sidmouth, the Duke of Wellington, the Earl of Lauderdale, the Marquis of Cholmondeley, the Marquis of Hertford, the Duke of Montrose, Mr. B. Bathurst, Mr. Wellesley Pole, Mr. Peel, the Lord Chief-Justice Abbott, the Chief Baron, Chief Justice Dallas, and the Master of the Rolls; and Sirs Wm. Scott and John Nicholl, the Earl of Donoughmore, Lord Melville, Lord Amherst, Lord Binning, Lord Teignmouth, Lord Yarmouth, Mr. Robinson, Mr. Wallace, Mr. Tierney, Mr. Beckett, Mr. Arbuthnot, Mr. Huskisson, and many other official characters were present. At the end of the table stood Mr. Brougham and Mr. Denman, her Majesty's Attorney and Solicitor-Generals, and Dr. Lushington. Mr. Wilde and Mr. Williams were also in attendance. The King's Attorney and Solicitor-Generals sat near the Lord Chancellor, at the opposite end of the table.

The Clerk of the Council proceeded to read the three Memorials transmitted by her Majesty to the King, and to the King in Council, asserting her legal right to participate in the honours of the Coronation, and praying that the necessary arrangements for that purpose shall be taken and communicated to her Majesty.

The following is the principal Memorial addressed to the King in Council:—

“ TO THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL ASSEMBLED.

“ The Memorial of her Majesty the Queen,

“ Showeth, that your Majesty has, by your Royal Proclamation, bearing date at Carlton-House, the 9th day of June instant, declared your Royal will and pleasure to celebrate the solemnity of your Royal Coronation upon Thursday, the 19th day of July next, at your Palace, at Westminster; but that directions have not been given for the Coronation of the Queen, as hath heretofore been accustomed on the like occasions.

“ That divers of your Majesty's subjects, by ancient customs and usages of these realms, as also in regard of divers tenures of sundry manors, lands, and other hereditaments, do claim, and are bound to do and perform divers services on the day and at the time of the Coronation of the Queen-Consort of these realms, as in times precedent of their ancestors, and as those from whom they claim, have done and performed at the Coronation of the Queen-Consort in times past.

“ That the Queen most dutifully claims, as of right, to celebrate the ceremony of her Royal Coronation; and to preserve, as well her Majesty's said

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right, as the aforesaid lawful rights and inheritances of others of your Majesty's subjects.

"The Queen respectfully prays, that your Majesty will be graciously pleased forthwith to issue your Royal Proclamation, thereby to appoint the same 19th day of July next, at Westminster aforesaid, to celebrate the ceremony of her Coronation as Queen-Consort, and to direct that all such as by the said customs and usages and tenures are bound to do and perform the services aforesaid, do duly give their attendances accordingly at the said day and time of the Coronation aforesaid, in all respects furnished as to so great a solemnity appertaineth, and answerable to the dignities and places which every one of them holdeth and enjoyeth; and further, that your Majesty will be graciously pleased to issue your Royal Commission under your Great Seal, appointing Commissioners to receive, hear, and determine, the petitions and claims which shall be made to them in this behalf.

"And the Queen, as in duty bound, shall ever pray."

The Clerk also read the order of the Council, that her Majesty should be heard by Counsel in obedience to the prayer of one of her memorials, at 10 o'clock on that morning.

MR. BROUGHAM rose to state her Majesty's claim. He observed, that he had a communication to make at the outset, to which he claimed their Lordships' attention. No man was more anxious than himself to obey her Majesty's commands in facilitating, with the least possible delay, the adjudication of the Privy Council upon the nature of the right which the Queen legally claimed. But he had a very short time since heard that there was an ancient book deposited in the care of the Dean and Chapter of Westminster, called the "*Liber Regalis*," and which was a written formula of the ceremonies to be observed at the Coronation of a Sovereign. It was in fact the book in virtue of the records in which the Dean and Chapter were always admitted "to *instruct*" the King, and if the Queen shall be found, to instruct her also, as to the parts of the ceremony which they are to observe during the solemnity. Her Majesty's Counsel had lost no time in applying for permission to examine this ancient record; but he regretted to say, that their application was not attended with that courteous facility of access which they had to acknowledge in other quarters of reference, that it became necessary for them to make in behalf of her Majesty during their research. The Dean and Chapter replied to the application of her Majesty's Counsel to see the *Liber Regalis*, that they would not grant the request without sufficient authority or legal sanction. In answer to a second application for the purpose of knowing what they would consider as sufficient authority, they replied, that the authority they required was "the highest authority." Application was again made to them to know what they considered to be the highest authority, and the reply was, "either the Crown or a Court of Law." Application was then made to some of the Members of the Privy Council, but no conclusive answer being returned, and the process by *mandamus* in a Court of Law being necessarily tedious, and liable to stand over until the last day of term, he had now to apply to the Council, either that their Lordships would use the

influence of their authority to obtain the book, or that they would allow her Majesty's claim to stand over until the process of law should obtain the desired object. His opinion was, that the Privy Council, if they were pleased to exercise it, had the authority to order the production of this book; for, on the 25th of February, 1684, they ordered the Lord Keeper and other Commissioners of Records to produce them before the Council, relating to the Coronation of James II.

The LORD CHANCELLOR said, that the book might be sent for, but it was for the Learned Counsel to endeavour to make out his right, so far as he could do so, from such other sources as he had examined, and to show that the *Liber Regalis* contained matter essential to his purpose.

Mr. BROUGHAM said, that he had in the Cotton Manuscripts seen collections stated to have been extracted from the book, and from them he assumed the book itself to be material for his purpose.

The EARL of HARROWBY said, that they should send to the Dean and Chapter, and Mr. Brougham might go on in the mean time, subject to a future reference of his extracts with the original, if he deemed it necessary to refer to them in his argument before the arrival of the book from the Dean and Chapter.

Mr. BROUGHAM then commenced by observing that the duty which devolved upon him, as one of her Majesty's Counsel, was to argue the question whether the Queen-Consort of these realms, as a matter of right, ought to be crowned. That the King had the right of being crowned was a proposition which he thought he should have no difficulty of supporting; and that the Queen enjoyed the same right, he thought he could establish upon exactly the same legal ground. The ground upon which he mainly relied, was a uniform, uninterrupted practice, in the sense in which he thought he should be permitted to use and avail himself of these terms in a court of justice, and in which he should be justified in establishing out of them the legal existence of any private right. That some interruptions had arisen in this uniform practice he was prepared to admit and explain, for they were such as did not affect the uninterrupted right; but, in the mode in which he had to account for them, rather sanctioned and confirmed it. There would be two propositions which he entreated their Lordships to bear in mind while he went through his narrative of historical facts. The first was the uniform exercise of the right; namely, that no King had ever been crowned, being married at the time of his coronation, without the Queen-Consort herself partaking with the King in the solemnity of the Coronation; and, secondly, that there never was a Queen-Consort in England who had not partaken of the ceremony of the Coronation: but in making these two propositions, he begged of course to be understood as using

them subject to the usual qualifications of general propositions ; which were—being bound to show that where any interruptions had existed, they did not compromise the general right. With interruptions as to the first proposition he had but one to contend, which was capable of easy solution. As to the second, he could easily and satisfactorily explain whatever exceptions had arisen, for they were few, and tended to confirm the right of the Queen-Consort. He would now call the attention of their Lordships to the series of precedents he had to quote from former reigns in support of the uniform right. It was said that the time of Richard the First was the point to which it might be sufficient to trace the precedents, as before that they were vague and undefined ; but he was prepared not to content himself with only beginning at Richard the First—for he had authentic materials to show the uniform practice which he affirmed, through the whole range of English history. It was said that there was some doubt whether, in point of fact, Queens had been crowned in the early period of Saxon history, but there could be none in the later Saxon times, as he was prepared to show. He did not mean to carry their Lordships into the early ages of Kings, when the right was settled on the field of battle, and the ceremony of crowning alone consisted of the crown being held over the head of the Sovereign, and the right acknowledged by the assenting shouts of the conquering army in the field. If that were to be termed the origin of the ceremony of the Coronation, then indeed it was clear, from the nature of the circumstances, that a Queen could not partake in the ceremony ; but there was no reason whatever for doubting, that when a more settled order of things prevailed, the Saxon Queens, as well as the Kings, alike partook of the solemnity. He inferred the right of Queens to participate in the solemnity so early as the Saxon times, from the circumstance of a law being passed, in the year 784, excluding Queen Adelbriga from the ceremony of being crowned Queen of the West Saxons, because she had murdered her husband. According to Spelman, Seldon, and Speed, this act was severely exercised, and considered at the time as a severe punishment to Adelbriga for her atrocious act. The law was recorded by the antiquarians who reviewed the early periods of history as being a deviation from the ordinary course, and an alteration alone justified by the murder attributed to the Queen. On reference to the Saxon Chronicles, it would be found, that Judith, wife of Athelwolf, King of the West Saxons, in the year 856, according to the 6th chapter of Seldon, was crowned at Rheims, and subsequently in England, in the words of the record “ like other Queens,” assuming therefore the Coronation of the Queen to be as a matter of course, and she was crowned in the same place and manner as the King. That this was the case, and that it was uniform practice, was, he thought, quite clear from the whole of the facts and reasoning in Seldon’s

chapter "of honours," which was a general review of those appertaining to the Coronations which had been solemnized in the preceding six centuries; and when their Lordships considered that Seldon wrote in the year 1670, his authorities, as laid open in his book, comprised a period which went back to about the Norman Conquest. There was an ancient collection, embracing a Coronation formula, it was called—" *Ordo Coronationis Ethelridi Secundi*;" but what followed was more to his present purpose—" *Finit consecratio Regis. Quam sequitur consecratio Reginæ, que propter honorificentiam ab episcopo sacri unguinis oleo super verticem perfundenda est et in ecclesia coram optimatibus cum condigno honore et regia celsitudine in regalis thori consortium benedicenda et consecranda est, que etiam anulo pro integritate fidei, et corona pro æternitatis gloria decoranda est.*" The words he had quoted showed the ceremonial for the Queen, formally promulgated at so early a period as that to which he had referred. It was an authentic order from competent authority. Such was the solemnity as described in an ancient and venerable order of ceremonial, enjoining attention for the Queen's Coronation, in the same manner, and from all persons, which was usual for the King's. In his opinion it established the fact, that the two ceremonials were linked together and conjoined; that the Coronation of the Queen-Consort with her husband the King, was quite a matter of course. Then again as to the practice of Monarchs when the Coronation took place in France; the only difference was as to place, the King's taking place at Rheims, and the Queen's, he believed, at Nantes; but he was not certain of the place for the latter. Having referred to the Saxon Chronicles, he should come at once to the Norman line. He believed that it appeared that William the Conqueror was married to Matilda 11 years before the Conquest. She did not come over to England with William, who was crowned in 1066; her Coronation did not take place until 1068; the difference as to time was capable of easy solution. William was at first greatly occupied with the agitated state of public affairs, and the troubled state of the country which he could then have hardly been considered to have conquered; he brought his Queen over, however, in 1068, and she was then immediately crowned. In this, as in other instances prior to the time of Henry III., it would be found that when, owing to circumstances easy of explanation, the Queen was crowned subsequent to the King having undergone that ceremony, he was again crowned with her: the prevailing practice was certainly so; but he admitted that there were numerous cases in which the Queen was crowned by herself. William Rufus was crowned immediately on his election to the throne: he (Mr. Brougham) called it his election, for he and the next two Kings of the Norman line ascended the throne rather by election than by any claim found-

ed upon hereditary right ; for, according to William of Malmsbury, they were, in point of fact, elected by a Council of Nobles, and crowned about 11 days after. Henry I. was crowned four days after William's death, namely, on the 5th August, 1100 ; he was then unmarried : on the 11th Nov. of that year he married Matilda, and she was crowned in the Martinmas of that year, probably on the very day of the marriage. The King afterwards married Alice, of Louvain, and she was crowned on the 30th January, 1100, immediately upon her marriage. On the election of Stephen, in 1135, he was crowned, when he swore to maintain the privileges and rights of the Nobles and Clergy, both of which classes in their turn gave him a conditional oath of allegiance to support him so long as he supported them in their possessions. Stephen's Queen was crowned on the 22d March, 1136. Henry II. was crowned Dec. 19, 1154, but there was some doubt as to the time of the Coronation of his Queen Eleanor. According to Jervis, of Canterbury, she was crowned with him ; but, according to others, she was crowned in 1155, and 1177. Henry II. was in fact crowned twice, some said three times ; the first time he was unmarried. A very remarkable circumstance occurred during the reign of that Prince : the solemnity of crowning his eldest son took place in his (the father's) life-time ; the Prince (or King, as he was sometimes called, from the fact of his Coronation in his father's life-time) was married to a daughter of Louis of France, and she was not crowned although her husband was. The novelty of that omission of what was considered a uniform ceremony, led to a complaint and remonstrance to the King of England, and the result was, that he had recourse for redress to the usual process of Kings—to arms, and a declaration of war ; and in front of his reasons for taking that step, the French King placed the omission to crown his daughter with her husband. So that here came an interruption to what he (Mr. Brougham) contended was a long and uninterrupted enjoyment on the part of the Queen-Consort of the ceremony of the Coronation, with or after the Kings had undergone that solemnity—an interruption not acquiesced in by the Queen or her family, but formally and solemnly complained of ; and Henry was at length obliged to submit, for he went over to France and entered into some compromise with Louis to avert hostilities, and the daughter of the French King was solemnly crowned at Winchester by Bishops and other venerable and distinguished authorities, who were sent over from France to perform the ceremony of her Coronation with suitable splendour. There was a difference among the chroniclers as to the fact of the King being crowned again with her at Winchester ; some asserted that he was ; others that he was not. Richard I. had been twice crowned ; it would be in vain to search for a record of his first wife's Coronation, for although he espoused Alice, he never completed the marriage ;

and he afterwards married again: and neither Alice nor the second wife ever at all came to England: no wife of Richard's was therefore ever within the four seas. When Richard married into the Sicilian family, his then Queen was crowned in the island of Cyprus, where he married her. So that in every view of the ceremony, the marriage of the Monarch appeared to bring after it, as a necessary consequence, the Coronation of the Queen, unless where reasons of accident interposed, not at all affecting the general right. King John succeeded Richard, and was known to have had two wives. He was crowned by himself on the 27th of March, 1199; and his Queen Isabella was crowned alone, October 3, 1200. John also married Arvisa, of Gloucester, from whom, however, he was divorced. He (Mr. Brougham) could no where find that she had not been crowned; and here he must observe, that where the uniform and undeviating course was that a Queen was to be crowned, historians and chroniclers were less likely to set down the fact that she was crowned, than that she was not, and he took it for granted that this Queen had been crowned, as he could trace no record to the contrary: but suppose his (Mr. Brougham's) opponent contended she were not—and here he must remark, that one of his difficulties in putting his argument, was in not knowing who was to be his opponent, with whom he was contending, or whether he was to be replied to;—but supposing he was to have an opponent who should contend that Arvisa was not crowned, then he should say, that even admitting such to be the case, it could be satisfactorily accounted for without affecting his general proposition. Arvisa was Duchess of Normandy, she was left there when John departed for England; he was crowned on the 27th of May, in London, in the year 1199; he left Normandy pretty much as William did—all around him was in a troubled and unquiet state: in little more than three weeks after his own Coronation he had to hasten back to Normandy, where he was smitten with Isabella. That passion, no doubt, hurried his steps to divorce Arvisa, which, however, it was said he had previously contemplated, before this passion had come upon him. Indeed, at the time of Arvisa's marriage, the Archbishop who performed the ceremony protested against the match on account of her consanguinity to the King: he said they were too near in blood, and therefore the contract was dissoluble by the cannon law. The divorce of Arvisa was, in fact, going on during the time which intervened between the King's Coronation and the marriage with Isabella. Arvisa never in the interim came to England: so that her whole case furnished a conclusive reason why she had not enjoyed the Coronation. Down to John, then, there were eight Coronations of Queens without the Kings being crowned at the same time, and eight with them; in short, eight solemnities on account of the King's Royal Person, including Rufus, who was unmarried. There

was the same number, the very same number eight, on account of Queens, and by no means as a mere pageant for the Kings: they were exclusively and entirely on account of Queens, and they occurred uninterruptedly down to Henry III., who was crowned in the year 1216; he was then unmarried; he was afterwards married to Eleanor, of Provence, on the 14th January, 1236, and she was crowned alone six days after, namely, on the 20th January, the King attending in person to grace the solemnity of the scene. Matthew Paris described the whole ceremony—the carrying of the sword of Edward the Confessor, the Earl bearing it as Marshal of the Palace, with the right of restraining the King if “he acted amiss.” The red book in the Exchequer was also curiously minute upon the ceremony. Edwards I. and II. were both crowned with their Queens—the first on the 19th August, 1274, with Eleanor, and the second with Isabella, on the 25th February, 1308. No observations arose upon either of these ceremonies. Edward III. came to the throne January 26, 1326; he afterwards married Philippa on the 24th January, 1327, and she was crowned alone in the April of the same year, and a proclamation was still extant, ordering the usual solemnities to be observed on that occasion as upon the King’s Coronation.

The EARL of HARROWBY then addressed Mr. Brougham, and said, that as he had come to a point, he wished to inform him that the book from the Dean and Chapter of Westminster was now in the Council-room, if he wished to refer to it.

The Dean had brought a book and a missal—which were deposited with the Council.

Mr. BROUGHAM thanked his Lordship for the information, but said that he should at present prefer pursuing his line of historic narrative, and that he should by and by avail himself of their Lordships’ kind permission to refer to the “*Liber Regalis*”. He then referred to a proclamation issued by the Barons of the Cinque Ports, for the attendance of their assistants or bearers at the Coronation of Philippa, and which was exactly the same as that observed at the solemnity for crowning the King; the same services were alike in that proclamation prescribed, and the same conditions made to depend upon their performance. He now came to the time of Richard II., who was crowned on the 16th July, 1377. Richard married his Queen Anne on the 14th January, 1382, and on the 22d of the same month she was crowned. He afterwards married Isabella, in the year 1397; and according to the close roll in the Tower, she was crowned alone with the usual solemnity and pomp, the Sheriffs of London having been enjoined to make the usual proclamation and summons as at the Coronation of the Kings, enjoining the attendance of all those who, by virtue of their places, privileges, or tenures, were under a condition to present themselves at such a ceremony. The King in that Coronation bearing no part, it was

like the others, the Queen's Coronation as of ancient right. There was another curious document, bearing date about the period of which he was now speaking, prescribing the duties of persons required to attend the Coronation, either the particular one of Isabella, to which he referred, or the general formula of Coronation ceremonies, he knew not which. It was in the Cotton collection, and contained the instructions to the keeper of the wardrobe, to take care and get ready the Queen's robes "for her Coronation." The next King's reign to which he should call their Lordships' attention was that of Henry IV.—Henry was crowned in 1377, afterwards in 1399, and his Queen in 1403, soon after her marriage. Henry V. came to the throne in 1413; he was crowned in the same year, and eight years after, in 1421, he came over from France to attend the Coronation of his Queen Catherine, who was in that year crowned alone. The close roll at the Tower contained the summonses for the performance of services upon that occasion. Henry VI. was upon his accession an infant only a few months old; he was not crowned until 1429; he was a second time crowned in 1431, and again in 1445, on May the 30th, when he was married to Margarete, who was herself crowned with the usual pomp and ceremony. He should now, in further support of the uniformity of the practice of the Coronation of Queens, refer to the law of Scotland, about the period of history at which he was passing. The Scottish documents upon the subject, were by no means as perfect upon matters of ceremony as other records of antiquity elsewhere, but they contained enough to establish the fact, that no King of Scotland who was married at the time of his Coronation, was ever crowned without his Consort; or, where the marriage took place afterwards, was there an instance in which a Scottish Queen was not crowned as soon as possible after she became Queen. He stated this proposition upon the broadest possible ground, and he had also to adduce a remarkable circumstance, which was, that in the Scottish statute law there was a record having reference to the Coronation rights of the Queen-Consort of Scotland. He held in his hand a small book, yet, small as it was, it contained a digest of the statute law of Scotland for a period of 200 years. It was a compilation made five years after the return of James I. and contained words, not only binding upon him, but also his successors, at all times. Now he claimed the privilege of using this digest of the Scottish statute law, as a precedent since the union of the two kingdoms, upon the authority of an Act of one of the Houses of Parliament in England; for the House of Commons, by its Committee, in the year 1788, upon the first regency question, did direct a search for precedents to be made in the Scottish records, and they did report upon their (the Scottish) authority, as well as upon the English precedents—they held them alike illustrative. The Learned Counsel then

referred to the Act 1428 in the Scottish statutes, c. 109, passed in the eighth Parliament of James I. and read the following "aith to be made to the Queen, be the Clergie and the Bar-ronnes :

"*Quo die Dominus Rex, ex deliberatione et concensu totius concilii, statuit, quod omnes et singuli successores prelatorum regni quorumcunque, necnon omnes singuli hæredes futuri comitum, baronum, omniumque libere-tenentium Domini Regis : teneantur facere consimile juramentum Dominae nostræ Reginae. Nec ultus prælatus de cetero admittatur ad suam temporalitatem, aut hæres cujusvis tenentis Domini Regis ad suas tenendrias, nisi prius præstet Reginae illud juramentum.*"

He contended, that from this authority of the Scottish statutes, his case respecting the rights of a Queen-Consort, so far as the Coronation ceremony was concerned, was rendered irresistibly strong. Coming from the precedents of the Scottish law to the period of English History, at which he had broken off, he had to call their Lordships' attention to the time of Edward IV. That King was crowned in the year 1461, he being then unmarried ; in 1465 he married his Queen, Elizabeth Woodville, or Grey, as she had been called, and he was again crowned with her in the year 1465 : the "*ordo coronationis Edwardi Quarti*" was to be found in the Cotton manuscripts, as well also as that "*reginae*"—the words were, "*pro unctione reginae.*" The whole form for the Queen was separately and distinctly laid down as one to be observed independently of the King's, but with equal form, &c. This brought him to the time of Richard III., and Queen Anne his Consort ; and they were crowned together in the year 1483 : then followed Henry VII. upon which period more than one observation arose with which he should have to trouble their Lordships. It was well known that he came to the throne with three titles—they were those of marriage, conquest, and descent ; nevertheless, he (the King), always considered the last as his principal and best right, and was disposed to consider the others as but auxiliaries to it. In the language of Bacon, the historian of Henry's times, "he (still speaking of Henry) placed his descent as his main shield, and marriage and conquest as only supporters to it." The King himself thought so, his adherents thought so, and the country at large, the best authority, perhaps, upon such occasions, acquiesced and concurred in that opinion. The King *de facto* was then acknowledged as King *de jure* by all the constituted authorities, and his claim had the united assent of the York and Lancaster factions. He was crowned, however, before the Act of Parliament, and immediately after the battle of Bosworth-field. He called the Parliament which sat a few days after his accession, and the act recognizing him was the consequence: that Act entailed the Crown upon the heirs of his body generally—no mention was

made of those of the Princess Anne; she still remained Princess, and it was a matter of doubt at the time whether she would ever become Queen. He had, it was true, intrusted her with the obligation of an oath that he should marry her, but it was an oath to which, speaking not morally, his policy ran rather counter; he did, however, at length marry her on the 18th June, 1486. He had himself been crowned in the previous year: a very remarkable delay then took place, the daughter of Edward IV. had now become Henry VIIIth's wife; she was always treated as Queen-Consort, and notwithstanding the delay, the most scrupulous forms were observed in the arrangements for the Coronation of that Queen. Bacon, in his history, alluded to the triumph which attended her Coronation in the minds of her party of that day, which the King, to use the words of Bacon, "rather noted than liked." In fact, he put off her Coronation, according to the same historian, until it was no longer safe for him, on account of popular resentment, to withhold that ceremony to which she was considered as having a solemn right. Margaret of Burgundy, who married the Duke of Burgundy, had used most remarkable expressions touching the delay in the Coronation of Henry's Queen. She said, that it was seen not without great trouble, that an universal delay had taken place in the ceremony of crowning that Queen—an honour, she remarked, of which "no Queen of England had been ever debarred since the Conquest." And she added, "that the time had come, when, at the birth of her son, every body hoped the King would do her that justice." Margaret of Burgundy was no bad authority in those times: she had been engaged in educating the royal children, she was an acute and observing woman, and had studied and contemplated much; she must, from her character, have been well versed in the history and usage of the rights of a Queen, and she, speaking at the time when the historic incidents were comparatively fresh, declared that no Queen since the Conquest had been so treated. Alluding to the delay in that Coronation, Bacon said, it came at last "like an old christening, that stood waiting long till a godfather was found:" he added, "that every man noted it was done at last against the Monarch's heart." Yet, notwithstanding that aversion of the King to do her justice, and when it must be supposed he would yield nothing of ceremony that could be withheld, there were extant for the Queen's Coronation, the same Lord Steward's and Herald's proclamations, and other documents, in Rymer, 3d of Henry VII., 1487, which were issued and observed at the King's own Coronation. He here entreated their Lordships to pause and consider the historical facts which he had already laid before them. Up to the period of Henry VII. there had been from the Conquest 19 Kings crowned, 18 of whom had been married either before or after their respective Coronations. He had also shown them, that of the Queens who were married to

these Kings, 18 had been crowned. The ceremonies, therefore, were alike and uniform, within that long period, for the Coronations of Queens as well as Kings, and as a formal and distinct ceremony where the Coronations were not coeval, the parties being married at the time of the King's ascension to the throne. This brought him down to the time of Henry VIII. That King was crowned with his first wife, Katherine; and upon his divorce from her, and his subsequent marriage with Anne Boleyn, she was crowned by herself subsequently. Thus far, even the reign of Henry VIII. furnished no exception to the general rule for which he mainly contended—that whatever King reigned, his Consort was either crowned with him, or by herself separately, if her marriage was subsequent to his ascension to the throne. The day after the death of Anne Boleyn, Henry VIII. married Jane Seymour (and here came the exceptions). In the King's then situation it would have been hardly possible to have celebrated Jane Seymour's Coronation. The King's quarrel with the Pope, with the Emperor, with the Church at home, which he was despoiling at the time, with even the reformed, whose great patroness he had just beheaded; all these things alike conspired to prevent the celebration of such a ceremonial. Had Henry VIII. been longer married to Jane Seymour, he might perhaps have overcome the difficulties by which he was thus surrounded. But very soon after marriage she proved with child, and died the day after she had given birth to Edward VI. which was within a year and a few months from the day of her marriage. The case of Anne of Cleves could not be considered as an exception to the positions which he had before laid down, because it was well known that the day of Henry's marriage with her was the day on which he began to meditate his divorce from her, and that till he accomplished that divorce he had no other object so much at heart. He need not mention to their Lordships that Anne of Cleves at last consented to the divorce, and at the same time, as he believed, waved her claim to be crowned. The state of the Church, during his marriage with Catherine Howard, who shortly after marriage was discovered to have been incontinent, and was in consequence put to death, and also during his marriage with Catherine Parr, might account for the omission of the ceremonial of Coronation in their cases, if indeed they were not honoured with such a ceremonial. He had no right to say that they had not been crowned, neither did he say it; all that he meant to advance was this—that if they had been crowned, he had not been able to find any mention of it: of course the cases of Edward VI., of Queen Mary, and of Queen Elizabeth, could not form any exception. He was now brought down to the reign of James I., and upon that he should merely remark, that shortly after that Prince arrived from Scotland he was crowned along with his Queen. On the case of Charles I. many observations would arise. That Monarch was

crowned on the 2d of Feb. 1625, being some time after his accession to the throne, which took place on the 27th March, 1624. He was bound in candour to admit that Queen Henrietta Maria, in point of fact, had never been crowned; but the evidence to be derived from that case was rather in favour than in opposition to the right which he now claimed. A proclamation in the usual terms was published on the 17th of January, 1623, for the Coronation of the King and "our dearly beloved Consort," Queen Henrietta Maria. A few days afterwards, indeed, on the 24th of the same month of January, another proclamation was issued, almost in the same terms as were used at present, appointing a Court of Claims; and in the recital to it, the Coronation was mentioned as the "Coronation of ourselves and our dearly beloved Consort," on the 2d of February; so that on the 24th January, only nine days before that on which the Coronation was expected to take place, it was admitted that the Queen-Consort was to be crowned on the 2d of February. It was true that on the 30th of January, a third proclamation was issued relative to the creation of Knights of the Bath, "to assist at the solemnity of *our* Coronation;" and that in that proclamation all notice of the Queen was dropped. But it might well happen, that, though no notice was taken of the Queen in a proclamation for creating Knights of the Bath, who were more particularly created to wait upon the King's person, the intention still remained in the King's mind of crowning his Consort along with him. There was extant in one of the manuscripts preserved in the Harleian Library, an account of the ceremonial observed at Charles's Coronation; and in that account was given a ceremonial for the Queen's part, just as much as for the King's part. It was stated in the title of the manuscript to which he alluded, that it was an account of what had actually taken place; but whether it was so, or was only a prospective account of what was expected to take place, he should not then pretend to determine. If it were an account of the past, it was evidence that Queen Henrietta Maria had been crowned; but he was free to confess that he did not believe such to have been the case. He thought, that as a matter of legal evidence, it would be impossible for any person to prove that Queen Henrietta Maria had not been crowned: but as a matter of historical evidence he was ready to admit it. The explanation of that occurrence was so satisfactory, that no person could have the slightest doubt that it was not any interruption of that continued practice which he had described in the opening of his address to their Lordships. That explanation was to be found in the religious animosities of that period, of which some symptoms were to be traced in the very treaty of marriage between King Charles and his Consort Henrietta Maria. That treaty contained an express stipulation that none of the King's subjects, being Papists, should be allowed to serve about the person

of the Queen. This proved that alarms existed as to the influence of the Queen in matters of religion, even before she left her own country; and those alarms increased very rapidly on her coming over to England. In the first Parliament which Charles held after his accession to the throne, vent was given to the disquiet of the country. In the first speech which he made from the throne, he referred to the mal-practices of certain malicious men, who had given out that he was not so true an upholder as he ought to be of the reformed religion, and gave them an assurance, that as he had been brought up at the feet of Gamaliel (meaning James I.), so he should steadily persevere in supporting that religion which he had learnt of him. Parliament, notwithstanding this declaration of the King, took the subject into consideration, and a grand conference took place between the House of Lords and the House of Commons upon matters of religion. The result of that conference was, that they joined in a petition to the King, praying him to enforce the strict execution of the laws against Popery, and for the advancement of the true religion. In the fifth clause of their petition they alluded to the clause inserted in the Queen's marriage articles, thanked him for having inserted it, and asked him to enforce it. The interference of Parliament in a matter of such extreme delicacy would be sufficient to convince their Lordships of the heat with which all disputes connected with religion must at that time have been carried on. After the King had given a satisfactory answer to this petition, his Minister and favourite, the Duke of Buckingham, said, in his place in Parliament, that the King took it well that they had reminded him of religion, but thought it requisite to assure them, that he would have just followed the same line of conduct if they had refrained from doing so: adding as a reason, that his father, when he had recommended to him the person of his wife, had not recommended to him her religion. He (Mr. Brougham) mentioned these circumstances to show that the religion of Henrietta Maria was at that time an object of great jealousy and suspicion to the country. Indeed, a proclamation against Popish recusants was issued in consequence of it. That measure, however, did not allay the fermentation which had been excited throughout the nation by the jealousy which it felt, not of the King, but of his consort Henrietta Maria. On the 11th of August following, the House of Commons resolved itself into a Committee of Grievances; and the grievance of which they complained was the Catholic religion. What passed within doors upon that occasion he knew not; but this he knew—that the King shortly afterwards dissolved the Parliament. It was after this dissolution, and before the convocation of another Parliament, that the Coronation of Charles was held. Their Lordships would thus be able to conceive what the state of the public mind was, when this question arose, "Shall this Papist

Queen be crowned or not." They would likewise see that it was at first the desire of the King to have her crowned along with himself, that he had issued his proclamations to that effect, and that it was possible that, having become convinced that it would be unsafe or impolitic to have her crowned along with himself, he had determined that the ceremony of her Coronation should not take place. This was the least favourable method of viewing the objection which this case seemed to afford to his argument. He, however, held that the objection to the Coronation in this instance had not come from the King, but from the Queen. The circumstances arising out of the religious animosities of the times must have operated on her mind as they did upon that of her Royal Husband; and she might have also been animated by a wish not to make herself an object of greater jealousy to her husband's subjects than she was on her first arrival in their country. That was one reason which might have induced her to forego her claim to Coronation; but there was another reason which was likely to have much greater weight with her mind, and that was, the nature of the ceremonial. It was to be performed in a Protestant cathedral, at a Protestant altar, by a Protestant; or, as he would appear to her, an heretical Bishop or Archbishop, in most heretical phrases, because the very phrases of the ritual to which a King and a Queen both Catholic, or a King and a Queen both Protestant, could safely give their assent, must either have meant one thing to a Protestant King, and another to a Catholic Queen, or else must have been considered as containing tenets which she, as a Catholic Queen, could deem nothing else than most heretical. Putting aside, then, the receiving of the Sacrament at a Protestant altar—a thing which no good Catholic could contemplate except with the utmost abhorrence—supposing that he had had nothing to urge against the ceremony and the ritual of the Coronation, still he would ask how she could have reconciled it to herself to have received a ring from the hands of a Protestant Archbishop, accompanied by these words, which were also used to the King—"Accipe annulum fidei, signaculum sanctæ Trinitatis."—Annulum Fidei! Fidei, to the King's mind, must have carried the idea of the Protestant faith: to the Queen's mind, either the idea of a faith which she abhorred, or of a different faith from that which the King, who took, and the Archbishop who administered, the oath, had been accustomed to contemplate. In short, whether the gift itself, the place in which it was given, the person who gave it, or the words which accompanied it, were taken into consideration, it was clearly a gift that Henrietta Maria could not have received without doing the utmost violence to every principle of that religion which she professed. Then came in the ceremony the use of the ring "*Annulum quo possis omnes hæreticas pravitates devitare,*"—that was, coming from a Protestant prelate, she

was advised to use this ring to teach her to abominate all the tenets of the Catholic religion. "*Et barbaras gentes virtute Dei præmere et ad agnitionem veritatis advocare;*" or, in other words, that she was to use her utmost exertions to call those who had wandered from pure principles of religion to a form of religion which she conceived to be as faulty as any of those which its professors condemned. Taking, then, these two grounds into consideration—first, that she had refused to be crowned in order to remove the jealousy which the people of England entertained regarding her; and secondly, that she had done it in order to avoid partaking in ceremonies which were abhorrent to, and prohibited by, her faith—he thought that he had furnished their Lordships with sufficient grounds to justify them in supposing that the objection to her being crowned along with her Royal Husband had originated with Henrietta Maria herself. But that circumstance did not rest upon mere conjecture, it was in concordance with the flying reports of that day, and had been supported by arguments of the most eminent among our antiquaries. Leaving out of consideration, however, the two last arguments which he had submitted to their Lordships, he must now submit to them a third, which he thought could not fail to lead their Lordships to that conclusion to which he wished to bring them. The force of that argument was derived from the dates of numerous events connected with the Coronation of Charles I. Though it was possible that a great clamour might have arisen in the country, and have deterred the King from yielding to his wish of having his Consort crowned at the same time with himself, still it was so improbable a supposition, that it could not be admitted to explain away the arguments which had been submitted to their consideration. The intention of the King to have his Consort crowned along with himself had remained unaltered within nine days of the Coronation, as was evident from his proclamation of the 24th January. Was it likely that in those nine days such a representation had been made to the King of the evils likely to ensue from the Coronation of his Consort as had led him to renounce, almost upon compulsion, a desire which he appeared to have cherished with the utmost eagerness? From what quarter, he would ask, was such a representation to come? Parliament was not sitting—popular meetings were not held in those days, or at least he had not heard of them, and public opinion could hardly be better known when the alteration took place than it was on the 24th of January, when every preparation was making for the Coronation. He maintained, therefore, that there was no likelihood that the Queen had been forced by the King to wave her right, as there appeared, both on the 17th and 24th January, a wish on his part to have her crowned, but that there was every likelihood that she had, of her own accord, waved her claim, to prevent any increase of that jealousy and suspicion which even

at that time prevailed against her. The next case to which he had occasion to advert, was that of the Queen of Charles II., which he contended formed no exception at all to his general position. First of all, he must say that he did not know by any legal evidence that Catherine of Portugal, Queen of Charles II., had not been crowned; but, even supposing that she had not—as Charles was a Protestant, or at least professed to be a Protestant—as she was a Catholic, and as great animosities still prevailed in the country against Catholics—the argument which he had applied to the last case regarding Henrietta Maria, applied also in this regarding Catherine of Portugal. Besides, Charles II. had been crowned before his marriage, and therefore this case could not be quoted as any exception either to the first position, which he had laid down, or to the second, which was of a much more general and extensive nature. He was sure that it was unnecessary for him to remind their Lordships that in the reign of Charles II. the disputes about religion, instead of being carried on with less violence, had waxed hotter and more infuriated. A proof of his assertion was to be seen in the Exclusion Bill, which had been introduced into Parliament for the express purpose of excluding from the throne the next heir to it, on account of his adherence to Popery. The sufferings which Henrietta Maria had entailed upon her husband and family, by her obstinate attachment to a religion different from that professed by the majority of the British nation, were yet fresh in the recollection of the country; and incidental discussions which had taken place in Parliament, showed that the people were fully alive to the fact of Catherine's being a Catholic. In the 12th year of the reign of Charles II., a debate arose upon a motion desiring him to marry. At that time it was known that he was desirous of marrying Catherine of Portugal; and the motion to which he alluded was made in consequence of a knowledge of that desire, and of the want of sincerity in Charles to the Protestant religion, which he outwardly professed. It was said that Queen Catherine had upon her marriage made a strong objection to being married by the Liturgy of the Church of England. If any scruples operated on her mind with regard to the ceremony of marriage, it was more than probable that similar scruples would operate upon it with regard to the Coronation; and that consideration ought not to be forgotten in the case of Henrietta Maria, as it went strongly to confirm his idea that the objection to the Coronation came, in that instance, from the Queen herself. It was made one of the articles of that absurd impeachment which was brought against Lord Clarendon, that he had given way to Queen Catherine's scruples, at a time when she had refused to be married by a Protestant Priest or a Protestant Bishop. He wished their Lordships to remark, that Queen Catherine had run the risk of being sent home disgraced, and of never being married, owing to the nice scruples

which she entertained about the validity of ceremonies performed by the Protestant clergymen. He did not know how this objection of Catherine's was got over, or whether it was got over at all ; all that he knew was, that it existed, and that it had reminded him of what he had before forgotten to mention, and of what it was important for him to lay before their Lordships—that Henrietta Maria was said to have objected to take any part in the Coronation, unless she could be assisted in it by a Popish Priest, which the constitution of the country rendered absolutely impossible. They had evidence that Catherine had objected to being married by a Protestant Priest—was she not, he would ask them, more likely to object to a Coronation that must be performed by a Protestant Bishop, according to a Protestant ritual, in a Protestant Cathedral ?—He now came to the case of James II. and his Queen, who were both crowned together. It was said that the ceremony of the Sacrament was omitted upon that occasion : how they got over the other ceremonies, in which it was necessary for a Protestant Bishop to interfere, he did not know. There was, however, this remarkable difference between his case and those of Charles I. and Charles II. In this case the King and the Queen were both of the same faith, and therefore the dilemma did not exist, which, as he had shown, had existed in the case of Henrietta Maria and Catherine of Portugal. James II. had avowed himself a Catholic, and Parliament had proceeded to exclude him from the throne in consequence of that avowal ; and if he and his Consort could reconcile it to themselves to go into a Protestant Cathedral, and to partake in the ceremonies of a Protestant ritual, there was an end of the difficulty which he had described as originating from the words of one of the oaths having one sense to one of the parties who took them, and another to the other. He was glad to have finished this dry historical deduction of facts ; for now that he had brought it down to the time of the Revolution, he had nothing else to do than to remind them, that since that period every thing regarding this subject was well known, and that every King and Queen had been regularly crowned.

A MEMBER of the Privy Council.—“ What say you to the Queen of George I. Mr. Brougham ? ”

MR. BROUGHAM.—With regard to the Queen of George I. he must beg leave to observe, that, as she had never been in this country, he had nothing to do with her. Besides, she was said to have been divorced from her husband by the sentence of a foreign Ecclesiastical Court before he ascended the throne of this country ; so that it was legally impossible that she could be crowned if she had been divorced from her husband, and physically impossible if she had never set foot in the country. Her case, therefore, formed no exception to her present Majesty's right. Whilst he was upon this subject he might be permitted to remark, as not extraneous to it, that he had not expected and

did not expect to hear in that Court, as a bar to her Majesty's claim, that some proceedings had been instituted against her. As the present was a question of law, it was impossible for them to refer to any facts which might have come to their knowledge from other quarters. He made that assertion not on his own authority, but on the authority of a Noble and Learned Judge, who, in giving sentence on the case of the King and Wolfe, in the court of the highest resort in the country, had said, in consequence of some observations having been made as to the defendant having been guilty of some great offence, "If a man be guilty of ever so great an offence, and the proceedings against him fail in substantiating that offence, he is to be considered in law as innocent as if no such offence had ever been charged against him." Indeed, the position was so indisputable that he ought almost to beg pardon of their Lordships for wasting their time in making it. He had now only to beg leave of the Court to inspect the *Liber Regalis*, and, when he had done so, he would shortly close this part of his argument.

The *Liber Regalis* and the *Missal* were then given to Mr. Brougham and Mr. Denman to inspect. They asked leave to withdraw to consult them, and permission was accordingly granted them to do so. This was about one o'clock.

At half-past one Mr. Brougham returned, and stated that he should be obliged to ask for leave to withdraw for at least another hour.

The LORD CHANCELLOR, Lords LIVERPOOL and SIDMOUTH, spoke of the uncertainty in which this left the Court. They also wished to know, whether further Counsel were to be heard for her Majesty, because otherwise the Council could adjourn till four o'clock.

Mr. BROUGHAM replied, that it was essential to him to consult the *Liber Regalis* fully before he could proceed with his argument; but he calculated he should be able to conclude his argument at the next hearing, whenever that was granted. It was only desired that her Majesty's Solicitor-General should be heard in further support of the Queen's Memorial.

The LORD CHANCELLOR.—If the Council adjourn till to-morrow, would your arguments be finished in the course of the day?

Mr. BROUGHAM.—I certainly think so; without a doubt they would.

The LORD CHANCELLOR consulted with the Council for a short time, after which, the Council adjourned till ten to-morrow morning.

WHITEHALL, FRIDAY, JULY 6, 1821.

The Members of the Privy Council arrived at half-past nine o'clock, and Mr. BROUGHAM rose at a few minutes after ten to resume his argument. He had yesterday gone through a long

and unbroken series of precedents, showing that no King of England had ever been crowned, he being married at the time of his Coronation, without his Consort participating in that ceremony. When he stated this proposition, as he was entitled to do broadly, he laid out of his view the case of Henrietta Maria, Queen of Charles I., for the reasons he gave yesterday—reasons which were, he thought, sufficiently explanatory. Having gone so far, he contended that he had a right to assume his larger proposition that Queens-Consort had at all times throughout the ages of English history, themselves enjoyed the ceremony of the Coronation. If in one or two instances this was not done at the time when the King's own Coronation took place, and supposing that there was an instance or two where the Queen-Consort became such after the Coronation of the King (and his supposition was merely to make a concession for the sake of argument), still he would affirm, that, according to all the rules of argument, of law, and of common sense, those few instances, admitting there were some, though in point of strict fact he believed there were none, did not in any manner or degree affect his general argument, which he held upon the authorities he had cited to be altogether incontrovertible. He was not before their Lordships to show where the right which he asserted in behalf of the Queen-Consort had been claimed and refused. In every instance in which it was actually possible for a Coronation of a Queen to take place, he had shown that it had been solemnized. There was not a single case which, *quoad* that case, cast a doubt upon the uniform force of his proposition, except that of Henrietta Maria, wife of Charles I.; and he reminded their Lordships, that it was merely a doubt so far as that particular case went. He had a right, then, to assume the larger proposition, that all Queens-Consort of England had, in point of fact, been crowned. If, indeed, (which there was not) it turned out that there were cases in which he could not show the reason why two or three Queens had not been crowned, still he was prepared to contend that even the absence of such a reason for such instances would not invalidate the general proposition which he laid down. Nothing was clearer in the rules of equity and law, than that non-uses did not forfeit, unless where they clearly, from the length of the lapse, involved a waiver of the claim. Where a right had been disputed, and the opposition assented to by the party tacitly, or confirmed by a competent authority, then, of course, there was an end to the legal exercise of such a right. But here the very reverse was the fact. If, indeed, that his proof of the exercise of a right in a court of justice had merely gone on in 98 or 99 cases out of 100, then the court, in the mere lapse of proof in the hundredth, would not assume the non-existence of that proof, but, adopting the proof in the other 99 cases, would say that the presumption all went with the general proof, and would attribute to accident merely the absence of proof in the hundredth case.

But here the case was much stronger ; for, in the only case in which he was prepared to admit one non-use, was that of Henrietta Maria (and it was a gratuitous admission on his part), and that was one in which he had yesterday, admitting the ceremony of her Coronation not to have taken place, clearly assigned a reason, conclusive and satisfactory, for the particular omission. The Courts of Law, he repeated, would entirely go with him in the grounds of legal right, which he assumed from this uniform and undeviating usage. Suppose he were called upon to prove a right of way or a right of common (the two instances in which the Courts of Law were most commonly called upon to consider the length of usage), the principle of law would go with the uniformity, and the absence of exercising the right in one or two particular instances would prove nothing. There were three stages to affect the legal validity of a right formed and maintainable upon usage. The first was uniform enjoyment; the next was, where the right had been asserted, but when somebody had contested it, yet nevertheless where, notwithstanding that attempted obstacle, the party holding persisted in enjoying the right. Persevering in retaining and exercising the right, was there an instance worth two of the first, in establishing validity of claim; then the third was, where the right, though asserted, had been confiscated, and an adjudication to that effect pronounced against the party asserting a right. The last was of course fatal, and there was an end to the claim. Applying these principles to the case which he had now to contend; here was, in the first place, a right, having the advantage of uniform enjoyment; then where an interruption had taken place, was there an acquiescence on the part of the person interrupted, or an adjudication prohibiting the exercise of their claim? Quite the reverse. He had, he could not too often repeat, proved, upon the faith of history, that every individual King who was married at the time of his Coronation, was crowned with his Consort, except in the instance he had already mentioned (Charles I.) There, then, was the uniform, unbroken chain of right, which appeared to him irresistible in the usage. There were three modes of calling into question the fact of usage. First, as to its uniform enjoyment; next, where the right claimed by the party had been contested, but nevertheless enjoyed by the person exercising it. Now, there the holder rather strengthened his right, and one case of that sort was worth perhaps two of the first: and the third was, where the right asserted had been confiscated, and an adjudication passed upon it: that was of course held to be conclusive against the party, where the right claimed was refused, opposed, and not acquiesced in—then he admitted that no long admission of the right could be pleaded without the fatal interruption of the bar. He entreated their Lordships to try the usage of the Coronation of the Queen-Consort by these three

principles of investigating such rights founded upon immemorial custom. Of the first, namely, uniform enjoyment, they had abundant proof. As to the second, namely, the occurrence of interruption in the exercise of the right, non-acquiescence in that interruption, a successful and most complete resistance to the attempt to withhold the exercise of the right, they had that fully sustaining his proposition in the case of the wife of Prince Henry; for there, where Henry thought proper in his life-time to crown his eldest son without also crowning that eldest son's consort, her father, King Louis of France, remonstrated against the omission to include his daughter in the ceremony of her husband's Coronation, appealed to arms against Henry, and made the latter appease him by performing the Coronation of his daughter without further delay, and with all the requisite pomp and solemnity, at Winchester. It was with reference to Henry's delay of that Coronation, that Margaret of Burgundy declared it to be the only instance, since the Norman conquest, of a Queen not having enjoyed the solemnity of her Coronation. He had therefore with him the uniform enjoyment of the right her Majesty claimed; then the successful resistance of an attempt, as in Henry's case, to delay the exercise of the right; and lastly, the total absence of any adjudication or confiscation, or any thing like either in any single instance against him. There was, in fact, no other possible way of showing the existence of the right, but in the manner in which he was assuming, proving, and, as he thought, establishing it. How else, before the Court of Claims, were rights of service at the ceremony of the Coronation established? How else did the Barons of the Cinque Ports show their right to carry the canopy over the King, and to have a part of that canopy for their service? Suppose any instance in which the Barons should, for want of specific proof, in the lapse of ages, fail to show that they had exercised that privilege—would that countervail the validity of their claim, founded on repeated usage? Certainly not. He would venture to say that there were at least half a dozen instances in which the Barons could not show they had exercised their asserted right; and would any of these instances, where that proof failed, shake the firm hold of their long and undeniable usage? In fact, he knew not any possible manner of proving a claim, or establishing it before any tribunal, according to the principles of common sense, reason, or law, except that by which he had shown the right of the Queen-Consort to exist in this case. It was the only way of establishing any such right; it was the only way in which any right was attempted to be established before the Court of Claims; and the only proofs receivable or admissible before that Court were those which he now tendered to their Lordships. There was, the other day, a case decided by the Court of Claims, where the right had fallen for a long course of

time into disuse. It was the claim set up by the successors of John Moyne, in the right of the manors of Ogres in Dorset, Shipton Moigne in Gloucestershire, Madington in Wilts, and Eyston atte Mount in Essex—" *per les services destre achatour del kuysine le roy et lardiner le roy a temps de coronementz de royes et de roignes Dongleterre,*" according to the words in the Harleian manuscripts. The claim, as set forth in the original words he had read, was to be caterer of the King's kitchen, and larderer of the Kings and Queens. This record of service for the Queens, he begged of their Lordships to recollect, was antecedent to the existence in England of a Queen regnant, and could only therefore apply to a Queen-Consort. The quotation was taken from the Coronation roll of Henry V. (Here the interruption was so great below the bar, that it was impossible to collect a few sentences uttered by Mr. Brougham.) We understood him to state that there was great complexity in the grounds paid for this claim of Moyne, owing to the disuse; but, nevertheless, the Court of Claims admitted its validity, owing to the clear proof of the usage having existed in remote times. Upon a reference to the services which were to be performed at the ceremony of the Coronation, it was clear, from the separate rights held upon the performance of particular kinds of attendance upon the Queen, that her part of the ceremony was substantive, independent, and principal—that her right was clearly within herself, and not dependent upon the mere will of the King. So essential, indeed, was it that she should be crowned with all the forms of pomp which belonged to such a solemnity, that the same writs of summons were issued, and nearly the same demands of service made upon Officers of State, as when the King himself was crowned. The usage clearly governed the right, and more especially in this solemnity of Coronation, which was altogether the creature of precedent, and existed only by its authority. So completely was the Queen's right recognized, that a separate ceremony was arranged where the King and Queen were crowned apart from each other. He entreated the recollection of their Lordships to the cases he had cited yesterday. He had shown them from the page of history, that nine Queens were crowned either with their husbands' original Coronations, or where the Kings were crowned a second time still more to grace the Queens' Coronations: there were five cases of the Coronations of Queens alone after their Kings had been crowned, viz., the Queens of Edward III., Richard II., Henry III., V. and VI. If the practice were invariably that the Queen's Coronation should take place with the King's, then it might be said that her solemnization was merely as an auxiliary or corollary to his, and to give additional grace to the pomp of the King's ceremony: but that was not the case: the Queen's Coronation was always performed with that separate attention

to her rank which must have been intended to show at least something more than mere formality: it was a mark of respect evidently intended to the Queen as Queen, and independent of that always paid to the King. It was in itself manifestly a substantive, important, and independent ceremony, illustrative of the right of the one party, and not dependent or contingent upon the mere will of the Monarch. The origin of the King's ceremonial was lost in remote antiquity; but the numerous tenures and dependencies determinable by the non-performance of services at the solemnity, shewed how important it was intended to be in the eyes of the people. The only grounds of right for the King's Coronation, the Queen equally had for her's; and there were, as he had already stated, separate forms prescribed for those who were officially to attend her ceremony. These would be found so early as the Saxon records, as he had noticed yesterday. He should now beg leave, for the purpose of showing that fixed and important arrangements were always provided for the Queen's Coronation, to refer to the *Liber Regalis*, to which he had called their Lordships' notice yesterday; but before he did so, and as he had alluded to the circumstance of the book having been withheld from her Majesty's Counsel by the Dean and Chapter of Westminster, he owed it to these reverend personages to state, that (as he had been informed) they were bound by an old statute of Elizabeth not to allow the book to be inspected without sufficient authority. That book he had since yesterday referred to: it was a manuscript of the reign of Richard II. It contained a full account of three ceremonials. 1st, One of the King's Coronation separate from the Queen's, at least so far separate as merely containing the parts which belonged to the King himself, and in which the Queen had not to bear any part. In the manuscript were these words—" *Si regina cum rege sit coronanda;*" and then came the arrangements for them both—" *Ungere et coronare reges Angliæ atque reginas, ex antiqua consuetudine hactenus usitate, principaliter constat.*" Where the Gospel which the Bishop had to say was laid down, then again one part was assigned for the King, and one for the Queen—" *Verum si regina eodem die ungenda et coronanda sit.*" There was also an arrangement about their receiving the Sacrament alone—" *Tam ad regem quam ad reginam evangelium deportabit.*" Then if it be the Queen alone, the words ran thus—" *Si regina sola sit coronanda.*" And again—" *Sic recedet rex regalibus suis ornatus, sin presens sit, &c.*" The Hon. and Learned Gentleman then referred to the Red Book of Knights' fees in the Exchequer, folio 43, in which Gilbert de Sandford claimed, in right of his Sergeantry, to be Chamberlain to the Queen at her Coronation; and when Queen Eleanor of Provence was crowned at Winchester, he claimed the right of keeping the chamber-door, and having for his service certain

fees therein named. Then Richard Vere, son and heir of Alice Vere, claimed by virtue of the said manor, which he held by the tenure of Grand Sergeantry by descent from Gilbert de Sandford, to serve at the Coronation of the Queen of Richard II as Chamberlain to the Queen, and as keeper of her chamber-door on the day of the Coronation, and to have certain fees, the bed, &c. in consequence thereof. He should next call the attention of their Lordships to the summonses issued on the Coronation of Katharine, Queen of Henry V. by which all persons were ordered to attend at her Majesty's Coronation whose lands were held by the tenure of doing her service upon that day. Those summonses were now preserved in the Close Rolls in the Tower. He should likewise request them to notice, that when Queen Philippa was crowned alone, the Barons of the Cinque Ports performed a duty of carrying a canopy over her, and claimed in consequence certain fees as their right. In the Coronation of the Queen of Richard II., Reginald, Lord Grey de Ruthyn, as possessor of the manor of Ashlee, claimed to serve the napery as well at the Coronation of the Queens as at that of the Kings of England. There was also a proclamation relative to certain services to be performed on the Coronation of Elizabeth, the Queen of Henry VII. It was true, that the proclamation for that Coronation was not extant: but a proclamation existed for the appointment of the Stewards' Court upon that occasion. The other proclamations to which he alluded were not proclamations concerning the Stewards' Court, but proclamations containing summonses calling upon every one of his Majesty's subjects to come forward and perform the different offices which they were bound to perform by their tenures at the Coronation of the Kings and the Queens of England. To these proclamations he would add that made upon the Coronation of his late Majesty, when, by a distinct proclamation, it was announced "that it was his Majesty's Royal will and pleasure that all who were entitled by letters-patent to them directed, by offices, or by tenures, should attend at the ensuing Coronation; such Coronation being the Coronation of our dearly beloved Queen-Consort."

The EARL of LIVERPOOL.—What is the date of the first and earliest proclamation to which you have had occasion to refer, Mr. Brougham?

Mr. BROUGHAM could not exactly say at that moment: he knew that he had one as early as the Coronation of Philippa, the wife of Edward III. But to resume:—Seeing a collection of facts of such a nature as he had recounted; seeing the number of instances in which the Coronation of Queens had naturally followed upon their accession to the throne; seeing the uninterrupted succession in which they had all undergone that ceremonial at some period or other of their husbands' reign; seeing that that ceremonial had even a separate existence inde-

pendent of all others; seeing that several rights were most closely and intimately connected and interwoven with it, and even had arisen out of it; seeing that those rights were vested in other persons, which, even though they should be considered as rights only contingent upon the Coronation of a Queen-Consort, still would cease even to be such, if that Coronation depended on the mere will of another party; a question naturally suggested itself to every man's mind, whether all the proceedings connected with this ceremony could mean nothing? Was the ceremony itself, he would ask, a mere idle unsubstantial form? Was it something which might or might not happen, and it was indifferent which? Was that ceremony, which, whenever the King had married, had always been observed towards his consort, trite, unimportant, indifferent in itself, existing as it had done independently of the King's Coronation, and connected as it was with other legal rights, which had no other dependence than on its existence? He said, that of all suppositions which could enter the imagination of man, this was the most absurd, the most violent, and the most unnatural. He might not be able to tell their Lordships what the ceremony meant; he might not be able to describe to them how it had originated; he might not be able to divine what its intendment was in the law and in the constitution; he might not be able to give them even an outline of the principle on which it had been built; but if he proved the facts to be such as he had stated them to be, all presumption was in favour of the existence of some principle; and his inability to point out what that principle was did not prove that there was no principle at all. But could any solemnity of this kind, observed as it had been through a long succession of years, be so immaterial and so indifferent in its own nature, that it could be performed or dispensed with just as it suited the occasion? Those who said that there was no right in the Queen to the honours of a Coronation, and that her Coronation entirely depended upon the will of another—those who traced her claim to partake in that ceremonial, not to any inherent privileges in her dignity, but to the mere pleasure and caprice of the reigning Sovereign, were bound, in his opinion, to show why that ceremonial, so far as the Queen was concerned, had existed at all, and how it had happened to have been observed—nobody knew how—during so many centuries. If it was a ceremony that depended upon the mere option of the King, then he maintained that it meant absolutely nothing; and yet he would lay down this principle as law, and more emphatically as constitutional law—that there was no usage or solemnity of any magnitude which either was solely for the benefit of the King, unconnected with any advantage to the nation, or existed merely upon his sovereign will and pleasure. To assert the contrary, would be to assert that the King reigned for the

advantage of himself, and not for the advantage of the nation ; a doctrine from which every principle of the constitution was most abhorrent. Every solemnity of importance was in its origin considered to be for the benefit of the realm, no matter what was the way in which the realm now received benefit from it; and therefore the Sovereign could have no right to controul or dispense with them. Every solemnity of which the origin was lost in distant antiquity, which was in itself of a most high and public nature, and which occupied a great and important space in the history of the country, he would fearlessly assert, must be deemed and taken as the right of the realm, and not as a mere *appanage* of the King. He held the coronation of the King himself to be a right of this nature ; and that, not merely in the present times on account of the coronation oath, which had been devised by the legislature on the Coronation of William and Mary, but also in times long before them : indeed, it had always been considered a high and august ceremony with which the Monarch himself could not dispense ; it being the right of the Sovereign, not in his individual but in his political capacity, for the benefit of the whole nation, in which capacity alone the nation knew him at his Coronation.— So much with regard to the Coronation of the King. The Coronation of the Queen ought to be considered in a similar light, from its having been celebrated almost without interruption with the same publicity, and from being in its nature such as he had repeatedly described it. The King and the Queen being both of them the mere creations of the law, the solemnities of their Coronations were mere creations of the law also, and were known to it in no other light than as the rights of the whole realm of England. He, therefore, who was ready to take one step and to get rid of the Queen's Coronation, as a mere optional ceremony, ought to be ready to take also another step, and to get rid of the King's Coronation on the ground of its being a vain, idle, empty, and expensive pageant ; for such it must be to the nation, if it simply depended upon the will and pleasure of the King. The trifling powers which of necessity belonged to the Sovereign in his individual capacity formed but a very small chapter when compared with those which belonged to him in his political capacity. Indeed, there were very few, if any such, that he knew of : for the law was anxious to deprive the Sovereign of all power as an individual, and the professors of it had even been astute in drawing a distinction between the political and the natural capacity of the King. Any distinction in favour of the King's rights as an individual was most inapplicable to any arguments which regarded the Coronation, because that was the very ceremony in which his political capacity stood most prominent, and in which his natural capacity was most deeply merged. What right, it might be asked, had the King to be crowned himself ? The

answer was obvious. His right was founded upon immemorial usage, and upon uninterrupted enjoyment, from the earliest periods of our history down to the present time, with the solitary exception of Edward V., which could be easily explained away by the mere statement of the physical impossibility that existed to his being crowned. The nation was in full possession of the facts which had prevented that Monarch from being crowned ; but, even if they had not been in possession of them, no one would be justified in setting up that single case of omission to overthrow the right which every other Sovereign had enjoyed ; nay, if there had even been one or two more omissions than that which he had just mentioned, they would not have been able to shake a right that time and precedent had so strongly fortified : for it might so happen, that the Coronation of a King did not immediately follow his accession to the throne. At present, a year was generally allowed to elapse before the Coronation was thought of ; it might have been so in former times, and a King might have died before that period had elapsed. The Coronation might also have been postponed to a later period, and no explanation given of the cause why, after such postponement, it had not been ultimately celebrated. He, however, would be a most illogical reasoner, who maintained that on such an account the right of the King to be crowned should hereafter be denied to him. The same argument applied to the case of a Queen. Her claim to a Coronation rested upon immemorial usage and the numerous rights of individuals which were interwoven and connected with it. Indeed, it rested on the same foundation as the King's, it was supported by the same arguments, and the interruptions which it had experienced admitted of the same explanations that he had given to those which had occurred in the case of the King. He had mentioned, in the course of his argument, the rights which belonged to other individuals in consequence of the Queen's right to a Coronation ; and those rights, however insignificant they might appear to their Lordships, still deserved to be taken into their consideration. If a Coronation was not granted to her Majesty, their rights were unavailing to them ; and that, in his opinion, formed a sufficient reason why it should be celebrated. If he were asked what benefit a Coronation would confer upon a Queen-Consort, he would reply, that he was not bound to show that it conferred any ; and he would give a similar answer if he were asked of what advantage it would be to those who possessed rights contingent upon those of her Majesty. It might be said that all the rights involved in this claim were not of any great magnitude ; that, however, mattered not to his argument—for the law knew no difference between great and small rights, and only required that the existence of rights should be clearly made out. This led him to inquire what was the object of the Coronation of a Queen-Consort. And, again re-

minding their Lordships that he was not bound to show that it was of any benefit to her, he should now beg leave to deal with that part of the question, because it not only reflected considerable light, but put the finishing hand on the mass of historical evidence which he had before submitted to them in defence of his argument. In doing this, he was obliged to consider what was the origin of the King's Coronation. In all probability that ceremonial was something more than a ceremonial in its outset, and arose out of the proceedings which took place at the election of a Monarch in the rude ages of ancient barbarism. Perhaps, after the election of the Barons, the Coronation was selected as the fit time for the people generally to make a recognition of their Monarch. Lawyers, who had always been astute in finding out an object for this ceremonial, which had existed for so long a period in the annals of their country, had declared such to be the object of it; and it would be no answer to him to say, that such an object was not a satisfactory one. He held, however, that the astuteness of lawyers ought not to be allowed to stop at one part of the ceremony, but that, if it was admitted at all, it should be extended also to the other. When they stated to him that the King, after his election by the Barons, was held up for the acceptance and recognition of the people at the Coronation, he discovered in their statement a sufficient reason for holding up the Queen to them also, on account of her place and necessary connexion with the King. She then formed an important part of the Coronation, which he should no longer treat as a mere ceremonial, but which he should in future denominate as an important solemnity and a most useful and necessary custom. That the Coronation was the acknowledgment of the King by the people, he conceived to be a point which it was unnecessary to prove to their Lordships; but he might be permitted to remark to them, that the Coronation of the Queen was even considered as an acknowledgment of her right to enjoy that dignity in an entry in a charter roll of the 5th year of King John, now preserved in the Tower. The entry to which he alluded was the grant of certain lands in dower to his Queen Isabella, and it referred by way of recital to her Coronation as Queen. It mentioned her as "*de communi assensu et deliberatione archiepiscoporum, episcoporum, comitum, vicecomitum, baronum, abbatum, et totius Angliæ plebis, in reginam coronatam.*" He submitted that this excerpt was of no small importance in the consideration of this question; for it proved to their Lordships, that in times when the Coronation of the King was positively either his election, or the recognition of his election as Monarch, the Coronation of the Queen was conducted, for the very same reasons, with the same solemnities. This was evident from the description of what was done, and from the manner and the avowed object of doing it. John was crowned to show that he was King—

“*coronatus in regem.*” Isabella was crowned to show that she was Queen—“*in reginam coronata COMMUNI CONSENSU archiepiscoporum,*” &c. &c. The very same persons who elected, or recognized, or only crowned him as their Monarch, are, in this passage, recorded to have elected, or recognized, or only crowned her as their Queen. Having arrived at this point, he was now led at once to consider what had been the real object of this acknowledgment or Coronation of the Queen, which, as it happened, had long survived in its different usages, and survived even to that day, though the acknowledgment of the King by his Coronation was rather the remains of what had entirely gone by, than any thing of any great practical importance at present. Was it not reasonable to suppose that the peculiar duties in the Royal Household which the Queen-Consort performed for the benefit of the realm, the peculiar station which she held in the King’s family and in the country, had given rise to the great care which, throughout all our history, had been exercised to give effect to the solemnity of her Coronation? That consideration, if it were admitted to have weight, and he did not see how weight could be denied it, would fully prove the necessity which existed for the Coronation of every Queen-Consort. Not only was the Queen-Consort the wife of the King, but she was also the mother of the Royal Progeny; she it was through whom the succession to the Crown, that grand favourite of the law in all ages, was to be transmitted, pure and untainted, to future generations; she it was on whose undisputed purity of conduct depended that, over which, next to the legitimacy of the Royal offspring, the law watched with the greatest care—he meant the internal tranquillity and prosperity of the realm. The law regarded not only the purity, but also the very suspicion of the purity, of the Queen-Consort, with the greatest care and jealousy. Upon that care and jealousy the whole law of treason was founded. Indeed, its great object was the transmission of the Royal Blood through pure and untainted channels, the preventing any illegitimate offspring from being imposed on the crown, and the annihilation of all suspicion of unchastity in the Queen-Consort, which, by begetting doubts in the minds of the King’s subjects as to the legitimacy of his offspring, might involve the realm in all the calamities of a disputed succession. These were not merely the grounds on which the law of the 25th of Edward III. relative to high treason, was founded, but were also those on which the common law, which had been styled the perfection of human reason, equally depended. It was so stated in the Mirror, and in the laws of Edward the Confessor (we think Mr. Brougham said, but we lost this sentence, and much of what followed, amidst the noise, crowd, bustle, and perpetual struggle in which we were obliged to take such scanty notes as we could take yesterday)—laws which existed

before the Norman conquest. If they went back to the most distant times to which history enabled them to recur, they would find that the same jealousy of the contamination of the blood royal had always, under all circumstances, prevailed.— Could any one, therefore, maintain that in the times when the holding up of the Monarch to the recognition of his people was considered so important as never to be neglected, the obtaining a recognition of the undisputed right of his wife at a period when the validity of marriage was more important and less easy to establish than at present, would be thought a matter of trifling consequence? He must press upon the attention of their Lordships that he was now talking of times in which no legislative provisions were made for Royal marriages, and in which not only a point on which no doubt could arise in modern times was often involved in great obscurity, namely, who was the wife of the King—a point which signified much; but also another point which signified more, namely, who was the mother of the King's children who were to succeed him? In the case of a King who had married before his accession to the throne, it was evident that some such solemnity as that of the Coronation of his wife was more necessary than in any other case, as his marriage might have been contracted in secrecy, and doubt might exist as to the legitimacy not only of such children as were born to him previous to his accession, but of such as might be born to him afterwards, supposing no such Coronation to have taken place. It might however be stated, though he did not expect to hear it from any of their Lordships, that a ceremonial of which such was the object, might be safely omitted in the case of a Queen who was past the age of child-bearing. He was ashamed of talking in such strains amidst such enlightened lawyers—the law knew of no such distinction as a young Queen and a Queen advanced in life—it referred to her equally at 80, when on the verge of the grave, and at 18, when she might be considered in the full vigour of youth, and capable of producing children once a year; it guarded her bed with equal anxiety to the very last hour of her existence. He repeated, that he knew of no such thing as a Queen past the age of child-bearing, and in arguing upon a presumption of law, he could by no means allow it to be determined by any presumption of fact. The Learned Gentleman then proceeded to inform their Lordships, if we understood him correctly, that he was arguing this question as much on behalf of the Royal Family, and of the individual who was at the head of that family, as he was on behalf of his illustrious client. He had been told that his argument would be met by the statement that the Coronation of the Queen depended entirely upon the proclamation of the King. To that statement, if it were made, he should reply, that, con-

sidering the situation which the Queen held in the Royal Family with regard to the King, it was the most natural thing that he could do to issue his proclamation declaratory of the manner in which her right to be crowned should be exercised. But was it to be said that upon that account the right of the Queen was completely annihilated? Was it intended to be maintained that no right existed, whenever something moving from the Crown was necessary to the existence of it? He would frankly confess that he knew of no right which a subject could enjoy without the interposition of the Crown in some manner or the other. All writs issued from the Crown, and no right could be maintained without them; yet, would any one dispute the right of the subject to obtain them? What would they say to the petition of right? Would any dispute the right of the subject, in case the King was wrongfully in full possession of his hereditaments and chattels—and he suggested such rights as controverted the title of the Crown—would any one, he asked, dispute the right of the subject to obtain a commission to inquire into the truth of the suggestion, though in common parlance of law he must proceed by petition of right? If the subject were thus in common parlance entitled to this petition as to a right, why, he would ask, was not the Queen to be entitled to similar privilege, and her rights to be treated on the same footing? He would put another case, which he conceived to be strictly analogous with the case of her Majesty on this occasion. Supposing a Peer were to die, and the Crown were to refuse a writ of summons to his eldest son: it was said to be by petition of right alone that he could sue to the Crown to be admitted to his father's reasons; and yet that petition of right would be considered as a strict undeniable legal right. He could refer also to cases in which the subject could demand, not merely the King's writ, but also the King's proclamation, to which he was entitled, not by a common law right, but by a right given him by an express statute; for instance, in all cases relative to prize-money. At the commencement of every war proclamation was made that the proceeds of all fair prizes captured from the enemy should be distributed among the captors in such proportions as the Crown by its proclamation shall afterwards direct. Supposing no such proclamation to be issued, would not the subject be legally entitled to call upon the Crown forthwith to issue such proclamation? Again, supposing that the House of Commons were to die a natural death after sitting for seven years, and the King were to refuse to issue his proclamation to convoke another within three years of that period, as ordered by the 1st of William and Mary, st. 2. c. 2., would it be asserted that the subject would have no right to call for the proclamation of the King to convoke another Parliament, because such proclamation could not issue without an act of the Crown? He

thought that none of their Lordships would advocate such an absurdity. How the subject ought to proceed to make his right effectual in all the cases to which he had referred, he did not intend to decide, probably by impeachment, as had been done in case of the refusal of the petition of right. With the remedy, however, he had nothing to do at present: all that he had to show was, that in all the cases which he had mentioned, the Crown was bound, and could not refuse, to issue its writ or proclamation. A right at common law was as valid as a right at statute law; and if their Lordships should determine, after the statement which he had made to them, to decide that the Queen had no right to demand a Coronation, because it could not be celebrated without a proclamation from her Royal Husband, then he would say that the subject, whose goods were wrongfully seized by the Crown, had no claim to his petition of right, because it depended on the issuing of a commission by the Crown—that a Peer's eldest son, to whom a summons to the House of Lords on his father's death was denied, had no claim to his writ of right, because it could not issue without the consent of the Crown—that the captors of a vessel had no right to any distribution of the prize-money which they had earned, because the King's proclamation must be published before they could receive it; and that the country, in case the King were to refuse to convene a Parliament, had no right to have a new Parliament convoked, because such a convocation could not take place without a Royal proclamation. But the subject and the country were in full possession of all these rights; and if the Queen's right to a Coronation were put upon the same footing, it would be equally clear that she possessed it, and that the necessity of granting it was as obvious as it was imperative. He had heard it said that her Majesty could not claim the honours of a Coronation by prescription, because she was not a corporation. This, however, he denied. Her Majesty certainly could prescribe, for what business had they to call her Majesty less a corporation than the King? But still, supposing her not to be a corporation, she had a right to prescribe as a functionary holding a high dignity and situation. This was evident from Baron Comyn's Digest, who, under the title of *Prescription*, lays it down that such a functionary can claim by prescription. (Here Mr. Brougham read an extract from Comyn, of which we found it impossible to collect the meaning, from the perpetual confusion which prevailed without the bar, and from the intentional annoyance which some gentlemen, as they styled themselves, busied themselves in giving to the reporters.) In 2d Roe, p. 264, it was laid down that a Sergeant, Attorney, and Under Sheriff are all presumptive, as holding those places not merely for themselves, but with reference to the rights of all those who may succeed them in such offices. The 21st of Henry II., and the 11th of Henry IV., stat. 63, which are to be found in the

Year's Books, concur in this doctrine. The Learned Gentleman proceeded to observe, that he would not trouble their Lordships with a recapitulation of the arguments he had used. He had now closed the legal argument on behalf of the Queen, which he conceived had already established her case. Considering all the circumstances of the times, he had endeavoured to abstain from extraneous matter, and to confine himself strictly to the law of the case. He was happy in knowing that the disputes which had lately interrupted the discussion of this most important question—that the various contentions by which the country had been distracted, would, in after-times, cease to influence men's minds on this question. They would not be under the necessity of recurring to remote ages for the purpose of explaining that which otherwise would appear almost unintelligible. No. The question, if it ever should arise, would be decided by the labours of the present day—by the labours of those who had been occupied in searching into the history of the Saxon Monarchs, and tracing the conduct of those who had succeeded the Norman Conqueror. Before this impartial and calm tribunal, all the heats and animosities which prevailed in the present day would vanish. They would sit in dignified judgment on the opinion given by the great lawyers of the 19th century; and, as he firmly believed, finding they had no difficulties to explain, perceiving that they had no obscurities to clear up, they would not be under the necessity of referring to those remote periods of our history, to which he had been obliged to allude, but would look back to the first decision that ever had been given on this question, with that decided confidence, which the names of those Privy Councillors before whom the case was argued would in after-times command—a judgment which, he ventured confidently to pronounce, would not derogate from the high character they had so long maintained.

Mr. DENMAN felt that little was left for him to do, after the display of historical research, and the profundity of legal argument, by which the case of her Majesty had been supported by his Learned Friend. In a case, however, of such vast importance, so intimately interwoven with the great institutions of the country—so interesting to the nations around—and so sure to guide the judgment of all posterity—it would be inexcusable in him if he were to decline stating what was the impression of his mind on this subject. With respect to their Lordships, he had only to pray that he might not be supposed to compromise the rights of his Illustrious Client, if he addressed them in the language of deprecation, or if he seemed to request a favour; and, on the other hand, he trusted they would not be offended, if, in stating the Queen's right with boldness and confidence, he should appear to anticipate, with any thing like presumption, that judgment which he hoped and believed their Lordships would ultimately give. He, therefore, entreated

their Lordships to believe, that, in the one case, he did not mean to compromise or surrender any right; and, in the other, that he had no intention of treating their Lordships with disrespect, if he assumed that that which was clear to his own mind, must also be clear to the mind of every impartial man. The ceremony of the Coronation of Kings and Queens of England was to be considered in various points. It was an ancient custom—it was a solemn compact—it was a religious solemnity—it was also a popular exhibition. In all that might fall from him in considering the Coronation in its more important and solemn character, he begged to be understood as throwing no reflection whatsoever on that part of it which might be considered merely ceremonial. On the part of her Majesty, and of those who were assigned to support her claims, neither here nor elsewhere had one word of disrespect been uttered as to this important ceremony. Much depended, in a free country, and in a kingly state, on the recollection of customs which had their origin in ancient times. The people viewed those sacred customs with respect and reverence; they tended to bind them more closely to established constitutions; and new ones could not be established until they were removed. The recollection of those customs formed a part of the ties which, as well his rights and his property, bound every man to his native land. There was a moral dignity in having those rights upheld in their integrity; and, where a recollection of ancient customs ceased to operate, such rights were either forgotten, or, if known, were not properly supported. It was, therefore, no small misfortune for any political institution to be divested of this character. An English traveller, who had passed through the most prosperous part of America, and who spoke with rapture of every thing he had seen, observed—"Still, there is one defect, which nothing but time can remedy—namely, an absence of all ancient recollections." This defect was not overlooked by the extraordinary individual whose death had just been announced to the people of Europe; who, with resources almost inexhaustible, with military power unrivalled, with counsellors the most sagacious, and with a train of such illustrious acts, as a soldier, as had scarcely ever before dignified that name, found it was impossible to form a nobility without having recourse to the recollection of former ages. He spoke, therefore, of ancient customs and establishments with all the respect that was due to their antiquity. But it was necessary, with reference to the present case, to consider the feeling with which they connected themselves, and to point out the principles on which they rested: and if he might use the language of one of the greatest geniuses this country ever saw, and who might, perhaps, be considered her best historian, he would say—

"This is the English, not the Turkish Court;

"Not Amurath an Amurath succeeds —

"But Harry, Harry."

It was very necessary, therefore, for this purpose, to examine the situation in which the Monarch of this realm had stood; and to see whether they could not trace that which appeared at first view to be a theatrical exhibition, to principles with which the Constitution of the country was nearly connected. The Coronation of the King of England rested on custom alone. There was no written law that entitled the King to call on his subjects to witness the imposition of the crown on his head. It was the law of custom from the earliest times that recognized the ceremony; and he thought he should be able to show their Lordships, from the most minute researches, that no case could be found, except that to which his Learned Friend had referred, in which the Consort of the King was excluded from participating in that ceremony. In addition to what had already been said by his Learned Friend with reference to the early precedents, he begged leave to refer to a celebrated work, *The Titles of Honour*, which was produced by one of the most learned as well as one of the wisest men of his time, who thought it not unworthy of his great talents, and the love he bore his country, to write the history of the ranks, titles, and dignities which existed, or had existed, in every part of the world. He alluded, of course, to Mr. Selden. He would not take up their Lordships' time with any observations on the dignity of the King, because it was known to all mankind; but he would call their Lordships' attention to the distinctions which were made with respect to the individual who was placed in the situation of Queen. In the first place, it would be proper to examine what Selden had said with respect to Empresses, who, in early times, were associated with their husbands in the Imperial dignity. It was not unimportant to the present question, because it was stated by Selden that the ceremonies used in the Coronation of Empresses were afterwards imitated by the then barbarous nations of Europe; although, in all probability, some ceremonies of the kind were before known in this island, and perhaps in every country of the world possessing any thing like an established government. The ceremony of the Coronation of an Empress is detailed in Selden, p. 190, part 1.; and, in the course of that detail, reference was made to the Empress in these words:—" *Si forte illo tempore caruerit uxore, recta consensu throno iterum sedet; si habet, omnino et illam corona insignire necesse est.*" In speaking of the Coronation of the French Queen, Selden quoted almost the same terms that were found in the *Liber Regalis*. The passage was—" *Quæ debet consecrari statim post factam consecrationem regis, debet et parari solium in modum solii regis. Debet tamen aliquantulum minus esse. Debet autem regina adduci a duobus Episcopis in Ecclesiam, et Rex, in suo solio sedere, in omnibus ornamentis suis Regis sicut in solio residebat post inunctionem et coronationem suam superius annotatam. Regina autem adducta in ecclesiam debet*

porsterni ante altare, et prostrata debet orare, qua elevata ab oratione ab Episcopis, debet iterum caput inclinare, et Archiepiscopus hanc orationem dicere," &c. This was the description of the ceremony used in the Coronation of the French Queen; and in France the same respect was not shown to females of Royal birth which was manifested in other countries, since they were excluded by the *Salique* law from the succession to the throne. His Learned Friend had commenced his observations with a reference to the case of Queen Eadburga, who was excluded from the honour of Coronation on account of her crimes. But Selden, p. 114, stated, that the same honours which were paid to the Empresses of France were generally paid, notwithstanding this exception, to Queens of England. They had their titles of *Regina* and *Domina*, as the Kings had those of *Rex* and *Dominus*. The phrase *Dei Gratia* was also applied to them. Now with respect to the case of Queen Eadburga, it was one of those exceptions that supported the rule in a remarkable manner. Spelman said, that in consequence of Eadburga poisoning the King himself, and ruining the fortunes of many private persons, the title of Queen became hateful to the people, and, from that time to the time of King Ethelwolf, the law was, that the wife of the King of the West Saxons should not be called "the Queen," but "the King's wife." The words were—" *Gens namque Occidentalium Saxonum non patitur reginam appellare, sed regis conjugem permittit.*" He afterwards observed, that this alteration was effected by law—that the custom soon became obsolete—and that it never travelled into any other kingdom of the heptarchy. Thus it appeared that this particular individual, Queen Eadburga, was excluded from the Royal dignity by the whole people; and that when the custom became obsolete, the wives of the Saxon Monarchs enjoyed the same honour as their predecessors had done. In every instance, except that of the West-Saxons, the title and dignity of Queen belonged, in all respects, to those females who were married to the Kings who then reigned in this island. It might be thought unnecessary to detail these minute points; but when they found one of the most learned of men entering fully into the whole history of these ceremonies, and pointing out the system which had prevailed for ages, it would seem that there was something in the proceeding itself calculated to excite the respect and veneration of all persons. His Learned Friend had observed on all the Coronations which had taken place, from the time of William the Conqueror to the present moment. Before he entered on this subject it would be useful to observe the circumstances under which the Coronation of a Queen took place. By acknowledging her Royal quality as Queen, she was entitled to various properties and titles, and she was announced to the people as the mother of those heirs who were afterwards to reign over them. That this was a most important principle

in former times, and at the present day, no person could attempt to deny. In former times great disputes had arisen as to what person had the right of enjoying the title of wife of the King. One might say without offence, that the early habits of Princes were likely to produce contests of that description. The very nature of the matrimonial contract was, formerly, doubtful. The very custom of betrothing infants, who, when arrived at mature years, might dissent from the proposed marriage; the nice points respecting the ties of consanguinity, which were so often raised in the Catholic Church; and various other concurring circumstances, which rendered it sometimes difficult to say who had a moral right to be Queen, pointed out the propriety of a formal and solemn recognition of her who was destined to share the Throne. The non-recognition of Avis, the first wife of King John, might possibly have arisen from circumstances of the nature of those which he had described. Matthew of Paris stated, page 153, that the Archbishop protested against that marriage, on account of the consanguinity of the parties. Whether King John continued his good liking when he came to the throne, did not appear; but after Avis was divorced, and he married Isabella, it became necessary that all doubt should be removed, and she was crowned. Similar doubts had arisen in much more recent times. In the time of Charles II., though his marriage with his Queen took place after he came to the crown, yet doubts were entertained whether he was not privately married to Mrs. Waters, the mother of the Duke of Monmouth, which doubts he removed by issuing an order in council denying the fact. After the divorce of Geo. I., when he was elector of Brunswick, and of which they knew nothing except the fact of the divorce, if he had selected a second wife from any of the noble houses of Germany, would not her relations, when he ascended the throne of this country, have demanded a Coronation, to remove all doubts relative to the situation in which she stood with reference to the King? Their Lordships would perceive that it was not necessary for a Coronation to take place in order to remove doubts in every instance; but he adduced those collateral arguments as corroborative of the Queen's right to be crowned. One might, in passing, allude to reports that had been in circulation at far later periods; and he would contend that it was indispensable, in all cases where the King, before he came to the throne, had married privately—had entered into a contract that was binding on his conscience—and had subsequently contracted another marriage—it was, he said, indispensable that the individual publicly espoused, should be publicly crowned as Queen, in order to remove all doubt and misapprehension. He now called on their Lordships, as a Court sitting for legal inquiry, to say whether there ever was a case presented to an inquest, which depended on custom and usage, where a more complete and perfect body of custom and

usage had been adduced than was brought forward on the present occasion? With respect to the case of Queen Avisia, if it could be considered an exception, it must be admitted to have originated in the caprice of an individual monarch, and that monarch King John. But it was met by the fact, that the Ecclesiastical Courts pronounced the marriage null and void, and it was accordingly set aside. Avisia might have been Queen *de facto*, but certainly she was not Queen *de jure*. The crowning of her who was allowed to have been legally married, strengthened his argument; and the course pursued with respect to her whose marriage was annulled could not be quoted as an exception. From the conquest to the present time there were no less than 27 instances of Queens having been crowned—some with their husbands, when the marriage had taken place before the accession; and others, by themselves, when the marriage had been solemnized after the King ascended the throne. There was only a single exception, that of Henrietta Maria. William I. was crowned on his arrival in England. His Queen was crowned subsequently. William II. was a bachelor. The two wives of Henry I. were crowned. The Queen of Stephen was crowned. Henry II. was crowned three times—on his accession to the throne; on the birth of a son, by his wife, Eleanor of Guienne, who was crowned with him; and lastly, at Worcester, on the birth of a second son. Richard I. repudiated his wife, Alice, and married into the Royal Family of Sicily. The lady he espoused was crowned at Cyprus. Of King John he had already spoken. Henry III. was crowned at an early age, when he was unmarried. He afterwards married Eleanor of Provence, who was crowned by herself. Edward I. was undoubtedly crowned with his first wife on his accession to the throne. It was not absolutely certain whether his second wife was crowned; but it was probable that such was the fact, because he was married at Canterbury, and the Archbishop might impose the crown, as well as perform the marriage ceremony. From that time, down to the reign of Henry VIII. no doubt whatever existed that, the King being married at his accession, the Queen was crowned with him; and that if he married afterwards, she was either crowned by herself, or with her Royal Husband. With regard to the reign of Henry VIII. it afforded little matter for observation, and did not present the most agreeable precedent for the conduct of Princes towards their wives.—The two first wives of this Monarch were crowned, and particular circumstances accounted for the omission of that ceremony with respect to the four last. But when he spoke of the omission of the Coronation ceremony in the case of the second wife of Edward I., and in those of the four wives of Henry VIII., he gave up no claim of right. He had proved that, in every case where the King was married, his wife had been crowned, unless peculiar circumstances prevented it. With respect to the

wives of Henry VIII. perhaps the strongest observation that presented itself, after the assumed supremacy of the King's will, in order to account for their not being crowned, was the unsettled state of the church at that period: for it was almost impossible to say, after the death of Anne Boleyn, what church existed in this country; whether she possessed a church of her own, or allowed the supremacy of the church of Rome. No man could affirm or deny the proposition, except at the hazard of his life. And he believed, so scanty was the information connected with the subject, that no man would even now venture to affirm or deny the proposition. Three of the four wives of Henry VIII., who succeeded Anne Boleyn, were his subjects; and therefore it was not to be expected that they would press their claim very strongly. With respect to Anne of Cleves, whom he anxiously desired to get rid of, she soon became a private person, and was, he believed, denominated his sister. He now came to the case of Henrietta Maria, on which he felt it unnecessary to say one word, after the conclusive argument of his Learned Friend. If their Lordships were not convinced, by the luminous statement of his Learned Friend, that the circumstances of the times had caused Henrietta Maria not to be crowned, there was nothing which he had it in his power to say that could render the fact clear. Henrietta Maria was met, on her arrival in this country, with denunciations against Papists; she was even warned not to retain her own servants about her, because they were Papists. It was, therefore, more wonderful and more in favour of the right of the Queen to participate in the Coronation, that a proclamation was sent forth for crowning her, than that she was not crowned. That proclamation involved the King in great unpopularity; and, of course, if she, who was newly come to this country, imagined that the crowning of her in Westminster Abbey would tend to incense the people still more, she would dispense with a Coronation, in order to spare him any further unpopularity. Now, supposing her absence from the ceremony to have been conceded by herself, it did not constitute an interruption of her rights to be present; but if the fact were so, it was an admission of that right. Suppose it were known that Charles had advised her, on account of the circumstances to which he had alluded, not to press her claim to be crowned, and that she had acquiesced in the propriety of that advice—so far from this being a proof that she had no right, it would tell directly the other way. It would show that she possessed the right, and that the King admitted it; but that, from motives of delicacy and policy, she had waved its exercise. It might be a proof that the King had no right to force her to be crowned, but it could not be received as a proof that the King had a right to prevent her from participating in the Coronation ceremony. He, however, entertained no such wish; he was anxious that

she should be crowned, but the circumstances of the moment rendered it impolitic. In the present instance the Queen could make no sacrifice; and she could not give up her right to be crowned without making a sacrifice of that nature which the history of her whole life proved she never would consent to. It was the duty of their Lordships to restore to her those rights which were refused to her by her Royal husband—rights which she was sensible belonged to her—and the only effect of which would be to reflect additional lustre on the throne. Supposing different instances of waver and acquiescence, as exemplified in the case of Henrietta Maria, to have occurred in former times; so far from showing that the right contended for did not exist, they only proved that it did exist, and that the parties surrendered, at the moment, from motives of convenience—from that humble attention to the feelings of a husband, which every wife, whether separated from her Lord, or living under his protection, was anxious to manifest, if it did not require too great, too disproportionate a sacrifice. With regard to the nature of custom and prescription, it would be proper to observe, that, whether they gave particular rights to the Queen, or particular powers to the King, to use in behalf of the people, for whose safety, security, and happiness, Kings and Princes were formed, they were alike binding and effectual. Lord Coke, speaking on this point, said—“possession, usage, and time, are inseparable from prescription; possession long continued and peaceable:” but when he spoke of usage, he adopted the language of the civil law—“*contram dico quod non legitime interruptam.*”—This applied to the common law, or the ancient and general law of the realm; 2d, to the statute law; and 3d, to particular and established custom. He said “particular custom,” because if it were “a general custom” of the realm, it must be viewed as part of the common law. Now, he contended that it was indifferent to this argument, whether this was a particular custom appertaining to the Queen alone, or a general custom attending the right to the Crown, and meant for the benefit of the whole kingdom. In either case he had proved the Queen’s right by showing that it had long been enjoyed by her predecessors. If he proved, as he conceived he had done, that for a long series of years this right had been exercised by various Queens, except in a particular instance, the exact reason of which was unknown, but which appeared to him to have arisen from a request made on one side, and an acquiescence in that request on the other, then he knew that a more clear, conclusive, or incontrovertible case could be laid before a judicial tribunal. The King, powerful as he was in this country—although he might be considered as nearly omnipotent in many cases—must nevertheless act according to the laws and usages of the realm. Lord Coke said, “*Nihil aliud potest Rex, quod non jure potest.*” He could do nothing in violation of ancient usage; he could not alter what had been sanctioned by the whole course of ages: he could not

interfere with the existing ranks of the state. Coke said, "The King cannot make a King in England. Henry VI. crowned Beauchamp, Earl of Warwick, King of the Isle of Wight; but I can find no patent for it. The reason is, that the King cannot have a second king within his kingdom." Now if the King could not create, he certainly could not deprive. What belonged to the office and station of any individual in the land, belonged to him by custom and prescription. He could not be forced to abandon it, by the royal power, in despite of rule, since nothing but a positive act of the legislature could alter existing rights. Independent of the customs that were connected with the Coronation, it was a compact between the whole people of this kingdom and the Monarch. It was a solemn ceremony, at which he bound himself by oath (an oath that had undergone little change during the lapse of ages) to observe the state, customs, and the laws of England. Could it be said, when that solemn ceremony was performing, when that compact was in the act of being made, that he was at liberty to violate his oath by abrogating the rights of the first subject of the Crown? When the Coronation was itself a ceremony depending on custom and usage alone, was the King to be at liberty, by his mere will and pleasure, to exclude a portion of that ceremony, to subtract from it that which, in all former times, was considered one of its principal features?—Suppose the King, when required to meet his people and the Peers of the realm, were to issue an order for the exclusion of every Peer, could it be considered that he had the same power in that case as he would have over matters of a domestic character? He could invite to a festival, a banquet, or a ball, and he might also exclude whom he pleased; but, in his opinion, no such order could be made, and if it were, such a circumstance would vitiate the proceedings. Nothing could be done in such a case, that the people would have a right to consider binding. If the King excluded any person who had a right to be present, he thereby vitiated the ceremony, and destroyed that custom on which alone his own right depended. The Coronation was a religious ceremony, and surely it was not to be said, at a time when the King was, under the blessing of Heaven, putting a crown on his head, that the Queen-Consort should not be suffered to participate in the ceremony? Could the Marshal be excluded? Could the Constable be excluded? Could individuals who held particular offices about the person of the King be excluded? And, if those persons who were merely ornamental parties to the ceremony could not be excluded, could the King exclude that individual whose presence was so necessary? and, to use the words of his Learned Friend, whose recognition was even more important than that of the King himself? As to the right of the King no doubt could be raised; but the civil wars, which had filled this country with bloodshed, showed how necessary it was that no

doubt should be suffered to exist as to the right of the Queen ; because, where doubts were entertained, it was impossible to designate to the people who was justly to reign over them, after any Monarch was gathered to his ancestors. Part of this solemn ceremony was the making of sacrifice, and the offering up of prayers to God ; and if any one feeling should, above all others, be cherished and entertained on such an occasion, it was that which would exclude even the temptation of admitting into our hearts, amidst a scene so awfully solemn, any sentiment adverse to that humiliation of mind with which the Monarch ought to approach the Deity, when he binds himself to govern the people in justice and mercy, according to the law and customs of the realm over which he was called on to preside. Their Lordships, he was sure, would be glad to guard the Royal mind on this occasion from being influenced by feelings that were at variance with the frame and temper of mind in which such solemn duties ought to be performed. For his own part, he conceived that the indulgence of such feelings was in itself a crime, and vitiated, in the eye of Heaven, every thing of a religious nature that appertained to the ceremony. He would pass over lightly what had been said on the subject of a speedy determination of this case ; because, if individuals were to be deprived of their specific rights, it ought not to be done upon a hasty view of the subject. It was due to every individual, in every class of life, who put forth claims of right, to decide upon those claims deliberately. The ceremony from which it was attempted to exclude the Queen, was one in which every man would feel proud to partake. It had this peculiar feature, that no man could attend it without bearing the title of "Esquire," to the end of his life, whether he appeared in the suite of the King or of the Queen. This was laid down in *Doddridge's Law of Nobility*, p. 144. Comyn, in his *Digest*, title "Dignity," spoke of the Coronation as intimately connected with the law of the country, because it conferred certain dignity on those who attended. In describing the Coronation, Comyn introduced the word "usual" very frequently. He spoke of the "usual" inauguration of the Queen, the "usual" ceremonies, &c. ; thus clearly marking it out as part of the custom of the country, which formed a portion of the law of the land. But, if all this were a matter of grace and favour, how did it happen, that in all proclamations, grants, and other documents connected with the solemnity, no such term as "grace" or "favour" occurred ? He knew not where to find any terms of the kind, and it was very difficult for him and his Learned Friend to contend with unknown adversaries. If the Coronation of her Majesty were a matter of grace and favour, they must look for some proof connected with the facts recorded in history to establish that proposition. William I., as soon as his wife arrived in England, put the crown on her head. There was no evidence there of grace

and favour. The Henries, the Richards, the Edwards, in like manner, had their wives crowned without any insinuation of grace and favour. In all those cases, if the Coronation of a Queen-Consort were matter of grace and favour, surely that would have been stated in some form—some evidence must have existed of the kindness, or perhaps the conjugal affection, of the King in granting this ceremony. But not one word of that sort appeared. The same ceremonies, the same warnings, the same forms of all kinds which accompanied the Coronation of a King, were observed at the Coronation of his Queen-Consort. The *Dei gratia* was not conferred by the King, but by the law. There was thus every circumstance that could be desired to prove her independent existence as Queen, if the unfortunate views of any party should make the claim of independence necessary. He could not figure to himself a single argument from which such a proposition as that the crowning of the Queen proceeded from grace and favour could be deduced. If from the beginning of time there existed no evidence—if in all the precedents of history or tradition no instance could be found of a King influenced by kindness to have his Queen crowned—if the summonses, ceremonies, and formalities for attending the Coronation of the Queen-Consort were the same as for attending the Coronation of the King, was it not too much to contend now that the Coronation of the Queen-Consort was a matter of grace and favour? When Prince Henry, the son of Henry II., was crowned without his wife, a remonstrance was presented by her father, the King of France, and he was crowned again together with Margaret of France, his wife. This was obtained on the ground of law and of contract. Surely, therefore, in any case, those connected with a Queen-Consort must have the same right to remonstrate if her Coronation should be attempted to be refused. Surely every father, brother, or other relative, had a right to remonstrate that the omission of her Coronation would be not only a violation of law, but a violation of her marriage contract. If the Coronation was not expressed in the contract, it was because the right was clear and undisputed. Why, then, should the right be violated in the present case? When the father of her Majesty had signed the contract by which his daughter became Princess of Wales, he had contracted for all the honours and ceremonies of the Queen-Consort, when she should come to the crown. It was impossible that it could be asserted, because her Majesty was deprived by death of her friends, and because no powers abroad interfered for her, that therefore the feelings of Englishmen would refuse her the honours which belonged to her by the custom of the country, the laws of the realm, and the contract of her Illustrious Father. But it was on custom that the Queen's right was founded; and what he had now been saying had been addressed rather to other feelings than to the

respect and submission which custom and right demanded. On custom—that custom which formed the foundation of all law and dignity—they founded her Majesty's right. Would to God that her Majesty were at liberty either to ask any grace or favour, or to acquiesce in the waiver of any right. If he were asked on what custom the right was founded, he would say that it was founded on the same custom which formed the foundation of every civil right. If her Majesty's claim were refused, no dignity was safe, no property was secure, not a single institution could be said to rest on a firm foundation. If the Coronation of the Queen could not be supported by custom, the rest of that ceremonial could not be supported. The Crown itself derived all its stability and authority from custom. Why was this country governed by a King? Why did we submit to a kingly Government? Because the earliest ages, because all times, had recognized that form of Government, and because we could trace that custom beyond all time of memory. But all the circumstances, burdens, and duties of royalty must be recognized with royalty itself. Nothing could be more dangerous than to separate royalty from the circumstances which belonged to it and added to its dignity. The lives and properties of men depended for their security upon the same principle. Why was there a House of Peers, in which Noble Lords formed a part of the Legislature? Why were there commoners, who sat as representatives of the people? Precisely because custom had ordered it so. Custom was the author of the law and the law-makers. Custom authorized the King, Lords, and Commons to enact laws for the government of this realm. All property, all dignity, all offices existed, because they were sanctioned by prescriptive custom, or because custom gave a prescriptive right to create them. These observations he made, not to detract from the authority of royalty, but to add to it, by showing that its root was fixed in the deepest principles. But if all law and right depended upon custom, the claim of her Majesty to be crowned according to invariable custom could not be violated without violating the principles of human nature itself. If royalty was to be supported, it must be supported with all the circumstances incident to or interwoven with it. The honour could not be enjoyed without the condition; the principal could not be admitted without the accessory. If the right of the Queen were refused, it would shake the allegiance of the nation, by proving that a part of the right, no inconsiderable part, of royalty, could be set aside at the will of an individual. He would not allude any more than his Learned Friend had done to circumstances in which her Majesty had been lately placed. He would only observe, that, if her Majesty's Coronation was a matter of right, her Majesty could not wave that right: if it was a matter of grace and favour, she could not ask it. Her Majesty was placed in circumstances

which did not suffer her to relinquish any right, both on her own account, and on account of others who must be affected in their rights by the insecurity of immemorial right in the case of one individual. If the right of one individual could be invaded and set aside, none in the realm could feel secure. No individual could be deprived of right and justice without recognizing a principle of general operation. Her Majesty, therefore, set forward a right which had always been enjoyed by her predecessors, and which could not, without injustice, be withheld from her. He could not conclude without saying a word respecting the kind of evidence which the question admitted on the one side and on the other. They, on her Majesty's side, had stated a case which could not be got over in a Court of Justice, except by a case of clear interruption or legal adjudication. To refer to the commonest cases in Courts of Law, a right of way or a right of pasture, if such a right were supported by such prescription as had been brought forward in this case, nothing on earth could resist it; and if any thing could remove the force of the prescription, it could be nothing but a clear interruption for the adverse claim. Those instances in which the circumstances had been different from the usual circumstances of a Coronation had been so explained, that not only could they not be fatal, but the principle could not be pleaded in derogation to her Majesty's right. James II., he and his Queen having been of the same religion when no difference existed which could create a difficulty in their minds respecting the ceremonies to be observed, was crowned with his Queen. The case of Charles II. was not in point, because he had been crowned before he had married. In the case of Geo. I. he would say, that as Avisia had not been Queen *de jure*, so the wife of George I. had not been Queen *de facto*. Nobody had known any thing of her; her situation, her rights had not been known. Her existence as the wife of George I. was unknown to England. If she had been acknowledged by the King of England, if she had been received in this country as his Queen, something like an objection might be founded on her case; but as her case was entirely unknown, no argument could be founded out of it. Her Majesty's right was recognised on the principle of custom and usage—on the same principles on which the Barons in the time of Henry III. said "*Nolumus leges Angliæ mutare quæ hujusque usitatæ sunt et approbatæ.*" That, he doubted not, would be the determination of their Lordships in the present case; and when they (her Majesty's Counsel) showed them what had never been before changed or violated, they could not anticipate but one decision, and that in her Majesty's favour. He might now offer several observations on the ceremony itself, as described in the *Liber Regalis*, but it was unnecessary to detain their Lordships for that purpose. He would only remark, that every part of the ceremony was stated in the *Liber Regalis*, to be "*ab anti-*

quo et de consuetudine”—exactly the same terms which Selden used. He did not pass over any documents because they were ambiguous or indecisive, but because it was unnecessary to detain their Lordships by any references for proof of what was already made so clear. These were all the observations he had to offer. He hoped that no observations he had made could be allowed to prejudice or impair the right which her Majesty claimed, and which she set forward in self defence.—It was a duty on the part of her Majesty, stronger in his opinion than the duty she had to perform when she had been called to another bar to answer to charges made against her.—He thought so, because, if the determination there had been unfavourable, there might have been various explanations given which would vindicate her Majesty's honour; but if she suffered her right to be unclaimed in circumstances which made it as clearly her right as any rights belonging to their Lordships or to any English subject belonged to them, she felt that she would be sacrificing her own honour and the most sacred principles of justice. It would have been easy for her Majesty to have purchased tranquillity by the loss of honour; but that was a purchase foreign to her feelings and inconsistent with her character. The Coronation was not a ceremony which she could desire. To her mind it would bring recollections of the most painful nature; but a deep sense of duty, which it belonged not to her magnanimity to neglect, impelled her to defend her own rights and the rights of the community, which could not be secure if her's were violated. But the consciousness of her own integrity, and of having performed her duty, would induce her Majesty to submit with cheerfulness and resignation to any decision their Lordships might pronounce.

The Learned Counsel having concluded, some conversation arose respecting the verification of the various documents which had been referred to. The Court was then cleared for about 10 minutes, when her Majesty's Counsel were called in, and it was intimated to them that they should produce verified copies of the documents to which they had referred to-morrow morning.

Mr. BROUGHAM suggested, that it would not be possible to have those documents duly verified so soon, and asked till Monday morning. The Court directed his Majesty's Attorney-General to state his view of the subject to-morrow, at ten o'clock in the morning.—The Court adjourned a little before three o'clock.

WHITEHALL, SATURDAY, JULY 7, 1821.

The Privy Council met at ten o'clock. Counsel having been called in,

Mr. BROUGHAM said he wished now to present to their Lord-

ships the documentary evidence to which he had yesterday alluded; Mr. Elliot was in readiness to verify the documents, if necessary.

The EARL of LIVERPOOL said, the documents might be handed in; and, should they be required, they might be verified afterwards.

The EARL of HARROWBY (the Lord President of the Council) then called upon the Attorney-General to proceed.

The ATTORNEY-GENERAL said, that in obedience to their Lordships' command, he now rose for the purpose of offering such observations as had occurred to him in consequence of what had fallen from the Queen's Counsel, in support of her Majesty's claim to be crowned. He, perhaps, should best discharge his duty by stating, at the commencement, that in his own opinion the argument and claim were wholly unfounded. That the claim was not founded on any recognised law, appeared from the statements and course of proceeding adopted by her Majesty's Counsel. He would add, that the claim now made, so far from ever being supposed to have any foundation, was not even mentioned by any writer on the laws and constitution. It had never been agitated or alluded to in any way—not even by those writers who had touched on the privileges peculiar to a Queen-Consort. The only single ground urged in support of the claim was usage—that usage was supposed to have prevailed through a long series of years at the Coronation of Kings who were married. It had been stated with confidence that such usage was evidence in support of the right; but when they were talking of rights founded on usage, it was not sufficient to state that particular facts had taken place. In all such cases, where the facts were relied on, it was essential to state the circumstances that had attended such facts, the peculiarities that had accompanied the alleged privilege, whether it was right of way, or otherwise. To illustrate what he meant, he would take the case which had been put by the Queen's Attorney-General respecting the right of way, a case that had been asserted to be analogous. The right of way, it had been asserted, depended on usage, and that the right of way would be determined by the usage. But his Learned Friend had stated this case much too broadly. It was true that usage might be evidence of right; but if it could be shewn that the exercise of the right of way was upon the special license and permission of another, then there was at once an end of the right; for it could not be contended that the person using the right of way could claim it as a right against the will of the party upon whose permission he exercised it in the first instance. The proof of the license and permission would demolish the right. How important then was it to consider the circumstances accompanying the alleged right; how essential to learn in what manner the right, if mere usage could be called right, had been exercised. They

must inquire how it had originated—how it had been exercised; and for what purposes it had been performed. The usage, explained in the manner in which he should explain it, supported by all the proof that could be adduced, would cease to be viewed as a right, which could be demanded; he should shew the crowning of a Queen-Consort to be an honour and a ceremony that proceeded from, and depended on, the King's will. As to the supposed uninterrupted enjoyment of the ceremony (even if there had been no interruption from the Norman Conquest), he should hereafter advert to the argument founded on it. If he established that the Queen-Consort had not the right which was claimed, it followed that the Coronation of Queens had proceeded from the will and favour of the King. In reply to the main ground of his opponents, he should have to speak of the nature of a Coronation. Having considered the nature of the ceremony, as applying to Kings and Queens, where the Sovereign at the time of the Coronation was married, he should then examine, perhaps at some length, the supposed usage, and the cases adduced to maintain the alleged right founded on usage. With respect to the probable origin and nature of the Coronation of a Monarch, it originated perhaps in the fact of the Monarchs of this country, as well as that of the others, having been elected. Though the mode of succession to the throne was subsequently altered, then, as now, the Coronation was for the purpose of the Monarch's recognition by the people, and on the part of the King to enter into the solemn compact to preserve the laws. The Coronation of a Queen was a mere ceremony, but that of the King was something more than ceremony. His Coronation was accompanied by important political acts—the recognition by the people on the one hand, and on the other, the solemn compact entered into by the Sovereign to preserve and maintain the laws and constitution of the realm. Still, however, as far as the King was concerned, it was a ceremony; it was not necessary to the Sovereign's possession of the Crown—it was what proceeded from his will, and might be dispensed with. But the Queen-Consort, who filled no political character in the State, had only enjoyed the privilege because she was the King's Consort. With respect to a Queen-Consort, when she was crowned, there was no recognition of her by the people, no compact towards the people. There was no engagement between her and the subjects of the realm. That fact established, that with respect to a Queen-Consort, a Coronation was a mere ceremony. It was an honorary ceremony, unaccompanied by any acts; and be it always remembered, that the Coronation of a King, accompanied as it was by important political acts, the recognition, the compact, &c. was a ceremony which the Sovereign was not obliged to perform. It proceeded from the Monarch's will; it was not essential to his legal possession and enjoyment of the Crown. This was clearly laid

down in their law books. He would call their Lordships' attention to the opinions of Lord Coke, in Calvin's case. He stated, that by the death of Elizabeth, James the First of Scotland became at once fully and absolutely King of England, without any ceremony of Coronation; that in fact the Coronation was nothing more than a royal ornament and outward solemnization of the royal descent, and formed no part of the title of the King to the Crown. At this time it was held by the Prelates, that they might seize upon the person of James I. (he not having been crowned), and keep him within custody, and that this would not be treason against the Crown. But it was decided by the twelve Judges of England, that James became King on the death of his predecessor, and that the Coronation was not at all necessary to the establishment of his title to the throne. Henry VI. for instance, was not crowned until eight years after his accession to the throne. Judge Hale held the same opinions laid down by Lord Coke on Calvin's case; and in the "Pleas of the Crown," he held, that the King was fully invested with the Crown, the moment it descended to him; that he was absolutely King, although there should have been no Coronation; and that the Coronation was only a magnificent ceremony which settled what the law had previously arranged and made absolute. But, continued the Attorney-General, though the Coronation was a ceremony, yet it was so important a ceremony, that no King could be advised to dispense with it, on account of the important political acts with which it was connected. And if the Coronation of a King, important as he held it to be, proceeded from the Sovereign will, *à fortiori*, it must be so with that of a Queen-Consort. In her instance it was a mere ceremony, and must depend on the will and favour of the Sovereign. The rights of the Queen-Consort did not proceed from any Coronation; they flowed from her relationship to the Sovereign. Her rights were complete and absolute without any Coronation. Nor was it essential to the people, for the Queen-Consort occupied no political station.— This view of the right was strengthened by the important preamble of William and Mary, which settled the Coronation oath; it setting forth that, whereas by ancient usages and law, the Kings and Queens have entered into a solemn compact to preserve the laws of the realm, &c.; the Act then stating what the oath administered to the Sovereign henceforward should be.— The language of the Act applied to Queens-Regnant, not to Queens-Consort, for the latter no oath was administered.— Indeed, the whole of the ceremony of the Queen's Coronation was an adjunct to the King's, and not a distinct solemnity recognising any right to enjoy it on the part of the Queen-Consort. It was in vain to plead that there were tenures and rights held by persons which were dependant upon the Coronation of the Queen-Consort; so there were upon the King's; but nobody

would assert, that if there were no Coronation those rights would be forfeited—they were only to be performed if the Coronation took place; if it did not, and the King refrained from the Coronation, then, of course, there could be no forfeiture of the rights or tenures; so the argument founded upon them went for nothing. His Honourable and Learned Friend had taken a nice distinction between the cases of Queens having been crowned with and after their Royal Husbands; but if the right existed in the one case, it was equally good in the other. It was very convenient for his Honourable and Learned Friend to separate those two cases, as the deviations from the “general usage” were much greater than in the other. He (Mr. Brougham) argued, therefore, that whatever might be the right of a Queen to be crowned, the King, her husband, having been crowned before her marriage, there could be no doubt of the right in the present instance. The longest passage respecting the ceremony of a Coronation was to be found in Selden; it was the most elaborate detail of all the matters connected with the ceremony. Mr. Selden referred, in his chapter of “Honours,” to the time of the Roman Emperors; and his argument, so far as it bore upon the question of a Queen-Consort, was entirely with his (the Attorney-General’s) view of the present case. He particularly alluded to the remarks upon the title of Augusta being conferred upon the wives of the Roman Emperors, but clearly and uniformly shewing that that, as well as other honours assigned the Empresses, were conferred by the will and pleasure of their imperial husbands. It appeared from Selden also, that the word Queen, among the West Saxons, signified the wife of the King, and he mentioned instances having been refused, in consequence of the wives of some of the Monarchs having behaved improperly. It was remarkable also, that he (Selden) spoke of the “Consecration” of the Queen, not of her Coronation. Selden says also, that after the King was crowned, he bowed to the Metropolitan and said, “*Reverendissime pater, postulamus ut Reginam dignemini coronari.*” The word “*postulamus*” clearly showing that the Coronation of the Queen was caused by the order of the King. It was, as Selden termed it, the “consecration” rather than the Coronation, and stated that the whole emanated from the King. In fact, he could not too often contend that the Queen-Consort, as of right, had just the same claim to demand the Coronation of the King, as she had that of herself. He should now come to the Scottish Act of Parliament of James I. which had been quoted by the Queen’s Attorney-General. Now, upon reference to that Act, it was clear that James I. owing to the troubled state of the times, and being about to leave Scotland, was most anxious to confer upon his Queen the ceremony of the Coronation. These were the words of the statute, and he would assert, from the very words themselves, that they authenticated no general right. (The Attorney

General then referred to the Act 1428 in the Scottish statutes, c. 109, passed in the eighth Parliament of James I. and read the following)—“ Aith to be made to the Queen, be the Clergie and the Baronnes:”—“ *Quo die Dominus Rex, ex deliberatione et consensu totius concilii, statuit, quod omnes et singuli successores prelatorum regni quorumcunque, necnon omnes singuli hæredes futuri comitum, baronum, omniumque libere-tenentium Domini Regis, teneantur facere consimile juramentum Dominae nostræ Reginae. Nec ullus prælatus de cetero admittatur ad suam temporalitatem, aut hæres cujusvis tenentis Domini Regis ad suas tenendrias, nisi prius præstet Reginae illud juramentum.*” Did not the words, “ *Dominae nostræ reginae,*” bear out his interpretation of the meaning of the statute, and show that it had reference, not to any general right of the Queen’s, nor was to be considered to be of force *in perpetuam*, but to a particular ceremony which he wished to have performed for his own Queen? The whole order emanated from the desire of the King himself. In the same manner a subsequent act ought to be interpreted. In that the Prelates and Barons, &c. agreed to a resolution, in which, among other things, it was stated—“ *Promisserunt dare litteras fidelitatis Dominae nostræ Reginae.*” This could only be applied to the then Queen, and not to every person who might in future fill that situation. This was the view in which the question had been taken by Pinkerton; but whether it was the true point of view or not, it was of no consequence; the case had nothing to do with the question before their Lordships, unless it could be shown that a Coronation had afterwards taken place, and that such oaths were taken to some subsequent Queen by the Prelates and Barons. Before he quitted this part of the question, he could not avoid again observing, that all our ancient writers were silent upon this important subject. Bracton, an authority of admitted excellence among the old law writers, and who was very full as to all particulars connected with the prerogatives of the Crown, and the privileges of the Queen, mentioned nothing about her Coronation. There was one author of great historical and legal learning, who had treated these matters at great length—Lord Chief-Baron Comyn. That learned person had a title or chapter “Of the King,” under the head of “Coronation;” it was particularly observable that he spoke of it as a ceremony appertaining to the King, and in the King alone. Almost immediately following this, there was a dissertation about the privileges of a Queen-Consort, and there Comyn made no mention whatever of a Coronation. He mentioned her capacity of suing, and of being sued, alone as a “*femme sole;*” he stated her claims to the “*aura reginae*” and other privileges, but he was wholly silent as to any claim to a Coronation. In his chapter about the King, he expressly said “*de coronatione regis,*” but noticed nothing about the Queen. If he had considered that it was a

personal right—a right which devolved to her personally—this author would surely have mentioned it in his book. But if he had held that it was to be considered as a public right—a right in the Queen generally—still more would he have felt it his duty to say something about it. Because, in the latter case, not only did it concern all future Queens, but it concerned the public also, as affecting those other rights which are supposed to depend upon the ceremony of Coronation. But there was no such thing to be found in either authority; neither were the rights and services of those who claimed such rights, or to perform such services, in any way affected, as he (the Attorney-General) should contend, by the non-celebration of that ceremony, in the event of its being abstained from. Blackstone, again, who had a separate chapter touching the Coronation of a King, and who treated at some length of the rights and privileges of a Queen, was wholly silent as to this pretended right upon her part.—The Attorney and Solicitor-General for her Majesty had rested their claim, not mainly, but altogether, on the supposed usage which had prevailed on this subject. In advancing to that part of the case, he (the Attorney-General) should contend that, with reference to the principle upon which he was proceeding, it must be altogether immaterial whether the Queen was married at the time of the Coronation of the King, or subsequently to it; because, if this was in truth a right she was entitled to demand it. Being a right which it was important that she should exercise, for the good of her subjects, no distinction could possibly be drawn between a Queen married at the time of the King's Coronation, and a Queen married subsequently to it. If this claim to be crowned was a solemn right, and asserted in order to secure that right to future Queens of England, all the arguments which their Lordships had heard applied to the Queen equally, whether she was married to the King before or after the Coronation. He should now advert to the precedents that had been quoted by his Learned Friends opposite; and in examining them, he would keep them distinct from each other, and take the order adopted by his Learned Friends. They had begun with William the Conqueror; and they admitted that undoubtedly his Queen was not originally crowned with her husband. For that omission, reasons had been given which had proved, perhaps, satisfactory to their Lordships. William had gained the dominion of this country by conquest, and the power of his arms had not secured the affections of his subjects. In those times, too, it was almost an imperative necessity upon him that he should be crowned King; for at that unsettled period the kingdom was open almost to any invader, and his throne might be challenged by almost any pretender. The circumstance of his Coronation was naturally considered as giving weight and effect to his title, and as in some way pledging those who were present at it to support the title so confirmed. Cer-

tain it was that the Conqueror's Queen, however, was not crowned until two years afterwards. William Rufus was not married, and consequently no argument was to be derived from his case. Next came Henry I.:—this King was not married at the time of his Coronation, but it was true, as had been alleged, that his Queen was afterwards crowned. Then followed the case of King Stephen. He (the Attorney-General) had been not a little surprised to hear it passed over in silence by the Counsel for her Majesty. It was not, indeed, passed over by them in their historical enumeration, but no reasons had been assigned by them why Stephen's Queen was not crowned: yet this King was undoubtedly married at the time he ascended the throne. If the ceremony in question was so imperiously requisite with respect to the Queen, what could be said as to this omission? If the Queen of Stephen was not with him at the time he came over to this country, yet one should have thought that the ceremony being (as it was contended) so necessary in the case of a Queen, married at the time, she would have been crowned with him. He only noticed this circumstance, because it served to show, among a variety of others, that no reasonable inference in favour of the right now claimed could be drawn from usage; and here their Lordships would observe, that no reasons had been alleged by his Learned Friends for the omission of this ceremony. With respect to King John, their Lordships had heard the reasons given by her Majesty's Counsel why that Monarch's first Queen was not crowned with him. He (the Attorney-General) would not stay to inquire whether those reasons were in themselves satisfactory or not. The fact was, that she was not crowned. His Learned Friends had said, that at the time of his Coronation, John meditated a divorce from Avis. Now, by the construction which was to be put on their argument, they had in fact stated a case against her Majesty. If this was a right which Avis, as Queen, could not properly abstain from, the circumstance of the King's meditating a divorce from her could not interfere with it. The facts in this case, although they had been attempted to be explained, were, so far at least as they went, rather against than in favour of the argument of his Learned Friends in support of this right.

Mr. DENMAN here interposed. He did not know whether he was at liberty to interrupt the learned Attorney-General; but, by favour of their Lordships, he would observe, that his Learned Friend was wrong in stating that her Majesty's Counsel had not mentioned the case of King Stephen's Consort; and in saying that she was not crowned. It appeared from the records of Gervaise, of Canterbury (p. 1507-8), that both King Stephen and his Queen were crowned at Canterbury by Archbishop Theobald.

The ATTORNEY-GENERAL thought his Learned Friend, the Queen's Solicitor-General, had mistaken the application of

what he had said. What he had said applied to this fact—that Stephen was crowned first, and that his wife was not crowned at that first Coronation. Stephen himself was crowned, in the first instance, in the year 1135. Here, then (and it was to this that he was anxious to direct their Lordships' attention), was the Coronation of a King without the Coronation of his Queen. He had also stated the case of King John, who was married at the time of his first Coronation, but whose Queen was not crowned with him. It had been asserted in the argument of his Learned Friends, that both the Queens of Edward I. were crowned. Undoubtedly historians did state that to have been the case. But that in the memoranda preserved by Rymer, as to what took place on the occasion of Edward's Coronation, their Lordships would find no allusion whatever made to his Queen in the account of the ceremony which then took place. It was asserted by the historians that the Queen was crowned with him; yet in all which Rymer had collected, with regard to this event, it did not appear that she occupied any station whatever, or at all participated in her husband's Coronation. In the 1st vol. Rymer, p. 555, their Lordships might see a letter from Llewellyn, then King of Wales, in reply to a summons from King Edward, to appear "*Ad solenne festum coronationis suæ.*" No notice whatever of the Queen occurred either in the summons or the letter returned to it. Again, in the margin of the roll preserved (and which contained all the particulars of these proceedings), there was this note—" *De victu providendo pro epulis Regis.*" Then came a memorandum—" *Solenniter coronatus fuit in Ecclesia Regali Sancti Petri apud Westmonasteriensem.*" So that if the Queen was crowned (a fact not mentioned in any of the records or muniments of that period that remain to us), it clearly appeared at least that the ceremony was considered as the Coronation of the King,—"*coronatio regis,*" "*— suæ coronationis*"—" *coronatus fuit,*" all these expressions implied that such was the case. It clearly appeared that this Coronation of a Queen was no more than a mere adjunct; not an essential part of the ceremony of "the Coronation," but an accessory ceremony, merely, and performed at the will and pleasure of the King. But it might be that the Queen of Edward I. was not crowned with him. If she was not crowned at the time, that alone was an important deviation from the practice which had been contended for. But, if she was crowned at the time, then, there being no record of that fact showed that her Coronation was not considered as any essential part of the ceremony of the King's Coronation, but as a mere accessory to it, which might be omitted. There was no account preserved of the Coronation of this King's second wife. Her Majesty's Attorney-General had said that it possibly took place; but certainly there was no authentic record of it. His Learned Friend would have inferred, that it did take place because of a

remonstrance which was addressed in succeeding years to Henry VI., on account of his not having had his Queen crowned "according to the constant practice of former Queens of England." And this fact his Learned Friend quoted from what he seemed to think a competent authority; concluding, that all Queens thereafter, down to the period of that remonstrance, must have exercised this sort of privilege. He (the Attorney-General) should be trifling only with their Lordships if he dwelt upon the omission of that solemnity of the Queen's Coronation, in the case to which he had been alluding, or the omission of its record, if it actually took place; and he should therefore proceed to the case of Henry VII. Before he adverted more particularly, however, to that case, he would mention one circumstance which had been dwelt on, and rather relied upon, by her Majesty's Attorney-General—he meant the circumstance of Henry II.'s son having been crowned in the life-time of his father. Surely his Learned Friends could never mean to argue, that there was any right upon the part of the son to be crowned, or any right in his wife to be crowned. Her Majesty's Attorney-General had told their Lordships, that this honour was at first refused; but that the King of France remonstrated to King Henry, and that his remonstrance was effectual. But how all this bore upon the case of her Majesty, he (the Attorney-General) was at a loss to guess. It only showed that Coronation was considered as an honour of the most distinguished character; and he (the Attorney-General) himself had never contended otherwise. The present claim of her Majesty was brought forward as founded not upon usage only, but as a claim of right; and, for his own part, he fully concurred with her Majesty's Attorney-General in considering that "usage strengthens a right, where the right has been acquiesced in;" but how the circumstance of the son of a King having been crowned in the life-time of his father could affect the claim of the Queen to be crowned at the same time with the King, in no wise appeared. And now he came to the case of Henry VII., upon which they had heard much animadversion from his Learned Friends; and if he (the Attorney-General) had wanted a case for his own argument, he should have selected that. Henry VII. was undoubtedly anxious that this honour should rest with himself, and Lord Bacon, in the history of his reign, has particularly noticed the fact. The King had contracted marriage before the battle of Bosworth-field; but so anxious was he to hold his title, as if in himself and entirely alone, that he would not even be married before his Coronation. Having fulfilled that compact, he was united to the Lady Elizabeth. It was notorious that her Coronation subsequently took place, and the circumstances of those times amply explained the cause. A strong feeling prevailed throughout the country in favour of the York family. It was thought that they had not been fairly treated by Henry VII. His Queen,

the illustrious representative of their fallen house, was considered by the people (and men of the first information in later times had confirmed that judgment) to possess the best and soundest title to the throne; and they were anxious that the same honours should be conferred upon her as had been conferred on other Queens. Now he would ask their Lordships to look for a moment at the language of the great Lord Bacon, who, to an intimate acquaintance with the events of Henry's reign (between which and his own days a sufficient interval of time had elapsed to allow him to record them without prejudice) united the sagacity and discrimination of a profound lawyer. Certainly he was now quoting words which tended to prove (if ever a case was yet proved) that the Coronation of the Queen was that mere accessory and unessential ceremony which he had described it to be. He would read them from the quarto edition of Bacon's book, p. 15. After stating that the Coronation of the Queen had been delayed for two years, and describing the heart-burnings which had been created by the continued persecution and severity of Henry VII., exercised against the House of York, my Lord Bacon observed—"The King was grown in this estate; and, contrary to his own opinion and deserts both, was not without much discredit throughout the realm. The worst of all was the discountenancing of the House of York; and this did alienate the affections of the people more and more, especially seeing that after the birth of a son"—(now this was the very important circumstance which the Counsel for her Majesty, who described her Majesty's Coronation to be not a matter of grace and favour, but absolute necessity, insisted upon: they contended that a Queen under such circumstances ought to be crowned, in order that she might be exhibited to the people as the mother of their future Sovereign)—"after the birth of a son, he did not think proper to proceed to the Coronation of the Queen, because he would not vouchsafe her the honour of a matrimonial crown, nor would he hearken to the wishes of the people in this respect till after two years had passed." What! not "vouchsafe" the "honour" of a matrimonial crown? If this, which was now claimed before their Lordships, had been then considered to be a right, Henry VII. had not the power to withhold it, and of all persons in the world he was just the last who would have disputed it, situate as he was. It was a ceremony which could confer nothing but honour upon his Queen, and a ceremony which he would, therefore, of right, have been bound to vouchsafe to her. Being so bound, that King could have no hesitation in conferring such an honour, for it would not have been a matter of favour but of strict right. Bacon used very singular and precise terms when he came to treat of the ceremony itself, and to give the reasons why the King at last consented to its celebration. "For the extirpating of

the roots and causes of the late commotions, in all time to come, the King, who began to find where his shoe did wring, and who found that the affections of the people were for the House of York, resolved at last to proceed to solemnize the Coronation of the Queen." "He resolved." Let it be recollected, that this was not the language of a mere historian, but of a great lawyer also. If he had considered the matter at issue in the same light which her Majesty's Counsel contended that it should be viewed in, would not Bacon have adverted to the impolicy of attempting to delay that which was, in truth, a right? Would not the Yorkists at that time residents in this country, have gone to the King and said—"You must confer this right upon the Queen-Consort. This right will not at all affect your own right to the Crown; you have been formally acknowledged and recognised King of the country." These considerations, and the King's knowledge that his wife's was the better title to the Crown (according to the opinion of Lord Coke), would surely have induced the King at once to have consented. He (the Attorney-General) meant to say, that if King Henry VII. had thought that this was any thing more than a mere ceremony dependent on his will, he would have been the last man to have deferred it. "At last (continued my Lord Bacon) the King resolved to proceed to the Coronation of the Queen, in order to give contentment upon the matter of this ceremony." Now he was satisfied in his own mind, that all attempts to establish this right as in her Majesty had completely failed, and he thought he might take his stand upon the great authority of Bacon; for that showed that it was not a right; and when he came to observe upon the language which was employed in the proceedings that were had at Coronations, their Lordships would see that it confirmed the observations of Lord Bacon. The next case to which, however, he should apply himself was that of Henry VIII. and his Queens. From the statement of her Majesty's Counsel it seemed that two of these Queens were crowned and four were not. What, then, were their Lordships to say of this usage, which, instead of being nearly uninterrupted, they found disturbed in the course even of one reign in this way. Henry VIIIth's first Queen and Anne Boleyn were crowned. Some explanation had been attempted, in order to account for the circumstance of Lady Jane Seymour's not having been crowned also. With respect to her, it was important to remember that she was the mother of the only son of Henry VIII., whose anxiety for male issue was well known. If this ceremony was really a right, and to be considered such, as offering to the view of the people the mother of their future King, whatever motives of delicacy, such as those to which her Majesty's Attorney-General had alluded to, might have operated to prevent her Coronation during a precarious state of health; what could have prevented her from being crowned a month or two after her re-

covery, for instance? Some reason might be alleged for the omission in the case of Anne of Cleves, from whom the King was soon divorced; but with respect to his other Queens what reasons could be alleged? This Coronation of the Queen was either a right or it was not a right. If it was a right, it could not be waved on the part of the Queen; but if, more than this, it was a right involving in itself certain public rights connected with it, no Queen could be entitled to abstain from the assertion of it; being a matter which was connected with the rights of the people at large. Here, however, was a succession of four Queens of Henry VIII., not one of whom had been crowned. The causes which had been insinuated as accounting for this singular fact were referable principally to the then disturbed state of the church. He could not himself very well understand why that should be a reason for abstaining from the Coronation of the Queen. He could understand, that if this was a ceremony to be performed at the will and pleasure of the Monarch, it might be perfectly clear why it should be performed at one time and not at another. But his Learned Friend said—"Oh yes, there is another reason for Lady Jane Seymour's not having been crowned, and that is, the disturbed state of the country at that time. Ann Boleyn had been recently beheaded; and great discontents existed by reason of her execution." Now if this was (as he contended it was) a ceremony, he could not well understand why such a reason should operate to deter its solemnization: but if it was a right, such a reason could not operate. The fact seemed to be, that it was a ceremony that must be consented to by the reigning Monarch; and many motives of policy and reason there might be to prevent its performance under particular circumstances. There might be also prudential reasons why such a ceremony should not be performed, confirming the will and pleasure of the reigning Monarch. But in the case of a certain and absolute right, this reasoning would not apply. He should next advert to the case of King Charles I. His Learned Friends had endeavoured to show why the Queen of that Monarch was never crowned. They had insinuated, first, that she must have been crowned; then admitted she had not been; and then returned to a sort of suppositious declaration, that she must have been crowned, though her Coronation had not been recorded. Of such a fact no proof could be found. The proclamation which was issued by Charles, indeed, was for both their Coronations. Rushworth, in his "Historical Collections," gave a most precise and accurate account of the solemnities of that Coronation, the procession, the crowning, and so forth; but he was wholly silent with respect to the Queen. His Learned Friends had referred to a document, containing a full account of that Coronation, which was deposited in the British Museum. (Harleian collection.) But that which it had been contended might be regarded as an ac

count of the ceremony, had evidently been written before it took place. It stated that "two seats were to be erected, one higher for the King, and one lower for the Queen; that two chairs were to be provided—that the Regalia were to be delivered—that the King was to go under a canopy—that the Queen was to appear in a gown, &c." Reading this, no man would doubt the fact that it had been written prospectively, describing how the ceremonial was to take place before its actual celebration. In the British Museum there were also some curious MS. papers preserved; which, while they gave a detailed account of all that took place at the Coronation, afforded a direct negative to the fact of Henrietta Maria's having been present. They would be found in the collection of MSS. pp. 476-7-8, and consisted, principally, of historical letters relative to the most important events which occurred in the reigns of Charles I. and Charles II. The letter to which he alluded was dated February 4, 1625, from Mr. Mead to Mr. Strutfield. This very curious correspondence Dr. Birch had once intended to publish, but his death frustrated the design. There was this passage in the letter which he was speaking of—"The Coronation of the King took place on Thursday, but privately. The King went by water to Westminster Abbey. The Queen was not crowned, but stood at a window in the meantime looking on while her ladies were frisking and dancing in the room." There was not, in short, the least doubt but that Henrietta Maria, the Queen of Charles I. was not crowned. What, then, was the reason assigned by his Learned Friend (Mr. Brougham) for that deviation? His principal reason was, that from the civil and religious troubles of the country, arising out of the prevailing diversities of faith, and by reason of the prejudices against her religion, the King was disinclined to permit her Coronation. Why, in this, he (the Attorney-General) was disposed fully to concur. This being admitted, *codet questio*. It proved that it was in the King's breast to allow or to refuse the Queen the ceremony of a Coronation; and there was an end of her asserted right to it. But his Learned Friend (Mr. Brougham) had yet another reason to assign, and that was, that the Queen herself did not choose to go through this solemnity; and he had stated, among other reasons for that feeling upon her part, the admonitions that were accustomed to be given by the Archbishop upon presenting the ring, and particularly to the custom of the Queen's receiving the sacrament after the Coronation with the King—a solemnity which would certainly be very abhorrent from the religious impressions of a Roman Catholic Princess. Now if it was not a right of that public description which had been contended for, then there was an end of the question altogether. But if it was a public right, and one which affected the interests of those who had certain services to perform by virtue of it, how could she in justice or consistency wave it? And with

great deference to her Majesty's Attorney-General, there was nothing from which it could be inferred that Henrietta Maria would voluntarily have waved such a right, if a right she had conceived it to be. If this were the only case which could be found, it would be sufficient to show that there had been a most important deviation from the usage alleged on the part of her Majesty. But it had been shown that there were very many other cases in which there had been a similar deviation. It was always to be remembered, too, that usage was nothing where the right was not admitted. Now if the deviation had occurred, no matter whether from the disinclination to exercise the right or not, there was an end of the right; and it became a matter merely of the will or pleasure, or discretion, of the Monarch reigning at the time. The Queen of Charles II. was the next case upon the list. Charles II. was not married till after his own Coronation: some doubt had been expressed as to her Coronation, and as to whether or no the King had been previously married in England by a Protestant Bishop. "*The Public Intelligencer*," a newspaper of that day, published by authority, and another paper, the "*Mercurius Politicus*," also published by authority, gave an account of this Coronation, but made no mention of the Coronation of the Queen. The fact was, that she never was crowned. (After some further remarks, which the situation we occupied did not enable us distinctly to collect, the Learned Gentleman proceeded)—It was of great consequence that their Lordships should observe, that since the days of Henry VII. down to the present time, no muments existed, as far as he (the Attorney-General) could find, to show an uninterrupted usage, such as that which was contended for. It might be necessary to recapitulate the cases:—Henry VIII. had four Queens who were not crowned, and two who were. The Queen of James I. was not crowned. The Queen of Charles I. was not crowned. The Queen of Charles II. was not crowned. Here were seven Queens-Consort who were not crowned. The Queen of James II. was crowned. William and Mary were no instances; because Mary was a Queen-Regnant. The same thing might be predicated of Queen Anne. George I. was married, but his wife was never crowned. He was not going to dwell upon this case, but would only observe, that it was true the Queen of George I. was never in this country. So that from the time of Henry VIII. the majority of instances was against the claim now laid on the part of her Majesty. There were seven instances of Queens-Consort not crowned, and only six of those who had been crowned—viz. two Queens of Henry VIII., and the Queens, successively, of James I., James II., George II., and George III.; being seven cases on the one side, and six on the other. So much for the current of uninterrupted usage. His Learned Friends had referred their Lordships to what they considered to be one of their strong

points—the case of the Queen of Edward II. In the writ of summons issued on that occasion to one William de Launncy, the style ran “*de coronatione Regis et Reginae celebranda;*” and set forth, that on a certain day, “*intendimus celebrare coronationem.*” (The Learned Gentleman here recited a part of the writ.) In the recital of the writ, the King merely mentions the circumstance of his own Coronation; and, in the body of it, commanded the attendance of this De Launncy and his wife at the Coronation of his Queen Isabella. It was remarkable, however, that wherever distinct reference was made to the Coronation in this writ, it was always spoken of as the Coronation of the King himself. And so of the oath; it was said—“*De coronatione Regis et forma juramenti per Regem præstiti.*” Then came that oath itself; but it was not the same as the one administered at the Coronation of the Queen, which was also recapitulated. He mentioned this circumstance for the purpose of showing that, in fact, the Coronation was the right and ceremony of the King: that all the substantive part of it was in and appertaining to the King. This position seemed to be still further strengthened by all the instances that could be selected from the reign of Edward III., and particularly by the writ of summons directed to the Barons of the Cinque Ports, “*Nos Edvardus Angliæ Rex, &c. vos mandamus agere, quod in aliis coronationibus facere solet . . . ordinabimus quod fideliter apparentis, jussa singula et omnia, hic scripta, consecuta sint.*” Then followed orders as from and concerning the King; and all that regarded the Queen appeared to be under the same superior authority. Much the same language was held in more modern proclamations, the customary style of which was, “Whereas, we have resolved on such or such a day to celebrate the Coronation of ourself and of our Queen.” The very documents referred to by his Learned Friend (Mr. Brougham) showed that this was the construction to be put on them, because, if the Queen’s Coronation had been considered to be a matter of right, there could be little doubt but that it would have been so recited. They would have set forth that, Whereas, this was a right appertaining to the Queen, therefore, so and so should be done in the premises. On the contrary, however, their whole tenor sufficiently proved that the thing was considered not as a matter of right, but as matter of grace and favour in the King. The same language was held in almost all the books of authority; and was to be inferred from the record of all the services (whereof he would speak by and by) for tenures that were to be performed on the like occasions. He would here just allude to the precedents of his late Majesty’s Coronation. The proclamation in that case promulged set forth as follows:—“Whereas we have resolved to celebrate the solemnity of our Royal Coronation, and the Coronation of our Royal Consort, the Queen,” on such a day. Since the time of

Charles I. all proclamations issued on these occasions had run nearly in the same way. His Learned Friends had quoted the *Liber Regalis*, as containing the "*Ordo Reginae Coronationis*," and their Lordships might be referred to a similar paper in the Cottonian Library, in the British Museum. [Here the Learned Gentleman entered into a recapitulation of the ceremonies performed at the Coronation.] The King was presented by the Archbishop to the people, and was by them received and recognised as King. The ceremonial always concluded with the acclamations of the people who were present; and so on of other parts of the ceremonies, all of which were applicable to the King alone. There were no similar directions with respect to the Queen to be found in any part of the ceremony. The order of the ceremonial was always determined upon by the King in council previously. Various orders of this kind were extant. They proved, among other things, this circumstance, that whenever the King had fixed upon the day for the solemnization of the ceremony, he issued an order to the Archbishop of Canterbury, which was, by that Prelate, transmitted to the other accustomed officers of state. If the King could, with the consent of the Queen, and by the advice of his Council, dispense with the Coronation of his Consort, then there was an end of the question. If it was thought improper or objectionable to celebrate the Queen's Coronation under particular circumstances then existing, what did this establish but that a discretion was vested in the Sovereign to determine whether or not the Queen should participate in the ceremonial? The Queen of Charles I. might have objected, and probably did object, to parts of the solemnity, on the ground of her religious scruples; but if she possessed the right independently, and if, as had been contended, it was a right annexed to her political character, then she had not the power of waving it. Neither justice to herself, nor justice to those who were to succeed her, would allow the exercise of such a right to be suspended. Nothing short of uniform uninterrupted usage could support the claim now put forward; but the deviations were not only numerous, but they were, in some instances, of a nature to show clearly that the association of the Queen-Consort in the ceremonial was a matter which rested solely on the discretion of the King.—The marriage of Charles II. took place after he had been crowned, and no subsequent Coronation was ever had on the Queen's account. An attempt had been made to raise doubts whether Charles II. was married according to the ritual of the Protestant Church, and whether the ceremony was not performed by a Romish Priest. He had, however, seen an old newspaper of that time called "*The King's Intelligence*," in which the fact of the marriage was recorded, and in which it was stated that the King was married at Portsmouth by Gilbert, Bishop of London. This paper was published in the year 1662,

and the truth of its statement was corroborated by another publication of the same period. Admitting, therefore, that the fact was so, it could not be maintained that the Queen was not afterwards crowned because she objected to the solemnity as not conformable to the service or doctrines of the Roman Catholic Church, she having been married by a Protestant Bishop. She could not be supposed to object to the ministration of the latter at the ceremonial of her Coronation, when she had admitted it as sufficient for her marriage. There had been in this case some peculiar circumstances, which, if a right existed, would have rendered the ceremony very important and desirable, and left little room to doubt that it would have been celebrated.— This, then, was the current of the usage from the reign of Henry VII. ; of the different wives of Henry VIII. four had not been crowned, the Queen of Charles I. was not crowned with her Royal Husband, the Queen of Charles II. never enjoyed a Coronation, nor had that honour been conferred on the Consort of George the First. The majority of cases were in favour of his argument: of Queens-Consort since the period to which he had alluded, six had been crowned, and seven had never been admitted to that solemnity. Such deviations from an ordinary custom must disprove and controvert the existence of any independent right annexed to the Queen-Consort's political capacity. All the forms used on such occasions, the language of the proclamations, which had remained the same through successive ages, pointed to a similar conclusion. They all showed that the will and pleasure of the King was the only source from which the Queen derived her title to share in the ceremonial of her Royal husband's Coronation. It was to the discretionary exercise of his authority that she was always indebted for this mark of grace and favour. Rymer had been referred to in order to show that persons were summoned to attend and perform certain services to the Queen, in the writs issued at the Coronation of Edward II. But in the account of the ceremonial used on that occasion, the services or presence of these persons were not mentioned as indispensable. The word *ordinavimus* at the commencement of the old proclamations indicated the origin of the solemnity ; it proved that it emanated from the King's mandate, and " we have resolved " was the style used from the reign of Charles II. to the present day. His Learned Friend (Mr. Brougham) had referred to the *Liber Regalis* as containing a very important description of the ceremonial which took place at Royal Coronations in this country. But his Learned Friend did not mean to deny that this ceremonial might be altered or revised by the Head of the Church, and by the direction of an Order in Council. It had been asserted that various rights and offices were held on condition of performing services to the Queen-Consort on her Coronation ; but such rights and offices were not dependent on that event ;

the services might be dispensed with, and the tenure remain equally secure. They were held of the King, and not of the Queen; and the former might dispense with the services. If the ceremony of crowning the Queen did not take place, the attendance of individuals thus interested was dispensed with as a matter of course. The language employed in the proclamations was decisive of the question: it was manifest from them that the right existed solely in the King. He could not perceive what analogy there was between the right now claimed and the principle of the Prize Act. Here the Queen claimed not only to be crowned, but to be crowned on a certain day. He hoped that he had satisfied their Lordships of the utter absence of any such right on her part. The question appeared to him to admit of an easy solution, and he had experienced, as was sometimes the case, more perplexity in arguing it than he should have felt upon a subject of greater difficulty. If he had not been able to throw upon it any additional light, he hoped at least that he had stated it fairly, and that any defects in his statement would be attributed to the proper cause. His Learned Friend (Mr. Brougham) had addressed their Lordships in a speech replete with historical details, upon which he had reasoned with the utmost ingenuity. Agreeing with him in a great measure as to his facts and premises, he totally differed in the conclusions which he drew from them. This was the first time such a claim had ever been brought forward; that was an extraordinary circumstance in itself, supposing it to be of so much importance both to the Queen-Consort and the country as it had been represented to be. Not a syllable was said respecting it in any statutory enactment, no *dictum* of authority had been quoted in its support, and no text-book contained the slightest reference to it. It was on usage, and usage only, that it could be defended, and no continued or uninterrupted usage could be produced. In all the cases to which allusion had been made the same principle seemed to be established, and the participation of the Queen in the honours of the Coronation appeared always to have sprung from the grace and pleasure of the Sovereign. High as the Queen-Consort undoubtedly was in privilege and dignity, still it would not be forgotten that she was only a subject; she was invested with no political character to which the solemnity of a Coronation could be regarded as a necessary incident. His argument was fortified in every view that could be taken of the subject; and upon every principle of law, therefore, and every rule of fair construction, he submitted that the claim in question could not be supported.

The SOLICITOR-GENERAL followed on the same side. He began by observing that their Lordships must be fully aware how difficult, or rather impossible, it was for him to give any additional force to the argument which his Learned Friend had

just brought to a conclusion. Having previously consulted together the same authorities, examined the same historical references, and pursued throughout the same course of inquiry, he trusted that he should not be considered as deviating from the faithful discharge of his duty if he endeavoured to be as concise as the nature of the subject would allow. It appeared to him that the question, after all, resolved itself into a claim, arising out of an alledged uniform custom and practice. There was no argument or fact which could be adduced in its support, but a long continued, uninterrupted, enjoyment of the right. Even if an usage thus established were to be conceded to the other side, still he should be prepared to contend that his Learned Friends had not advanced one step in making out the proposition which it was incumbent on them to maintain. When a party undertook to prove a right as the result of immemorial custom, it was necessary on every principle of sense as well as law, that the circumstances under which it had been exercised and enjoyed, should be established also. It ought to be shown that the right had been exercised as such, and not by the favour, permission, or indulgence of another. Had the Queen-Consort been accustomed to share the honours of a Coronation, as an enjoyment by the allowance of her Royal Husband, as a matter of grace and favour; or had she a clear vested and political right to that ceremonial? Had she ever been crowned against the King's will, or had she ever participated in the solemnity, except under his license and control? The cases which might be brought in illustration must be familiar to their Lordships. They might infer a right of way, or a right of common from immemorial use and custom, but the circumstances attending its possession must be set forth in evidence and explained. It might be an adverse or hostile right, or it might be a right exercised only by permission. In the first case, it would rest on no legal foundation whatever; and, in the second, would amount only to a recognition of the owner's right. He might illustrate this principle by a reference to the forms and practice used on this very occasion. Many individuals were summoned to attend the Coronation, in consequence of their tenures; but did that summons give them any right to be present at future ceremonials of the same nature? Their claims, however, although not so high and splendid, stood on the same footing as that which was now under their Lordships' consideration. If they derived no right to attend from the fact of their being usually summoned to give their attendance, no more could the Queen-Consort become entitled from mere usage, totally unexplained as to its origin or circumstances, to share in the solemnity. Now all the incidents to a Coronation, all the forms in use, together with the style and language of the proclamations relative to it, showed that the ceremonial took place by the order and sole authority of the reigning Monarch. The terms of the proclamations from time

immemorial distinctly expressed, that the whole was celebrated under the direction of the Crown. From the time of Charles I. the same form of words was made use of, and there was reason to believe that it was also in use before. What was that form of words? "We have decided, we have resolved, or we have determined, that the Coronation of our Queen shall take place." In every instance of the Queen-Consort being crowned, this order so expressed had been issued, and according to all fair legal construction, the inference was, that the Coronation thus ordained took effect, subject to the control, and by the authority, of the Crown. This inference was not only to be drawn from the proclamations but from other instruments appertaining to the same occasion. They were not to take a partial view of this question, which must be decided on evidence, and on a combination of all the circumstances attending the several cases to which they had been referred. All this was felt on the other side, and felt strongly, too, by his Learned Friend (Mr. Brougham), who had endeavoured, with great dexterity, to evade the force of the argument suggested by the proclamations, by representing that if the right was clear, the proclamations would issue as a matter of course. Their Lordships were now considering a question of law, a point of great splendour and importance certainly, but still one to be decided on ordinary principles, and by the dry technical rules of legal evidence. Questions involving exactly the same principles were of every-day occurrence in Courts of Justice. But he might go further in the present case; he might refer to the celebrated work of Lord Bacon, the "*History of Henry VII.*" The author lived in the times of which he wrote; he was a great lawyer, a great statesman, and a great scholar, and had his attention particularly fixed upon this subject. There was, in fact, no trace in history of the supposed infringement of any right, such as that claimed on this occasion. Lord Bacon said, that "King Henry VII. did not condescend to grant the Queen a crown matrimonial," but became afterwards willing in order to gratify his subjects. Here was abundant proof that the King had it in his power to refuse or to consent. In Leland's *Collectanea*, which were deposited in the British Museum, were also to be found documents leading to the same inference; and the King's subsequent determination to crown the Queen was mentioned as flowing from his own exclusive authority. Her enjoyment of the right was represented as depending altogether upon the will and discretion of the King. The same explanation of the usage was suggested by every part of the ceremonial, and the more remote the antiquity to which they carried back their historical references, the greater confirmation might they derive from it. It was incontrovertible that, amongst the Saxons, Kings were regularly crowned long before that solemnity was performed in the case of Queens. This was stated in Selden's "*Titles of Honour*;"

the dignity was originally conferred on Queens by the Monarch, and in the *Pontificalia Regalia* the King was in like manner described as the source and fountain of her dignity. He would however content himself with tracing back the stream of usage to the period of the Conquest, and would observe, in the first instance, that Stephen's Queen was not crowned with her husband. Not only was it important, it was of the utmost necessity, that she should have participated in the Coronation, if she had any right independent of the King's pleasure. As the fact stood, it confirmed the opinion that the enjoyment of this distinction was subject to the control and convenience of the Monarch. There was no evidence to prove that Matilda did not come over with Stephen, nor any satisfactory accounts of the reasons why her Coronation did not take place. But, however this fact might be interpreted, let their Lordships consider the case of Henry II.: he was married on his succession to the throne, but being engaged in certain military arrangements in France, he did not hasten his departure, but from a confidence in the validity of his title remained to settle the affairs of his foreign territory, before he set out to wield the English sceptre. Those affairs were not of extreme difficulty or importance, and the delay, therefore, evinced the coolness and deliberation with which he acted. He arrived in December, 1154, and was immediately crowned; but the Coronation of the Queen did not take place till four or five years afterwards. Some said that he went through the ceremonial with her; but it was uncertain whether he did so entirely or in part. At all events, he who suffered military preparations of no great magnitude to delay the ceremonial of his Coronation, did not suffer the absence of his Queen to have the same effect; and he (the Solicitor-General) must here again remind their Lordships that they were now sitting in judgment upon the right. Then followed the Coronation of the Prince, and why, it might be asked, was not the Princess crowned also. True it was that the French King, her father, was offended at the non-performance of the ceremonial, and it might be natural for him to resent it as an indignity. This, however, would not assist the argument of his Learned Friends. A King might be crowned two or three times, because the entire ceremony was subject to his direction and control. Being dependent on his will, it might be repeated as often as he pleased. He should next come to the reign of John, upon which a great deal of ingenuity had been expended. John was married to Avisa at the time of his accession to the throne, and the reason assigned for not crowning her was, that he was then speculating upon a divorce, and had conceived a passion for another woman. Without dwelling at present on the fair inference to be drawn from such a statement, if correct, he would remark, that the fact must have been otherwise. The King ascended the throne in

August 1199, and his attachment to Isabella did not commence till the following year. He had previously lived nine years with his wife Avisia of Gloucester, and no satisfactory reason, consistent with the existence of a settled right, could be alleged for not associating her in the solemnity of his Coronation. No objection had ever before been heard of, and the case evidently admitted but of one explanation. Great as was the astuteness and ingenuity displayed on the other side, the facts with which his Learned Friends had to deal were of too stubborn a nature to be misconstrued or overcome. If they paused at this era, it must appear not a little singular, as respected the claim under discussion, that since the Conquest there had already been four Coronations of Princes, married at the time when that solemnity was celebrated, in which the Queens were no parties to the ceremonial. Coming to the reign of Henry VII. they found that the Coronation of his Queen was delayed by his authority, and at length only conceded as a measure of policy. Adverting to the acts of his son and successor, Henry VIII., he was willing to pass over three of his marriages as inapplicable to the present case. But in what manner could they explain the circumstance of no Coronation having taken place in favour of Jane Seymour, if that ceremony was any thing more than a mere honour imparted to the King's consort by his grace and favour? Henry VIII. was deeply enamoured of that Queen, and would not have withheld any dignity which was considered essential to her rank. His Learned Friend had said that it would not have been fit or decent to introduce the pomp of a Coronation immediately after the execution of a preceding Queen. He (the Solicitor-General) might, however, ask, whether it was fit or decent to celebrate the King's nuptials with Jane Seymour immediately after the death of Anne Boleyn? Was Henry VIII. a Monarch likely to be restrained by considerations and feelings of this nature? With regard to what had likewise been said of the pregnancy of Jane Seymour, and of the short time that she survived her elevation, it ought to be recollected that 17 months intervened from her marriage to her decease. The ceremonial of her Coronation, had it been deemed necessary, might have been performed at any time during 14 months of that period. Yet not only did it not take place, but no mention was to be found on record of any preparations for it. What, then, became of the uniform, continued, uninterrupted usage? There was a second instance, equally in point, under the same reign. He alluded to the King's marriage with Catharine Howard. So happily did Henry live with her before her unchastity was discovered, that when at York, 15 months after the marriage, he directed the Archbishop to draw up a form of thanksgiving to Heaven for the great blessings which he enjoyed. Notwithstanding this frame and disposition of the King's mind, it never seems to have oc-

curred at that period that the Queen was entitled as matter of right to have a formal Coronation. The most memorable instance of all, however, was that of Catherine Parr, who was married to Henry four years, and who was never crowned during that long period. The only explanation offered by his Learned Friend on this part of the case was, an allusion to the then disordered state of the church. Now it appeared to him, that a consideration of this kind must lead to opposite reflections. If ever there was a period when the Church of England was in a state of subjugation, if ever its slavery was complete, it was at that moment. It was held in thralldom by the Sovereign, who altered the mass-book as he pleased, and claimed the supremacy to himself. He new-modelled the forms and ritual of the church, he waved when it suited his purpose any established ceremony; and yet the distracted state of the church was the most plausible solution which his Learned Friend had been able to find of the difficulty which was here presented. The instance must, he thought, be allowed to tell quite the other way, and to strengthen the presumption, already so strongly fortified, that the ceremonial of a Queen's Coronation was dependent entirely upon the will and pleasure of the King. He came next to the reign of Charles I.; and here, undoubtedly, he must admit that the Queen's Coronation was intended, and that various preparations were made with a view to it. Prospective descriptions of the ceremonial still remained, and it had been even contended, on their authority, that it was actually solemnized. The case of Catherine of Portugal, Queen of Charles II., came directly in aid of this conclusion. Charles was at that time as popular as any King of England; and, had there been a right, there was no ground for abstaining from the exercise of it. The supposition, that the circumstance of her being a Catholic was deemed a good reason for not crowning her, was altogether removed by the fact of the Queen of James II., who was likewise a Catholic, having been crowned together with her husband. His Learned Friend was thus driven to the necessity of contending, that a greater difficulty might exist where one party was Protestant and the other Catholic, than when both professed the same religion. From the Conquest then, down to the reign of John inclusive, there were four examples of married Kings who had been crowned without the participation of their wives. Beginning again with Henry VII. and coming down to the Revolution, there were six instances of the Coronation of Queens-Consorts, and six of the contrary. Instead, therefore, of its being a right founded in immemorial and continued usage, it appeared to have been enjoyed only by sufferance under the direction and at the command of the reigning King. His Learned Friends had rested their claim on custom and usage, but there were as many instances against the usage as for it. His Learned Friends had then gone to Scotland to sup-

port the use, and argued that every Scottish Queen had been crowned. What evidence had they produced of this? Had they any documents? None. They had no evidence of any kind in support of such an assertion. But the *onus* was on them. They must show the facts which supported the right which they claimed. His Learned Friends had been extremely desirous of obtaining a book respecting the ceremonial, which was in the custody of the Dean and Chapter of Westminster.—What use they proposed to make of it he could not understand. It was perfectly clear that there was a distinct ceremonial for the Coronation of the King alone, of the King and Queen alone, and of the Queen alone. For those three different states of circumstances there were three different ceremonials. But this ceremonial was not a matter of course; it was subject to the control of the King; it was referred to proper persons to direct, alter, and arrange it. It was altogether subject to the order, controul, and direction of the King. The claim of his Learned Friends appeared to him to be a claim of the first impression. A claim of right of this nature had never been made before. Such a right had never been mentioned or alluded to by the greatest writers on the subject. Sir William Blackstone, a high authority, and one of the law officers and advisers of the Queen, had not left the slightest trace of such a claim. This was a fair and legitimate argument, he did not say it was decisive, but it was a strong argument against the existence of the right. Was it possible that a right of such magnitude and splendour could have been passed over and not have been enumerated with the other rights of the Queen? It was the same with Comyn, a great and learned authority. In his Digest, he mentioned the Coronation under the title “King,” but he mentioned no Coronation among the rights of the Queen. His Learned Friends had argued, that if their Lordships refused the right of the Queen to be crowned, they would extinguish those rights and privileges of attending the Queen at her Coronation. It was astonishing how few rights and privileges of this nature existed, and those were only contingent: they were claims depending on tenures of lands held of the King, for which the holders were bound to perform certain services. They were services due to the King, and consequently the King could dispense with them. There were certain services to be performed if the King went to a particular distance; but it did not follow that the King must go to that distance. It was a right to carry the King’s banner in war, but the King was not to make war therefore. In the same way the rights and privileges depending on the Queen’s Coronation formed no proof of the right of the Queen to be crowned. His Learned Friends had shewn great talent and ingenuity, but they produced no proof. The Coronation of a Queen-Consort was usage and enjoyment depending on grace and favour. It was usage and enjoyment of a privilege and ho-

nour by sufferance, grace, and favour. They (the Queen's Counsel) had not shown the contrary, and his Learned Friend (the Attorney-General) and himself had shown that the usage set up on the other side was consistent with the case which they stated to their Lordships.

[The Solicitor-General concluded at a quarter past one, and there was then a pause of about ten minutes.]

Mr. BROUGHAM commenced by observing, that his Learned Friend the Attorney-General had complained, that the only hardship which he felt in arguing the present question was its extreme clearness, which left him no real argument to combat; but if their Lordships thought such an assertion should form any presumption against his argument and in favour of the opposite one, he had only to remind them that few things were oftener said by persons arguing legal questions. Now he must confess, that he had himself much difficulty to conceive on what arguments his Learned Friend would be able to oppose the claim, and her Majesty's Counsel were much puzzled to ascertain the objections on the other side; but they endeavoured to anticipate these objections, and it now appeared, from the speeches of the King's Attorney and Solicitor-General, that they had come to the same conclusion as he had stated by anticipation, with this difference, that the Solicitor-General seemed to suppose he (Mr. B.) had referred to the proclamation of the Coronation as an integral part of the ceremony, whereas he had only mentioned it as an objection which he should have to meet, and which, by anticipation, he wished to get rid of. His Learned Friend, the Solicitor-General, said that he (Mr. Brougham) was not at liberty to separate the two views; and, if he (Mr. Brougham) might be allowed to say so, some of their Lordships seemed to him to be of the same opinion—that he was not at liberty to separate the issuing and the tenor of the proclamation. His Learned Friends had contended that the enjoyment was to be understood by reference to the proclamation, and by mixing up together the issuing and the tenor of it, they had argued that the mere fact of usage might establish their case. But what was there in the manner and usage which showed that the Coronation of the Queen depended on the mere will and pleasure of the King? The answer he had given before, when anticipating this objection, would do quite as well now in this iteration of the argument. There might be a right, yet it might not be enjoyable without an act to be performed by another person, and yet it would be no impeachment of the right that it could not be enjoyed without that act to be performed by another person. The right of the Queen was not similar, but the same. There were writs of the crown, without which rights, both of a public and private nature, could not be enjoyed. There was another right of which neither of his Learned Friends had taken

any notice—he meant the right of the eldest sons of Peers to take their seats in the Upper House of Parliament on the death of their fathers. It was well known that in such cases summonses were issued to the Peers who had so succeeded to the title to take their seats: yet, could it be contended that the legitimate eldest son of a Peer could be denied the right to sit in the House of Peers? No man thought that he derived his right from the writ of summons. The right was founded on descent, but it could not be enjoyed without what was commonly called a writ of summons. If this writ was not issued the remedy was by a petition of right to the Crown. Could any thing be more incontestible than the right in such a case? and if the Queen's case was the same, was not her right equally incontestible? The language used in the proclamation had been relied on by his Learned Friends. It had been said that, because “the King determined,” “his Majesty was pleased,” and “the King resolved,” were expressions in the proclamation, therefore the Coronation must be optional with his Majesty—must emanate from him, and was to be limited by him. But those words could not be interpreted as meaning any thing more than the mere forms of expression. Was it inconsistent with the right of a private party that the writ issued for the purpose of conferring the right contained the expressions “We are minded that right should be done. We will that right should be done. We are resolved that right should be done?” “Oh, but,” said his Learned Friends, “this was not the language of right, but of grace and favour.” But what was the language of a writ of error? “We willing, &c.” Or, when it was written in Latin—“*Nos errorem corrigi et partibus litigantibus justitiam fieri volentes.*” Then followed the expression “*quoad decet,*”—not “*quoad nos oportet,*” but it was “*quoad decet.*” It could not be said at this time of day, that a writ of error was matter of grace and favour; therefore, when the words “we will” were used in a Writ of Coronation, that was in a proclamation, it was no argument whatever against the right. The expression in the ceremonial of a Coronation was only similar to the expression in a Writ of Law, and therefore it could not prove the one to be optional more than the other. His Learned Friends, particularly the Attorney-General, had contended that the language addressed to the Archbishop, which he had recited from Selden, proved that the crowning of the Queen was optional with the King. The King said, “*Nos postulamus ut dignemini, &c.*” If “*postulamus*” proved that the Coronation was optional in the King, then was it much more proved by the word “*dignemini,*” that it was optional in the Archbishop. Yet those had been the usual terms applied at the time by the Monarch to the Archbishop. The case was reversed now, and such terms proceeded much

more frequently in the present day from the clerical to the monarchical state. The King asked, with an expression that the Bishop would be pleased, &c.; if the arguments founded on the mere words, which he thought absurd, formed the right, then the words here used implied a doubt whether the Bishop would be pleased to what he was asked. It was evidently no more proof of the Coronation being optional in the King than in the Bishop. Both his Learned Friends had contended that the Coronation was a mere ceremony, a mere pageant, and only conferred an honour, but no title. Who had ever contended otherwise? Whether it had originally conferred a title, or whether the title might not have depended upon it, he would not argue; but that in modern times it was an honour and ceremony rather than a substance and matter of use, at least as far as the King was concerned, he was not the person to deny. But it had not been treated so lightly by the writers upon the subject. Lord Coke only said that he was King before the Coronation; he did not say that the Coronation was unnecessary. In his fourth Institute, he laid down that all the rights and privileges of the crown were independent of the Coronation. This was not to be disputed now, and it could scarcely be conceived that it had been disputed then. But that the Coronation was not necessary, was a very different proposition from its being useless. It might be very improper in any Minister to advise its omission; the omission might prove injurious to the community. Yet the Coronation might not be necessary to any prerogative of the Crown. The two views might consist well together. The language of Lord Coke was, that it was "a royal ornament, and an outward solemnization which gave confirmation to the descent." It was a royal ornament, aye and more, an outward solemnization which might be very material. It might be even necessary in the sense of its being constitutional and part of the law of the land, a right of the Constitution, a right of the realm. It might be contended that it was necessary in the strictest sense, if the royal descent required to be outwardly manifested by such a solemnization, for that was a matter in which the realm had a material interest. But if it was a pageant in the case of the King, it was a mere pageant in the case of the Queen. If, however, it was of use in the case of the King, as tending to give confirmation if not the right, and as protecting the title from being contested in the realm, it was still more important in the case of the Queen, because that election which was at an end in the case of the King still existed in the Queen's case. He meant that the outward solemnization was more necessary as giving positive evidence, public testimony of the marriage of the Queen. It was in fact an outward solemnization of the Royal Nuptials, of their being free from all flaw and impeachment. It was an outward solemnization of the validity of that on which depended the

succession of the Crown, and on the recognition of which depended a quiet and undisputed succession. Was it not useful, then, that there should be this outward solemnization in the case of the Queen? What was the use of it in the case of the King? It was that his legitimacy and his right of succession might be made known to his subjects and to all mankind. Why, for the same reason, that the succession might be undisputed in his offspring, it was useful that this solemnization should proclaim to the world that the marriage had taken place lawfully and was still subsisting. This reminded him of an argument used by his Learned Friends, that he could not separate the right of the Queen to be crowned, when the marriage had taken place after the Coronation of the King, from her right to be crowned with him when the marriage preceded the Coronation. His Learned Friends said that it was of less importance to have the Queen crowned with the King than to have her crowned when the marriage took place; and the Solicitor General had recited four instances down to the reign of King John, of Queens not crowned in those circumstances. The Solicitor General had said, that the Coronation was more essential after a crowned King had married; and for this reason, that a marriage in such circumstances would make its consequences perpetual in all after-time. But he (Mr. Brougham) would submit that the reason of the case proved the very reverse. When a crowned King married, it must be in circumstances of such publicity as could leave no doubt as to the fact. But if the King had married when he might have been a subject and a common individual, the marriage might have been clandestine. He would ask whether it might not be very dubious in such a case whether the marriage had been legitimate, considering that he might have married by free contract, before the marriage laws were established; that the marriage might have been objectionable on grounds of consanguinity, and when there might be a dispute as to the facts; nay, whether there had been a marriage or not might admit of great doubt. It was then a matter of real use, nay, of absolute necessity, that a solemnity should be performed to give publicity to the validity of the marriage contract. And this he had a right to say was the original reason for the Coronation of a Queen Consort; and for the same reason he could confidently submit that her Coronation was more necessary when the marriage had taken place before the King was crowned than when it took place after his Coronation. The case of Henrietta Maria he would remark upon afterwards. The four earlier cases, down to the reign of King John, he would now offer some observations on. Edward I. was crowned with his first wife. This was a certain fact. He had not evidence that that Monarch's second wife was crowned, but it was probable that the ceremony was performed. He landed, as it appeared from Mat-

thew of Westminster, on the 25th July, and was crowned on the 19th August. There was another account which stated, that he landed in England on the 2d August; but it contained no difference with respect to the period of the Coronation, which was declared to have occurred on the 19th August. The want of evidence as to the Coronation of Edward's second Queen did not affect the proposition, which was, whether the Queen of any King, who ascended the throne of England when he was married, had not either been crowned with him, or who had not undergone the ceremony of the Coronation by herself. The ceremony, from particular circumstances, did not take place with respect to the wife of Charles I., and in four early instances, it had been delayed. Here he might as well mention the case of Avis, the first wife of King John, in order to get rid of the doubt which had been thrown on it in the course of the argument of his Learned Friend the Attorney-General. He said that it was not until John was smitten with the charms of Isabella that he ever thought of divorcing Avis. Now every authority was on the other side. It appeared that the subject was treated as a *questio religionis*, and that, before he ever saw Isabella, and before he returned to France, he had begun to undertake the divorce of Avis. According to the chronicler, who had narrated the transactions of those days, difficulties were raised by the Archbishop of Canterbury, who held, that the parties were too nearly related by blood to become man and wife. The ceremony was certainly performed, but the protest of the Archbishop proved that doubts were entertained in the minds of men as to the validity of the contract; and this, amongst other things, accounted for the omission of her Coronation at the time King John was himself crowned. He came over to England on the 25th of May, he arrived in London on the 26th, and he was crowned on the 27th. Troubles arising in Normandy, he returned on the 19th of June. He did not bring his Duchess with him to this country; and immediately on his going back to Normandy, but most certainly when the troubles had subsided, he began to sue out his divorce from Avis; and, when it was obtained, he was instantly married to Isabella, who was forthwith crowned. Thus it was easy to explain why Avis was not crowned. She was not in this country at the time of the Coronation of John, who came here to snatch the crown, as Stephen had done. He was called back to Normandy, after remaining three weeks in this country, on account of the disturbed state of affairs; and he had not at the time of his Coronation an opportunity of having Queen Avis within the realm. In the first instance, it was not physically possible to crown her; and afterwards it was not politically possible, on account of the state of affairs, that she should participate in that ceremony. Their Lordships would bear in mind that he accounted in this manner for the postponement of

the ceremony. He considered it in the light of a postponement, because, if a divorce had not intervened, it could scarcely be doubted but that the ceremony would have been performed.— In the case of William I. of Stephen, and of Henry I., there had been a postponement of the ceremony. With respect to Henry II. his Learned Friend had assumed a great deal too confidently, he thought, that the ceremony was postponed; because Jervis, of Canterbury, stated that he and his Queen were crowned together. He did not mention the crowning as a subsequent coronation of the Queen, but stated, and in that statement he was borne out by some other authorities, that the King and Queen were crowned together. He mentioned Jervis, of Canterbury, as a very high authority indeed, and to be depended on more than any other, on account of the facilities which he could command for ascertaining facts of this nature. With respect to the four instances in which it was alleged a postponement had taken place, he must observe that the first of them, that of William the Conqueror, proved nothing at all. He came over, ignorant whether he should himself be crowned. He came to fight for the throne, and being successful he caused himself to be crowned immediately afterwards. Was it likely, under the circumstances in which he was placed, that he would wait until his Duchess (Maude) came over to partake in the ceremony? Certainly not: he had himself immediately crowned, in order that the people might the more readily recognize his title to the crown; which he wished it to be supposed he held, not as the mere fruit of victory, but as a boon conferred on him by the consent of the people. But when his Duchess arrived in this country some time afterwards, he had her immediately crowned. Stephen was placed in circumstances nearly similar to those of William. He had not the shadow of hereditary right to the Crown. Henry I. was somewhat similarly situated, as he was crowned during the life of his elder brother. In all these cases, one of conquest followed by election, and the others of usurpation or election; the Queen, or Duchess, or, as in the case of Stephen, the Countess, was abroad at the time of the Coronation. It was for individuals placed in the situation of those Monarchs to hasten their Coronation as much as possible, in order to secure their title: and all that could be said of the postponement was, that the Queen was physically incapable of being crowned, on account of absence when the Coronation of the King took place, but that the solemnity was performed as soon as possible afterwards. The case of Charles I. was the only one that could be quoted, when the ceremony was withheld. His Learned Friends had broadly contended that this withholding actually occurred, because he (Mr. Brougham) had not proved that Henrietta Maria was crowned—and they had talked as if he had referred to a manuscript in the British

Museum as evidence of the fact. His Learned Friends argued, that the manuscript spoke of the ceremony prospectively—as a ceremony that was to take place *in futuro*, and they then referred to evidence to show that it never did occur. Now, their Lordships would do him the justice to recollect in what manner he had treated this part of the question. What he said was, that, if they looked to the title of the manuscript, it would be found that words were used which related to the past, as if the ceremony had taken place; but that, if they examined the body of the book, a different tense was used. The answer, however, drawn from that difference of tense, was not so decisive as his Learned Friends supposed; because, if the ceremony in that case were ordered by law, the person appointed to state what was to take place, could not have selected a better mode of performing that duty, than by citing the laws or customs with respect to the Coronation ceremony which then existed. The description, thus selected, would of course speak of things to be done, of circumstances *in futuro*; but the individual who compiled it might use the past tense in the title page, and speak of those things as having taken place, which, in the body of the manuscript, were mentioned as *to take place in futuro*. He only mentioned this to show that the words in the body did not afford so decided and triumphant an answer to the allegation, if such an allegation had been made, that Queen Henrietta Maria was crowned. But he had before stated, although his Learned Friends were not candid enough to allow the fact, that he was convinced in his own mind, even in the absence of evidence on the subject, that Henrietta Maria was not crowned; and he was willing to argue the case on that ground. His Learned Friends had alleged that there was an inconsistency in the manner in which he attempted to explain the reasons of the Coronation ceremony being withheld from Henrietta Maria. He denied that any such inconsistency could be pointed out. Objections came, on that occasion, from the country, which it was fair to infer, either compelled the Queen of Charles I. to wave her right, or induced the King to forego his intention; he would go farther, and argue, that the Queen, for certain reasons which it was not difficult to point out, did not choose to have the ceremony performed. If he showed to their Lordships, that this country was in the greatest alarm at the connexion of the King with Henrietta Maria—if he proved that remonstrances were made against the employment of Papists in her service—if he demonstrated that the utmost fear of the spread of popery, by the means of herself and of the persons who were about her person, was entertained—if it were found recorded that the alarms which agitated the country were noticed in the remonstrances of the Parliament—and, if it were shown that the King acceded so far to these remonstrances as to issue a proclamation against Popish recusants—would it not then be just to suppose that she

was intimidated from partaking of the Coronation solemnity, she being a Papist? A ceremony connected with a religion different from her own was not likely to be coveted by her; and, if she had partaken of it, it would have been considered a solemn mockery in which the heart and feelings had no share. The King was very likely to yield to the voice of the country to prevent mischief in the realm; and the Queen would also yield to it to avoid the odium which the ceremony would have brought on herself and her followers. So that the objections to the Coronation, moving at once from the country and the Queen, so far from being inconsistent, were perfectly compatible: the one, in fact, fortified the other. This was one of the grounds on which Queen Henrietta Maria might be said to have waved her right: the other was of a different description. He alluded to the scruples of her own conscience, which would not suffer her to partake of a Protestant ceremony. It appeared to him, that both on the one ground and the other, the ground of political expediency and of religious scruple, she declined being crowned. He had referred, in the course of his former argument, to the treaty of marriage, a point of great importance. He would now look a little more at it, and he conceived it would prove that the view he took of this branch of the question was the true one. This treaty was made on the 22d of January, and was to be found in the 6th volume of "*Rymer's Foedera*." It contained one clause expressly binding on King James, touching the marriage about to be solemnized between his son, Prince Charles, and Henrietta Maria, the daughter of the King of France. Amongst other stipulations made by the French King, it was particularly laid down, that there should not intervene, in that solemnity, any ecclesiastical ceremony, but that she should be married in the same manner as her father Henry IV. had been married to Queen Margaret: and in *Sully's Memoirs* were described the great pains that had been taken to prevent any outrage being given to the one religion or the other, Henry and Margaret being, like Charles and Henrietta Maria, persons of different religions. The historian, after pointing out the necessity of preventing any such outrage, proceeded to state that it was to be avoided by the retiring of one party at a particular time; and, according to the treaty, the marriage ceremony of Charles and Henrietta Maria was to be performed in the same manner. In consequence of this stipulation, no ecclesiastical ceremony whatever was introduced. This, he thought, threw very great light on the argument which he had used, founded on the religious ceremonies observed at the Coronation, and might account for the non-performance of that solemnity after the proclamation for the purpose had been sent forth on the 17th of January. When it was notified that it would take place in the usual manner, it was not unlikely that the French Ambassador would say, "This is contrary to the spirit, if not to the letter, of the mar-

riage treaty ; for if it were stipulated that at the marriage a religious ceremony should not take place, you cannot with propriety suffer such a solemnity to interpose at the Coronation." This, he conceived, fortified very much the argument which he had addressed to their Lordships, as to the reasons which prevented the Coronation of Henrietta Maria, and accounted for the change that took place in the Councils of the King after the 24th of January. It was contended by his Learned Friends that this and other cases, which he denominated cases of waver, proved that the right claimed on the part of the Queen never had existence ; " because," said they, " if it be a right it cannot be waved. It is not the private right of the individual, but a right belonging to the public." Now he considered it to be both a private and a public right—a right personal to the Queen, but also a right belonging to the realm. " Then," his Learned Friends would say, " she cannot wave the part that belongs to the public ; she can only wave her own portion of the right." The Queen waving that part of the right that belonged to the public was quite another question. He never said that she waved on the part of the public, but merely that she waved on her own account. If she had attempted, through the medium of any individual, to wave, on the part of the public, he would hold that she could not have effected that object. All he endeavoured to show was, why the right was not exercised and enjoyed at a particular time. The public possessed the right through the Queen, and it did not follow that a public right could be destroyed, because the person through whom it was enjoyed by the realm thought proper to wave it, as far as he or she was concerned. His Learned Friends said she could not wave this right, because there could be no waver of a public right. Here he must observe that he would not be bound down to the strict legal meaning of the word " waver." It was sufficient for him to show why, in the case of Queen Henrietta Maria alone, the Coronation ceremony was not solemnized. He did not mean to contend, that by the waver of the right a wrong had not been done. It was consistent with his argument to say that a wrong was done, and that the public had a right to complain. So far as this right was beneficial to the Queen-Consort, so far as she might exercise it merely for her own sake, and not for the advantage of the realm, he would maintain, if he were bound down to the term waver, that the waver of the Queen, to that extent, was good. Because, being merely a benefit to an individual, that benefit might be waved by the individual ; but, so far as it regarded the public, he had a right to say that the public were not bound by such a waver ; because, if they were, an injury would be done to the realm, and a public right would be invaded. This was all perfectly consistent with his argument, which only went to show why, in a particular instance, a Coronation was not solemnized, and

did not interfere with the facts which he adduced to prove that the right was founded on ancient custom. This led him to remark on the arguments of his Learned Friends with respect to custom. They supposed him to have argued, that this right resided in the Queen, in the same manner as a right of way or a right of common might reside in any private individual. Now, the way in which he introduced those analogous cases, was this. He observed, that where a right of way was disputed, although there might be a doubt as to one, two, or three exceptions, yet it was admitted that they could not prevail, when they bore little or no proportion to instances of a contrary description. He had then endeavoured to show, that where very many instances of usage were brought forward, and but a few exceptions, he had a right to call on the other side to prove distinctly how those exceptions occurred. Suppose it were proved, in a case of private right, that for 99 years out of a 100, a right of way had been exercised, but that an omission had taken place in one year, the person claiming the right was not called on to explain why, during that year, the right had not been exercised; the opposite party was bound to show that it originated in something that vitiated the claim. And, indeed, the omission for one year could scarcely, under any circumstances, overturn the evidence of usage during 99 years. A prescriptive right, for instance, a right of way or common, must be supported by constant *user*, from time out of mind. Prescription, however, implied an adverse possession. But, in the case of the King and Queen, he did not contend for any thing connected with an adverse feeling. He was not called on to put his argument in that shape. It was a right belonging to the King and Queen, and which the realm enjoyed through them, for which he was contending. He, therefore, only applied the case of private rights as analogous to that which he was arguing, but by no means as being perfectly identified with it. He had introduced it to show that where in one instance the exercise of a right was omitted, or where there was a temporary *non-user*, that circumstance would not be allowed, in a Court of Law, to countervail a multitude of instances in which it had been exercised. This brought him to the description which his Learned Friends had given of the part the Queen took in the ceremony of the Coronation, which they had stated to be, as far as she was concerned, a mere matter of pageantry. But it was only necessary to advert to the manner in which her part of the ceremony was performed, to show that it was not a piece of idle pageantry. She was anointed and a crown put on her head in the same manner as the King. She was received with the same ceremony. A sceptre was placed in her right, and a rod in her left hand.—She joined in prayer with the King, and the whole ceremony concluded with the same communion service. Now, it was going too far to say, that this was a something which might or

might not be done—a ceremony that might be performed or omitted, as chance or caprice dictated: for to this length the arguments of his Learned Friends must go, if they were at all applicable. Whether it was a right of the King, Queen, or realm, their argument went to show that it was not essential, that it was nugatory and immaterial, and that it might be performed, or it might be dispensed with. But the whole of this argument applied to the Coronation of the King as well as to that of the Queen, and it came to this, that he might drop the ceremony if he pleased, that he might have it performed or not, at his own will and pleasure. The King, he was aware, might be crowned when he pleased, and where he pleased; but it did not follow that he could put off the ceremony altogether. Sometimes he had been crowned four days after his accession, sometimes two months, and sometimes four months, subsequent to that event. Sometimes he had been crowned on the day specified in his proclamation, and, at other times, a second proclamation had changed the period appointed for the solemnization of the ceremony. His Learned Friends had argued that the ceremony was optional with respect to the Queen; but they might as well contend that the Coronation of the King was also optional.—Yet, at all times, it was considered so far not optional, that it was looked upon as a wrong done to the community, as a violation of a royal duty, and as an important right withheld from the realm—a right which it had an undoubted claim to enjoy, and which was established for wise and salutary purposes, if this ceremony were much delayed, to say nothing of its being put off altogether. In arguing that the Coronation was a right belonging to the realm, he could not enforce his reasoning more strongly than by showing, that, where it was omitted to be performed, the King did a public wrong, and inflicted an injury on the rights of the people. His Learned Friends had adverted to the offices which he had pointed out to their Lordships as being held by certain individuals at the Coronation. On that occasion orders were issued to particular persons to attend—they were directed to perform certain services—and the performance of those services was the tenure by which several of them held lands. His Learned Friends held, that, because those individuals enjoyed a certain right, when the Coronation took place, the King was not called on to cause himself to be crowned more than he was obliged to go to war, in order to enable a person, who held lands by the service of carrying a dagger before him in his warlike expeditions, to perform that species of service.—Here he thought his Learned Friends were fighting a little with the air. He had never contended that the ceremony of the Coronation must be performed, because, if it were not, certain persons could not enjoy certain benefits. Such an argument would be fallacious, because the event was incidental; and, from its very nature, no one could claim that it should be performed.—

If a man held lands by the tenure mentioned by his Learned Friends, that of carrying a dagger before the King when he went to the wars, he knew, at the time he entered into the compact, on what terms he held the property ; and the King, who granted the lands, was aware that he only imposed this burden on the individual in case of an event happening, which, from its nature, the subject could not call on his Monarch to order. The services known in law as grand services were at once honorary and beneficial. They imposed a burden, it was true, but they also produced an equivalent. Sometimes that equivalent was an honour only ; sometimes it was of a more substantial character ; but, in all instances, those who performed this species of service received an honour as well as a burden. When grand service related to such a ceremony as a Coronation, it was very different from a service depending on the contingency of a war ; because, it was known by all that a Coronation must occur from time to time on the accession to the throne. The parties, therefore, taking lands under any service to be performed at that ceremony, were acquainted with the period at which such service would be required. They would be ready to undertake the duty and to claim whatever honour or other advantage happened to be attached to it. His Learned Friends seemed to consider grand sergeantry only in the light of an *onus*—as a mere burden. But, in all cases, it was honorary as well as onerous. They alluded merely to the going to the war, and carrying a dagger before the King, which was not grand sergeantry, but knights' service. The latter was merely onerous. In conformity with it the subject was to proceed to the war, and to fight for the King. But grand sergeantry was honorary as well as onerous. Thus carrying a banner before the King, though, in some degree a burden, was also considered an honour. So to carry the King's sword at his Coronation was another species of grand sergeantry. It was undoubtedly of some use to the King, but it was a very great honour to the individual, and had always been so estimated. Indeed it had never been conferred except as a mark of the esteem in which the King held the person on whom it was bestowed. It was generally given to some Baron who had done material service to his Sovereign in the wars, by exposing his person or otherwise proving his attachment and fidelity. Their Lordships would find that the same observations applied to all other instances of grand sergeantry—they proceeded from the grace and favour of the Prince, and were highly prized by those on whom they were conferred. It was true the King, by proclamation, gave them notice when he was about to be crowned, and called on them to perform their respective services ; but he made that proclamation, lest they should forfeit their lands if they did not attend the ceremony ; and unless such notice was given, they might, from ignorance that the Coronation was about to take place, neglect attending,

and thus lose any property they held by the tenure of doing service. But it was important to those who performed grand serjeantry, not merely as a matter of honour, but as a matter of profit, because they generally had a right to claim some gift, as well as to be gratified by an honour. The Barons of the Cinque Ports claimed to bear the canopy over the King as well as the Queen, and to have the canopy, and the staffs and bells belonging to it, as their reward. At one time the staffs and bells went to the Dean and Chapter of Westminster, but that was not the case at present. Again, her Majesty's Chamberlain had also a certain claim.

The SOLICITOR GENERAL.—The records prove that his claim was never allowed.

Mr. BROUGHAM said it appeared distinctly by the Red Book in the Exchequer, 20th year of Henry IV., that the claim was allowed. Gilbert de Sandford claimed to be Chamberlain to the Queen, to keep her chamber-door the night before her Coronation, and to have her bed and its appurtenances as his fee; which claim was allowed.

The SOLICITOR GENERAL.—In the late reign, and in the reign of James II., the claim was made and disallowed. In Richard II.'s time the same claim was made, but nothing was done respecting it.

Mr. BROUGHAM.—In the book of Knights' Fees, the manor of Ingerby, in Essex, was said to be held by grand serjeantry—that of performing service at the Queen's Coronation, as Chamberlain to her Majesty, by keeping the door of her apartment. Now it was quite clear that the land could not be held by this service if the claim were not allowed. With respect to the disallowing of this claim in the time of James, and in the late reign, it was easily explained. The fact was, that the individual did not in either case make out his title to the manor. Of course, it was stated to the person making the claim that he should prove himself to be lord of the manor of Ingerby; and, failing to do that, the claim fell to the ground. He would cite another instance, from the Coronation Roll, in the Tower, which he meant presently to put in, where another claim of service to the Queen was allowed. Reginald de Blois, in the reign of Henry IV., claimed to be naperer to the Queen, which claim was allowed. In all these cases, he contended for two propositions, not only that the subjects of the realm had a right to have this solemnity performed within a reasonable time, in order to enable them to claim such honours and profits as they were entitled to, and on which certain of their rights were founded, but also that the Queen's Coronation was a substantive and significant ceremonial, independent of the Crown; because, if it were otherwise, it was impossible that such rights as those which he had described could have grown out of it. From what he had quoted it clearly appeared that particular rights grew out of the Coronation of

the Queen, exactly as other rights grew out of the Coronation of the King. In support of these two propositions, of the second as well as of the first, he tendered these instances of servitude. In referring to the principle on which grand serjeantry proceeded, it was not necessary here to say that it implied a service to the King. No doubt it did. But, in the eye of the law, service to the Queen was service to the King. She was the Royal Consort of the King, and it was a service rendered to him, when service was performed for her. If it were grand serjeantry to serve the King, by bearing his sword, it was no less grand serjeantry to serve the Queen by being her chamberlain—the King's interest in the ceremony of the Coronation, and the King's duty to have it performed, being the same, whether he was crowned with her or without her. It was not necessary that the individual doing grand serjeantry should be immediately about the person of the Monarch. An individual keeping his parks, or acting as his falconer, was performing a service of grand serjeantry, although he might never be brought into contact with the King. Grand serjeantry was not confined to the person of the King, and therefore a service to the Queen might properly be deemed grand serjeantry. He did not know whether it was worth while to notice what his Learned Friends had said with respect to the Scotch Act of Parliament, to which they had referred; on looking simply to the words of the Act, their argument would be found untenable. They wished to prove that the Act related to one particular Queen. The words were—“*Dominæ nostræ Reginae.*” But these words referred to all Queens. In the same way “*Domini nostri Regis*” were interpreted as referring, not to a particular King, but to his heirs and successors, although the latter were not specifically mentioned. The Barons were said “to hold of our Lord the King *in capite*,” clearly meaning from the Crown, generally, and not from any particular Monarch; and the words “our Lord the King” did not in Latin, more than in English, refer to the King for the time being. The words in Latin “*noster Dominus Rex*,” never were understood in the Acts of Parliament to refer to the King for the time being; for when it was meant that the King for the time being should be referred to, the word “*nunc*” was introduced. His Learned Friend (the Solicitor-General) relied also on the case of Henry VII. “Only look,” he said, “at the state of feeling then respecting the Queen; the people indignant at what they considered the ill-treatment of the Queen; great heart-burnings for this and other reasons” (circumstances he supposed quite peculiar to that time,) “and then let us look to what Lord Bacon says, that the King did not *vouchsafe* the Queen the honour of a matrimonial crown.” Now, the Solicitor-General quoted as the words of Lord Bacon, what Lord Bacon put into the mouths of the people. All that Lord Bacon said was, that the people were

indignant, that not only were her other rights (which were undoubted) withheld from her, but that he did not even vouchsafe her the honour of a matrimonial crown. Lord Bacon was speaking here as the historian, not as the lawyer. Neither was his Learned Friend correct in saying that the York faction never considered the Queen entitled to be crowned; for the very head of that faction, Margaret of Burgundy, complained that the Queen had been debarred of a Coronation, to which she was in justice entitled, by which she meant, undoubtedly, legal right; as she observed that the Queen was the first since the Conquest who had not been crowned. The language, therefore, which Lord Bacon put into the mouths of the people, utterly failed to establish his Learned Friend the Solicitor-General's proposition. Then, as to the four last wives of Henry VIII.; for the only precedents of the not crowning of a Queen were drawn from the reigns of King John, King Charles, and Henry VIII.—reigns which, if they afforded good precedents for law, afforded bad ones as to expediency; but, talking of right, the four last wives of Henry VIII. afforded only an exception to his larger proposition, not to his more limited one; for the first Queen of Henry VIII. was crowned with him, and the second was also crowned. As to the case of Jane Seymour, on which the Solicitor-General particularly relied, because she was the mother of what Henry so particularly desired, a male heir, the Solicitor-General, as he had in other cases, set at nought physical impossibility, overlooked it in this; for Jane Seymour died in child-bed.—But he said there were seventeen months between her marriage and the birth of the Prince. This was all along supposing that she was not crowned. There was no proof of this but the letter of some one at Christ-Church. This was the only title of a proof of a negative. He entirely relied upon their not proving the fact of their Coronation. But, supposing those Queens had not been crowned, it was necessary that it should be proved also that there were no inconveniences which stood in the way of their Coronations. Now with respect to Queen Jane Seymour, the very contrary might be proved; for it was evident that the King and Queen both had their good reasons for declining, or postponing that Coronation. If it could be shown that the Queen had asked and had been refused a Coronation, the case would be otherwise. His Learned Friends did no such thing; they assumed that the Coronations did not take place, and on that they founded another assumption, viz. that the Queens were not crowned, because they were refused their Coronations, having no right. He (Mr. Brougham) could go a great way to explain away these exceptions, even from his larger proposition. Jane Seymour would have made herself odious beyond all description, if she had gone through the ceremonial of a Coronation. The matrimonial crown had been to Anne Boleyn a crown of martyrdom, and Jane Seymour would have

drawn upon her the hatred of all the Reformists whom Anne Boleyn protected. He had now concluded the observations which it was necessary for him to make. He besought their Lordships to remember that the first proposition of fact (that all Queens being Queens at the accession of their husbands, had been crowned with their husbands) was, with one only exception, that of Henrietta Maria, fully proved: the second proposition (that generally speaking all Queens-Consort had been crowned), he had endeavoured to make out by the only evidence which could be collected respecting such distant occurrences, the testimonies of historians supported in certain cases by public records. He besought their Lordships to consider that the ceremony of the Coronation, such as it was in its nature, in its history, in its circumstances, and in the practice which was well known to their Lordships, could not be taken to be legally immaterial; and that if the ceremony was of such importance as he contended belonged to it, it was contrary to all reason, to the analogy of the imperial or constitutional law of these realms, that any part of it might or might not take place at the will and pleasure of any authority in the state; that it by no means followed also that the right did not exist in the Queen, because it could only be enjoyed after an act done by the King: because it was consistent to the scope, and not contrary to the tenor, of his argument, that her Coronation should take place in conjunction with that of the King, and then only. He was quite satisfied that, after a full view of the case, their Lordships would decide that the claim of her Majesty should be admitted, and on the grounds of right, on which he left the question. As to the question of expediency, on which they might have to advise their Sovereign, not a word had been or would be offered to them. However their Lordships might decide the question of strict right, all the statements made of the uniformity of the practice, of the nature of the solemnity, of the right with which it was surrounded, and which were founded on it, and the high public interests which were involved in it, proved that if the Queen had not a right as of law to have it solemnized, yet if it were claimed as of expediency, it would be all but a criminal act for the council to advise their Sovereign to decline to order that the Coronation should take place; for it would be to advise him to be the first to set an example of refusing to a Queen the honour of a customary solemnity, and of thereby fixing a stigma of the most injurious nature, without cause, from mere will and pleasure.

Mr. BROUGHAM having concluded his reply, strangers were ordered to withdraw; after which Mr. Brougham put in evidence, office copies of the numerous ancient records and other documents from the Tower and Exchequer, relied upon in his opening address, which were produced and verified by Mr. Illingworth, of Gray's Inn.—Presently after the Council broke up.

WHITEHALL, WEDNESDAY, JULY 11, 1821.

The following decision of the Privy Council upon this question, was transmitted yesterday morning by Lord Viscount Sidmouth to Lord Viscount Hood:—

“ At the Court at Carlton House, the 10th July, 1821, Present, the King’s Most Excellent Majesty in Council.

“ Whereas, there was this day read at the Board a Report from a Committee of the Lords of his Majesty’s Most Honourable Privy Council, in the words following, viz.:—

“ ‘ Your Majesty having been pleased, by your Order in Council of the 3d of this instant, to refer unto this Committee the several Memorials of her Majesty the Queen, claiming a right to be crowned on the same day and at the same place which has been appointed for the Coronation of your Majesty, and praying to be heard by Counsel in support of the said Claim; the Lords of the Committee, in obedience to your Majesty’s said order of reference, have accordingly heard her Majesty’s Attorney and Solicitor-General in support of her Majesty’s said Claim; and having also heard the observations of your Majesty’s Attorney and Solicitor-General thereupon, their Lordships do agree humbly to report to your Majesty their opinions, that as it appears to them that the Queens-Consort of this Realm are not entitled of right to be crowned at any time, her Majesty the Queen is not entitled, as of right, to be crowned at the time specified in her Majesty’s Memorials.

“ ‘ His Majesty having taken this said Report into consideration, has been pleased, by and with the advice of his Privy Council, to approve thereof. “ ‘ C. C. GRENVILLE.’ ”

HER MAJESTY’S ANSWER.

Brandenburgh House, July 11, 1821.

MY LORD—I have received your Lordship’s letter of yesterday to Lord Hood, conveying to me the Report of the Committee of Council on my Memorial to the King in Council, claiming my right to be crowned; and as I find the Committee positively denies that right which I have claimed, and which all Queens-Consort have enjoyed (without one exception arising from the will of the Sovereign), I consider it necessary to inform your Lordship, *that it is my intention to be present at the ceremony on the 19th, the day fixed for his Majesty’s Coronation, and I therefore demand that a suitable place may be appointed for me.*

(Signed)

CAROLINE R.

To the Right Hon. the Lord Viscount Sidmouth.

THE CORONATION REPORTER

Will commence the day after the Coronation, and be continued in rapid succession till completed, in three or four sixpenny numbers; printed in 18mo. on fine paper, and embellished with Engravings. This will form a small, elegant volume, containing a report of every occurrence, and a description of every ceremony connected with the Coronation.