

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

v.

THE UNITED STATES DEPARTMENT OF
JUSTICE, and LORETTA LYNCH, in her
official capacity as Attorney General of the
United States,

Defendants.

No. 16-cv-00538 - JLR

REPLY IN SUPPORT
OF DEFENDANTS' MOTION
TO DISMISS

EXHIBIT 1

EXHIBIT 1

R E P O R T

FROM THE

SECRET COMMITTEE

ON THE

P O S T - O F F I C E ;

TOGETHER WITH

THE APPENDIX.

*Ordered, by The House of Commons, to be Printed,
5 August 1844.*

[Price 1s. 3d.]

Martis, 2^o die Julii, 1844.

Ordered, THAT a Committee of Secrecy be appointed " to inquire into the State of the Law in respect to the detaining and opening of Letters at the General Post-office, and into the Mode under which the Authority given for such detaining and opening has been exercised, and to Report their Opinion and Observations thereupon to The House."

Committee nominated:

Viscount Sandon.
Mr. Wilson Patten.
Mr. Thomas Baring.
Sir William Heathcote.
Sir Charles Lemon.

Mr. Warburton.
Mr. Strutt.
O'Conor Don.
Mr. Ord.

Ordered, THAT the said Committee have power to send for Persons, Papers, and Records.

Ordered, THAT Five be the Quorum of the said Committee.

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THE COMMITTEE OF SECRECY appointed to inquire into the State of the Law in respect of the DETAINING and OPENING of LETTERS at the GENERAL POST-OFFICE, and into the Mode under which the AUTHORITY given for such Detaining and Opening has been exercised, and to Report their Opinion and Observations thereupon to The House, and to whom several PETITIONS were referred ;—HAVE examined the Matters to them referred, and have agreed to the following REPORT :

YOUR Committee, in performance of the duty which The House has devolved upon them, of inquiring into the State of the Law respecting the detaining and opening of Letters at the General Post-office, beg to state in the outset that although the wording of the 33d and 36th chapters of the 1st of Victoria, which now mainly regulate the Post-office, is, in respect of the matter in hand, somewhat different from that of the 10th chapter of the 9th of Anne, for which they were substituted, yet that there appears to be no such variance between the Statutes of those two periods respectively, as to prevent Your Committee from assuming, for the convenience of their inquiry, that the same powers are conveyed or recognized in all.

The inquiry, therefore, what the state of the law now is respecting such detention and opening, is reduced to the inquiry what the state of the law was, respecting the same matter, immediately on the passing of the Statute of Anne, unless, in the intervening period, the principles which regulate the interpretation of Acts in general, should have undergone modification, or cases should have been decided in the superior courts of law which might have a bearing on the construction to be given to this particular Act. With that reservation, the law on the matter in question was the same in 1711 that it is in 1844.

In preference to discussing the purely legal question, how far the Statute of Anne, in recognizing the practice, on the part of the Secretaries of State, of issuing Warrants to open Letters, rendered it lawful for the Secretaries of State to issue such Warrants, Your Committee propose, so far as they have materials for that purpose, to give the history of this practice, prior and subsequent to the passing of that Statute: these materials being such as ought not to be overlooked in investigating the grounds on which the exercise of this authority rests.

In these early researches, Your Committee will have occasion to inquire into the condition of the Posts in this country at various periods of our history, and into the connexion that subsisted between them and the supreme authorities of the country. In these inquiries Your Committee have been assisted by Sir Francis Palgrave, of the Rolls Office, by Messrs. Lechmere and Leman, of the State Paper Office, and by Mr. Reeve, of the Council Office.

It does not appear at what precise period the Crown undertook to be the regular carrier of Letters for its subjects. The Crown, doubtless, found it necessary, at a very early period, to the exercise of the functions of Sovereignty, to be able to convey with speed and security its own despatches from one part of the realm to another, and from and to parts beyond the seas; and for that purpose it appointed certain messengers or runners, called the Posts. These Posts were also employed for the personal convenience of the Sovereign, and the individuals composing the Royal Court. In course of time, a Master of the Posts was appointed, and the first of these on record was Brian Tuke, Esq. afterwards Sir Brian Tuke, Knight, who held that office in 1516, and whose letter to Thomas Cromwell, respecting the performance of its duties, dated 17th August 1533, is given in the Appendix. The joint successors of Sir Brian Tuke, were Sir William

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Paget, Knight, Privy Councillor, and one of Henry the Eighth's Chief Secretaries, and John Mason, Esq., Secretary for the French Tongue. The Letters Patent, dated 12th November 1545, conveying to them this office, grant to them, during their lives and the life of the survivor, the office of Master of the Messengers, Runners, or Posts, as well within the Kingdom of England as in parts beyond the seas in the King's dominions, together with the wages or fee of 66*l.* 13*s.* 4*d.* a year, to be held by themselves or their sufficient deputy or deputies, &c.; but besides his fee, the Master of the Posts received from the Crown the amount of his expenses for conveying Letters, of which he rendered in an account, many samples of which are given in the Appendix. There is a succession of Patents (including recitals of Patents), granting the same office, at the same fee, to other parties for life, in the times of Elizabeth, James 1, and Charles 1.

With regard to correspondence conveyed by other Messengers than their own, our Monarchs viewed it with great suspicion; but it was especially towards Letters arriving from or going to parts beyond the seas that their vigilance seems to have been directed. The frequency of disputed successions to the Crown, and the constant jealousy entertained of the Court of Rome, will assist in explaining their desire to prevent such correspondence. All Letters coming from beyond the seas were directed to be seized; but, in the time of Edward the Second, to whose reign the first record of this kind belongs, the King's Bailiffs, in assisting the Admiral of the Fleet to search for Letters, were forbidden, under pretext of such powers, to attack or oppress any Merchants or others crossing the seas. The open seizure by Wolsey, in 1525, of the Despatches sent from this country by the Ambassador of the Emperor Charles the Fifth, is a proof of the extraordinary jealousy with which foreign correspondence was regarded, and of the vigilance with which it was watched.

After the grant of the Office of Master of the Posts to any new person, a Royal Proclamation always followed, to notify the new appointment. Consequent on the grant of the Office by Queen Elizabeth, in the year 1590, to John Stanhope, Esq., there is a Proclamation, prohibiting all persons whatsoever from gathering up, receiving, bringing, or carrying out of the Realm any Letters or Packets, without the allowance of the Masters and Comptrollers of the Posts, or their Deputies. "All Mayors, Bailiffs, &c. are ordered to make diligent search for all Mails, &c. of all such disavowed carriers, &c. or suspected persons, coming into or going out of the Realm with packets of Letters; and all such to apprehend, &c., keeping them in safe custody, until, by the view of their writings, sent up to the Privy Council, it be seen and advised what further shall be done with them." Exception is made of the Despatches of Her Majesty's Principal Secretaries, of Ambassadors, and of others sufficiently authorized. Similar prohibitions are contained in the Proclamations announcing the appointment of new Postmasters in the two subsequent reigns.

The practice probably began at an early period, and afterwards grew into a regular custom, of allowing private persons to avail themselves of the King's Posts for transmitting their correspondence. This probably became a perquisite to the Postmasters, while, at the same time, it gave to Ministers of State the power of narrowly inspecting the whole of the written communications of the country.

The employment of the Posts for carrying the Letters of the subjects of the Crown is recognized in a Proclamation, dated 1591, consequent on the before recited grant by Queen Elizabeth to John Stanhope, Esq. of the office of Master of the Queen's Posts. The Lord Treasurer and others are thereby directed to notify to all Merchants, both strangers and others, in the City of London, that they are not to take upon them to employ any disavowed persons to convey their Letters, but are to use such only as are lawfully appointed for that purpose. The same direction is repeated in a Proclamation of James 1, dated 1609. In the year 1628, in an Address from the House of Commons to Charles 1, it is stated that the Deputy of the King's Postmaster, appointed to carry the Letters for the Crown beyond the seas, was likewise employed for the same purpose by the English Merchants.

With regard to Inland Letters, in a document obtained from the State Paper Office, and dated 1635, it is stated that the King's Postmasters carried the subjects' Letters, but up to that time had never reaped any benefit from it.

The officer who has been hitherto mentioned as the King's Postmaster, was the Master of the Posts within the King's dominions, at home or beyond the seas.

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seas. To him, however, had hitherto belonged the transmission of letters both at home and abroad; but in 1619 a new Patent Office was established by James I, called that of the Postmaster of England for foreign parts *out* of the King's dominions. This Patent gave rise to a long legal contest between Lord Stanhope, who held the former of these two offices, and Matthew de Quester, the new Patentee. During these proceedings, lest the Merchants of London should sustain inconvenience from interruption to their foreign correspondence, an order was issued permitting them to convey their Letters to and from parts beyond the seas, by messengers of their own choosing; and moreover, the Lords of the Council, to whom the dispute had been referred, advised De Quester, by letter, not to give any interruption to the conveyance and reconveyance of the Merchants' Letters. On the subject of this letter, the Secretary of State, Sir John Coke, wrote to his Co-Secretary of State, Lord Conway, calling the power of sending foreign letters a branch of the Royal authority, affirming that no place in Christendom can be named where Merchants are allowed to send their Letters by other posts than those authorized by the State; that his colleague best knew what account they shall be able to give in their places of that which passeth by Letters in or out of the land, if every man may convey Letters, under the covers of Merchants, to whom and what place he pleaseth, &c. The order, "upon weighty reasons of State," was afterwards limited to the Company of Merchant Adventurers alone, and they were only to convey their Letters to the towns of Hamburgh and Delf, and they were to give bond to carry no other Letters than those concerning the Company; no one was to be appointed messenger to the Company unless approved of by the Secretaries of State; the other Companies of Merchants were to send their despatches by De Quester only; and, in times of war and danger to the State, the said Company, and all other Companies of Merchants, if required, were to acquaint the Secretaries of State, from time to time, with their Letters and Despatches into foreign parts. In the end, by the influence of the Crown, Lord Stanhope was made to surrender his Patent. De Quester's Patent came into possession of one Thomas Witherings, who suggested to the Crown a plan for the entire re-organization of the Inland Posts, which, instead of producing at that time any revenue to the State, were a burthen to it of 3,400*l.* per annum. The plan proposed consisted essentially of three parts: the establishment of fixed Rates of Postage; substituting Horse Posts, which were to travel at the rate of 120 miles in 24 hours, instead of Foot Posts, which travelled at the rate of 18 miles; and giving to the Public generally the use of the Post-office. This plan was adopted; Witherings was appointed to the office; and thus became centered in the same person the offices of Postmaster for Inland and for Foreign Letters. In 1635 and 1637 appeared two Proclamations, to notify and give effect to the new plan of Mr. Witherings; and in both these there were clauses prohibiting any other than Mr. Witherings, or his Deputies, from carrying Letters.

In 1640, on a charge of divers abuses and misdemeanors committed by Witherings in the execution of his said two offices, they were sequestered into the hands of Philip Burlamachi, of London, merchant, who was to execute the same under the care and oversight of the Principal Secretaries of State; and without tracing at this day the disputes which the conflicting pretensions of different individuals to the possession of these offices gave rise in the year 1642, it will be sufficient to say that, shortly afterwards, the management of the affairs of the Post-office fell into the hands of Mr. Prideaux, who was chairman of the Committee appointed by The House to consider the Inland Department of the Post-office, and was afterwards, under the Commonwealth, Attorney-general to the State. Mr. Prideaux was appointed Master of the Posts, in 1644, by the authority of both Houses of Parliament.

The validity of the clause in the grant to Witherings, of the Inland Letter-office, prohibiting any but the persons appointed by the Patentee from receiving or delivering Letters at any place where the Patentee should settle Posts, was brought in question, in 1646, before a Committee of the House of Lords. Two of the Judges were appointed Assistants to the Committee, and were expressly ordered to Report their opinion as to all such particulars concerning the validity of the Patent as the Committee might think fit to ask them; and they reported, "That the Inland Letter-office Patent was well erected; that the clauses of restraint, in the said Patent, are void, and not good in law; that, notwithstanding these clauses be void, yet the Patent is good for the rest." The

Foreign Letter-office Patent was not referred to the consideration of the Committee.

According to the law as expounded by the two Judges, no person, under the authority of Letters Patent from the Crown, could, without an Act of Parliament, lawfully set up any exclusive title to carry Mails of Letters from one part of the kingdom to another. It appears that in 1650 the Common Council of the city of London, not satisfied with the footing on which Mr. Prideaux, then Attorney-general, had placed the Posts, of conveying Letters into all parts of the nation only once a week, endeavoured of their own authority to settle Posts on the several roads, which were to run twice a week; and this they had actually done in the whole line of the road to Scotland. On a Report to that effect from the Council of State, the Parliament resolved, "that the offices of Postmasters, inland and foreign, are and ought to be in the sole power and disposal of the Parliament;" and they referred it to the Council of State to consider how those offices might best be settled; and in the meantime to take orders for the present management thereof.

These offices continued, until 1653, to be managed by Mr. Prideaux. They were farmed in 1653, and in 1655 the management of them was entrusted to Mr. Secretary Thurloe, on his giving security for the then present rent of 10,000*l.* a year.

In 1657, a Bill for the settling of the Postage of England, Scotland, and Ireland was laid, by order of the Protector, before his Parliament, and passed with some amendments. It provided for the establishing one General Post-office, and one Postmaster-general, to be appointed under Letters Patent by the Lord Protector and his successors, such officer and his deputies (with certain reservations) to have exclusively authority to carry inland and foreign Letters; and of horsing all thorough Posts, and persons riding by Post to and from any places upon any of the Postroads, with power to levy certain Rates for conveyance of Letters and horsing of Posts; imposing penalties on any persons other than the Postmaster-general or his deputies, who shall set up Posts for the conveying of Letters or horsing of Posts; providing for the forwarding by Post of Ship Letters, for the exercise of superintendence over the Postmaster by the Lord Protector and his successors, and giving power to the Lord Protector and his successors to farm the Post-office for life, or for any term not exceeding 11 years.

After the Restoration, Charles 2 granted, by Letters Patent, 14th August 1660, to Henry Bishopp, for the term of 7 years, the office of the Master of Running Messengers, formerly held by Lord Stanhope and others, &c.; and by a separate indenture, dated September 1, agreed to farm to the said H. Bishopp, for the term of 7 years, all powers and profits expressed in the "pretended" Act of 1657, for the annual rent of 21,500 *l.*, payable quarterly. The said Bishopp agreed, at the rates stated in the said "pretended" Act of Parliament, and no higher rates, to defray the whole charges of maintaining the said office; the King agreeing that the Parliament shall be moved speedily and effectually to pass an Act of Parliament, in the due and usual form, for settling the said postage and the profits thereof on his Majesty, as part of his said Majesty's revenue.

On the 12th of September 1660, it was ordered by the Lords and Commons, in Parliament assembled, that the office of Postmaster, and the postage and carriage of Letters, domestic and foreign, should continue to be exercised by the same persons now employed therein by his Majesty, their agents and servants, according to the same rates and rules now practised, and without the interruption of any person or persons whatever, until the 6th day of November next ensuing. And in December 1660, an Act was passed, agreeing nearly, *mutatis mutandis*, in its enacting clauses with that of 1657.

The passing of this Act was followed by a proclamation for quieting Bishopp in the execution of his office. On his surrendering it in 1663, it was granted to Daniel O'Neale, one of the Grooms of the Chamber, who farmed it for the remainder of Bishopp's original term, and on the same conditions. A Proclamation followed O'Neale's appointment. An Act passed in 1663, for settling the profits of the Post-office on the Duke of York and his heirs male; and two Proclamations followed, one in 1669, the other in 1683, for enforcing the due execution of the said Acts. On the expiry of O'Neale's lease, in 1667, Lord Arlington was appointed Postmaster-general, and a Proclamation followed for quieting him in the execution of his office. No Statute for altering the manage-

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ment of the Post-office, or the rates of Postage, was passed during the reign of James 2 and William 3; nor until the 9th year of Anne.

In reviewing that period of the history of the country, which commences with 1641, Your Committee beg to notice the following incidents, as bearing on the subject of their inquiry.

Repeated stoppages of the Foreign Mails were made by the orders of the Two Houses, and Committees were appointed, composed of the Members of both Houses, to open and read the Letters stopped. On one of those occasions Mr. Pym reported the answer of the Lords to a message from the Commons to stop the Foreign Mails, "that they did yield to the opening of Letters; but it would "be very inconvenient if often used."

The opening and detention of the Letters coming from France and Antwerp in November 1641, led to a complaint to the King and to the Lords from the Ambassador of the Republic of Venice.

The Preamble to the Act of Cromwell's Parliament for settling the Postage of England, Scotland, and Ireland, enumerates among the advantages of the Post, that it is the best means "to discover and prevent many dangerous and "wicked designs which have been and are daily contrived against the peace and "welfare of the Commonwealth, the intelligence whereof cannot well be com- "municated, but by Letter of Escrypt."

It scarcely needed this evidence to prove that during the Protectorate recourse was had to the expedient of opening Letters. This fact is sufficiently apparent from the number of Letters designated as "Intercepted Letters," in the State Correspondence of Secretary Thurloe.

No preamble similar to that which the Act of Cromwell contains, appears in the Statute of Charles 2, for erecting and establishing a Post Office. But in the lease granted to Bishopp, of the profits to arise from the Post Office under the Act, which Parliament was to be moved by His Majesty speedily and effectually to pass, it is agreed that the lessee shall permit and suffer the said Secretaries of State for the time being, or either of them, from time to time, and at all times during the proposed term, to have the survey and inspection of all Letters within the office or offices aforesaid, at their or either of their discretion. And the same power is reserved to the Secretaries of State in the lease granted to Bishopp's successor, O'Neale.

In the Proclamation which immediately followed the passing of the Statute of 1660-1, the practice of opening, by authority of the Secretary of State, Letters lawfully conveyed, is not mentioned; but in the Proclamation which followed the appointment of Bishopp's successor, O'Neale, the words occur which correspond to those afterwards introduced into the Statute of Anne:

"And we do further charge and command that no Postmasters or other "officers, that shall be employed in the conveying of Letters, or distributing of "the same, or any other person or persons of quality or condition soever they "be, except by the immediate Warrant of our Principal Secretaries of State, "shall presume to open any Letters or Packets not directed unto themselves, "or that they, or any other persons whatsoever, do stop any Mayl in the "passage to or from London, or any other place whither the same is consigned "and directed, but shall truly and faithfully deliver the same, without any "opening, concealing, or retarding the delivery thereof." These words are not repeated in the subsequent Proclamations of 1667, 1669, 1683, and 1685.

As to Letters unlawfully conveyed, it is directed in the Proclamations of 1660-1, and 1667, that they be seized and sent to the Privy Council; in those of 1669, 1683, and 1685, that they be considered as Letters of dangerous consequence, and be seized and sent to one of the Secretaries of State, or to the Privy Council, to the end that the persons conveying or sending them may be proceeded against, according to law: in that of 1663, that they be seized and carried to the General Post-office, "there to be disposed of for the benefit of all "such of his Majesty's loving subjects as may be concerned therein."

Although, after quoting the cited clauses from the leases granted to Bishopp and O'Neale, and the words from the Proclamation of 1663, no reasonable doubt can be entertained that the Governments of the different Monarchs who reigned between 1660 and 1711, had frequently recourse to the practice of opening Letters, yet the only instance during that period that has come under the notice of Your Committee, is that of Coleman, one of the victims to the Popish Plot.

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Your Committee now come to the period subsequent to the passing of the 9th of Anne, the first Statute which recognized the practice of opening Letters, now under consideration.

Before they proceed to avail themselves of the information laid before them, which has proved to them that the 40th and 41st sections of this Act did not remain a dead letter, they will notice several occasions in the last century on which, both in Parliament and in Courts of Judicature, this practice was brought distinctly under public attention.

About 11 years after the passing of the Act, viz. in the year 1722-3, in the course of the proceedings had on passing the Bills of Pains and Penalties against the Bishop of Rochester, and his two associates, Kelly and Plunket, the principal evidence adduced against the parties accused was that of Post-office Clerks and others, who, in obedience to Warrants from the Secretary of State, had detained, opened, copied, and deciphered Letters to or from those parties. In the Committee on the Bill against Atterbury, in the House of Peers, the clause of the Statute of Anne was referred to and commented on by the Bishop's counsel, who raised a doubt whether the copying of a Letter were sanctioned by the Act; but in no one of these three cases was any question raised as to the legality of the Warrants.

In 1735, complaint being made in the House of Commons by certain of the Members, that their Letters had been opened and read by the Clerks of the Post-office, on the pretence of ascertaining whether or no the franks of those Members were counterfeited, and a copy of his Majesty's Warrant, whereby Letters of Members and certain Public Functionaries were permitted to pass free from postage, being read, it was ordered, that the copy of the said Warrant be referred to the consideration of a Committee, and that they do examine the matter thereof, and report the same, with their opinions thereon, to The House: and on the Committee making its Report, The House resolved, *inter alia*, "That it is a high infringement of the privilege of the knights, citizens, and burgesses, chosen to represent the Commons of Great Britain in Parliament, for any postmaster, his deputies or agents, in Great Britain or Ireland, to open or look into, by any means whatsoever, any Letter directed to or signed by the proper hand of any Member, without an express Warrant in writing, under the hand of one of the principal Secretaries of State, for every such opening and looking into; or to detain or delay any Letter directed to or signed with the name of any Member, unless there shall be good reason to suspect some counterfeit of it, without an express Warrant of a principal Secretary of State, as aforesaid, for every such detaining or delaying."

Sir Robert Walpole and Mr. Pelham are said to have agreed to the appointment of this Committee, on an understanding that it should not inquire into anything that might tend to discover the secrets of Government. In 1742, however, the secrets of Sir Robert Walpole's Government were somewhat rudely pried into by the Secret Committee appointed "to inquire into the conduct of the Earl of Orford, during the last 10 years of his being First Lord of the Treasury, and Chancellor and Under Treasurer of his Majesty's Exchequer."

That Committee in its Report gave a description of the establishment for inspecting Letters, as maintained by the Governments over which Sir Robert Walpole had presided; but abstained from stating on what particular occasions that establishment had been made available.

It appears from the information laid before Your Committee, that under the pressure of the rebellion of 1745, which followed almost immediately on the downfall of the Administration of Sir Robert Walpole, his successors issued Warrants for stopping and opening Post Letters of a very general and unlimited character.

In the year 1758, Dr. Hensey, a physician, was tried on a charge of high treason, being accused of treasonable correspondence with the enemy. The principal evidence on which he was convicted, was that of a Letter-carrier and a Post-office Clerk, the latter of whom had opened Dr. Hensey's Letters, and delivered them to the Secretary of State.

In 1764, a Select Committee of The House was appointed to inquire into the abuses of franking Letters; and the Chairman, Mr. Dyson, was directed by the Committee to move The House, "That it be an instruction to the Committee, that they have power to inquire into the abuses committed at the Post-office, by opening Inland Letters:" the motion, however, was negatived.

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The last instance that has come to the knowledge of Your Committee, in which this power was exercised under circumstances of public notoriety, is that of the trial of Horne Tooke for high treason, in 1795. A letter written to him by Mr. Joyce, a printer, was intercepted at the Post-office, and was stated by the prisoner to have been the immediate occasion of his apprehension. On his requiring its production, it was produced in Court by the Crown officers, and given in evidence.

It is now so long since any public trial has taken place, in which facts ascertained by opening and detaining Letters at the Post-office have been adduced in evidence, that it seems to have been nearly forgotten by the public that such a practice ever existed.

Your Committee, having gone through the proofs, of a more public character, that the Governments of past times have authorized the detaining and opening of Post Letters, and given notoriety to the exercise of that authority, and that the fact has, on several occasions, been brought under the notice of Parliament and Courts of Law, proceed now to show (from evidence of a more secret and confidential nature) to what extent this practice has been carried on, by the same authority, during the past and present centuries. Before entering, however, on this head of inquiry, they consider it proper to observe, that they have had before them, with a few exceptions, every person now living who has held the seals of Secretary of State, for Home or Foreign Affairs, since the year 1822, as well as two noblemen who have discharged the office of Lord Lieutenant of Ireland, and several persons who have held confidential situations under them; and they have further examined the present Postmaster-general, the Secretaries of the Post-office for England and Ireland, together with several of the most confidential officers in every branch of the Foreign-office, the Home-office, and the Post-office; and that all these witnesses, without exception, have made to Your Committee the most full and unreserved disclosures; so much so as to have rendered it superfluous for Your Committee to examine any other witnesses.

Of the number and nature of Warrants for opening and detaining Post Letters issued by Secretaries of State, from the year 1712 to the year 1798 inclusive, Your Committee are able to render only a very incomplete account, compiled partly from the books of the Home Department, partly from the Records at the State Paper Office. It appears that, during that term of years, it was not the practice to record such Warrants regularly in any official book.

That this account is what the Committee describe it to be, very incomplete, is manifest from the small number of Warrants that enter into it, considering the length of the term of years. From 1712 to 1798 inclusive, a term of 87 years, the number of Warrants, of which any account has been obtained, is but 101; and of that number 11 only belong to the last 20 eventful years of the term, including the period of the French Revolution. In this account, moreover, certain cases are not included, in which it is known, from reports of public trials, and other independent sources of evidence, that Letters were opened and detained, such as those of Atterbury, Plunket, Kelly, Hensey, and Horne Tooke.

From the commencement of the present century, if not from an earlier period, down to the present time, the practice has been, with very few exceptions, for such Warrants to issue only from the Home Office, although another Secretary of State has occasionally signed the Warrant in the absence of the Secretary of State for the Home Department.

From 1799 inclusive to the end of the year 1805, a record has been preserved of the Warrants issued from the Home Office, which, from the circumstance that the annual average which it exhibits, agrees nearly with the annual average of the Warrants issued in subsequent years, appears to the Committee to be nearly a complete record; they have, however, no other mode of testing its accuracy. It was not until the period, in the year 1806, when the late Earl Spencer became Secretary of State for Home Affairs, that the practice was introduced at the Home Office of recording the issuing of every such Warrant in a private book belonging, not to the Head of the Department, but to the Office, and always accessible to the two Under Secretaries of State and the Chief Clerk of the Domestic Department: and that practice has been continued, the Committee believe, without interruption, till the present time. Still, there is no check by which to test the completeness of the entries made in that book until the close of the year 1822, from which period the original Warrants themselves are

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preserved at the Post-office; the earlier Warrants having been destroyed on the removal of the Post-office from Lombard-street to its present site in St. Martin's-le-Grand.

After these explanations of the authenticity of the lists which have been submitted to their consideration, they proceed to give, first, an abstract of the Warrants, so far as they have been able to make up an account, from 1712 to 1798 inclusive; secondly, an abstract of the Warrants for detaining and opening Letters, issued by the Home Department from the commencement of the year 1799 to Midsummer 1844.

ANNUAL NUMBER of WARRANTS in each Year, from 1712 to 1798, so far as an Account of the same could be made up.

YEAR.	NUMBER OF WARRANTS.	YEAR.	NUMBER OF WARRANTS.	YEAR.	NUMBER OF WARRANTS.
1712	- - 1	1744	- - 3	1768	- - 1
1713	- - 2	1745	- - 7	1770	- - 3
1723	- - 1	1746	- - 1	1772	- - 1
1730	- - 1	1749	- - 1	1773	- - 1
1731	- - 2	1761	- - 1	1774	- - 2
1734	- - 3	1762	- - 1	1776	- - 1
1735	- - 4	1763	- - 6	1777	- - 2
1736	- - 3	1764	- - 1	1778	- - 2
1737	- - 3	1765	- - 1	1782	- - 3
1738	- - 7	1766	- - 1	1783	- - 1
1739	- - 5	1763	- - 3	1784	- - 1
1740	- - 1	1764	- - 1	From - 1788	} 6
1741	- - 4	1765	- - 1	to - 1798	
1742	- - 2	1766	- - 4		
1743	- - 4	1767	- - 2	Total Number	101

The above WARRANTS classed under certain heads.

Bank of England	- - - - -	8
Bankruptcy	- - - - -	5
Murder, theft, fraud, &c.	- - - - -	14
Prisoners of war	- - - - -	1
Revenue	- - - - -	10
Foreign correspondence	- - - - -	35
Treason, sedition, &c.	- - - - -	5
Libel	- - - - -	2
Forgery	- - - - -	1
Debtor absconding from creditors	- - - - -	2
Private case	- - - - -	1
Uncertain	- - - - -	17
Total	- - - - -	101

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ANNUAL Number of WARRANTS in Each Year from 1799 to 1844.

YEAR.	NUMBER.	YEAR.	NUMBER.	YEAR.	NUMBER.
1799	-	1815	2	1831	17
1800	-	1816	0	1832	5
1801	-	1817	11	1833	4
1802	-	1818	9	1834	6
1803	-	1819	6	1835	7
1804	-	1820	6	1836	7
1805	-	1821	1	1837	4
1806	-	1822	12	1838	8
1807	-	1823	7	1839	16
1808	-	1824	2	1840	7
1809	-	1825	6	1841	18
1810	-	1826	8	1842	20
1811	-	1827	8	1843	8
1812	-	1828	4	1844	7
1813	-	1829	5		
1814	-	1830	14		372

Total Number of Persons named in the above Warrants - - - 724

This would give a little more than 8 Warrants, on the average, per year, and about 2 persons, on the average, for each Warrant. Among the Warrants there are 8, applied each to some particular object, but not restricted to any definite number of persons.

The above WARRANTS classed under certain Heads.

Bank of England	-	-	-	-	13
Bankruptcy	-	-	-	-	2
Murder, theft, fraud, &c.	-	-	-	-	144
Treason, sedition, &c.	-	-	-	-	77
Prisoners of war	-	-	-	-	13
Revenue	-	-	-	-	5
Foreign correspondence	-	-	-	-	20
Letters returned to writers	-	-	-	-	7
Address copied	-	-	-	-	1
Forged frank	-	-	-	-	1
Uncertain	-	-	-	-	89
Total	-	-	-	-	372

The Secretaries of State who have signed the Warrants referred to in the two preceding Abstracts, are named in the following List, arranged in the order of Date:

- | | |
|--|--|
| 1712-13. The Earl of Dartmouth. | 1803. Right Hon. Charles Yorke. |
| 1713. The Right Hon. W. Bromley. | 1804-6. Lord Hawkesbury, and 1807-9. |
| 1722. Lord Viscount Townshend. | 1806-7. Earl Spencer. |
| 1730-46. Lord Harrington. | 1807. Right Hon. C. W. W. Wynn. |
| 1735-1754. Duke of Newcastle. | 1809-12. The Right Hon. R. Ryder. |
| 1749. Duke of Bedford. | 1812-21. Lord Viscount Sidmouth. |
| 1752-3. The Earl of Holderness. | 1822-30. The Right Hon. Sir R. Peel. |
| 1755. The Right Hon. Sir T. Robinson. | 1822-3. Right Hon. G. Canning. |
| 1756. The Right Hon. H. Fox. | 1823. Earl Bathurst. |
| 1763. The Earl of Halifax. | 1827. Lord Viscount Goderich. |
| 1765-7. The Right Hon. General Conway. | - Right Hon. W. Sturges Bourne. |
| 1766. Duke of Richmond. | - Marquis of Lansdown. |
| 1766-7. The Earl of Shelburne. | 1830-4. Lord Viscount Melbourne. |
| 1770. The Earl of Sandwich. | 1833-40. Lord Palmerston. |
| 1770-4. The Earl of Rochefort. | 1834. Lord Viscount Duncannon. |
| 1776-7. Lord Viscount Weymouth. | - Duke of Wellington. |
| 1778. The Earl of Suffolk. | 1834-5. Right Hon. H. Goulburn. |
| 1782-3. The Right Hon. T. Townshend. | 1835-9. Lord John Russell. |
| 1782. The Right Hon. C. J. Fox. | 1838. Lord Glenelg. |
| 1784. Marquis of Carmarthen. | 1839-41. The Marquess of Normanby. |
| 1799-1801. Duke of Portland. | 1841-4. The Right Hon. Sir James Graham. |
| 1801-3. Lord Pelham. | 1844. Earl of Aberdeen. |

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Among the Warrants of the last century some few have been discovered that were issued on grounds which would now be considered highly objectionable, and would not be sanctioned by recent practice. We proceed to give some specimens of the earliest Warrants.

The earliest, dated September 20, 1712, is as follows :

To the Postmaster-general : Her Majesty is pleased to order that all Letters directed to Mr. Thomas Perrin (and three others named) be sent to the Commissioners of the Customs for their perusal, as is desired by the enclosed Letters from Mr. Carkess. This method is taken, in order to discover their effects ; and you are to comply with it as far as is consistent with law and the duty of your office.

Dartmouth.

In 1741, at the request of A., a warrant issued, to permit A.'s eldest son to open and inspect any Letters which A.'s youngest son might write to two females, one of whom that youngest son had imprudently married. Two Warrants, in 1734, are issued, each at the instance of the creditors of a party who has absconded, it not being alleged that any positive fraud had been practised. One, issued in 1735, appears to have arisen out of a political libel ; another, in 1755, concerns a noted political libeller of the day, Dr. Shebbeare. One, in 1746, arises out of a robbery of bank-bills, the property of the Chamberlain of the City of London : all Letters sent by Post to Holland are to be examined ; and if any Letter appears to contain any of the stolen bills, it is to be opened ; and on suspicion of any Letter containing anything that may lead to a discovery, that Letter is to be stopped, opened, and inspected. Two Warrants, in 1738, and one in 1741, concern the practice, then in constant operation, of enlisting recruits in Ireland for the Irish Brigade in France.

The following two General Warrants, to which the Committee before made allusion, were issued in the eventful year, 1745 :

Secretary the Duke of Newcastle to the Postmaster-general, Sept. 20, 1745 :— To open and detain all (such) Letters, Packets, or Papers, printed or otherwise, as shall come to the General or other Post-office, suspected to contain matters of a dangerous tendency ; and to transmit them to the office of the Secretary of State.

Secretary the Duke of Newcastle to the Assistants of the Yarmouth and Chester Roads, Oct. 8, 1745 :— To open, inspect, and detain all such Letters and Packets as shall come to their offices, suspected to contain treasonable correspondence ; and to transmit them to the Secretary of State.

In 1783, the following Warrant was issued :

Whitehall, 10th February 1783.

To His Majesty's Postmasters-General.

My Lord and Sir,

I AM to desire, and do hereby authorize you, to stop and open all such Letters as are, or shall come to your hands, addressed to Lord George Gordon, at least such as may be supposed to come from the regiment, now on their march from to the northward, and any Letters from his Lordship to that quarter ; and to send me all the said Letters as soon as possible after you shall have so stopped and opened them ; and for so doing this shall be your Warrant.

Thomas Townshend,

Secretary of State for the Home-Department.

To Lord Tankerville and the Right Hon.
Henry Frederick Cartwright, Joint
Postmasters-General.

Coming to the Warrants of the present century, Your Committee have noticed among them, issued during certain periods of the last war, some few of a very general nature. In 1800 and 1801, orders were given to the Postmaster-general to open all Letters addressed to persons in France, Flanders and Holland, and all Letters addressed to Dover, supposed to contain Letters addressed to France, Flanders, and Holland.

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As regards intestine commotion, Your Committee found that a Warrant was issued in 1799, to open the Letters of 17 persons at Manchester and Birmingham; one, in 1809, to open the Letters of 18 persons in Manchester and Liverpool. In 1812, Warrants were directed to the several Postmasters of Nottingham, Manchester, and Glasgow, directing them to open all such Letters, passing through these several post-offices, as should appear to *A. B.* (naming in each Warrant some particular individual) to be of a suspicious nature, and likely to convey seditious and treasonable information; or to contain money intended to be applied to the purpose of promoting seditious or other disturbances. A Warrant, nearly similar to the preceding, was issued, in 1813, to the Postmasters of Wareham and Weymouth, in Dorsetshire; and one, to the same purpose, in 1817, to the Postmaster of Nottingham. Among the names of persons, not now living, whose Letters were directed to be opened previously to the year 1822, are found those of Despard, Thistlewood, and Watson; and that of Mr. Hunt, once Member of Parliament for Preston.

With regard to the Warrants issued during the last 22 years and a half, Your Committee have not observed among them a single Warrant indefinite as to the number of persons coming within its scope. In every case the names are specified, and in one instance only does the number exceed 6. As regards this period, Your Committee would have abstained from giving particular information concerning any Warrant, and from naming a single individual whose letters have been directed to be opened, but for the notice which has been taken of the mode of executing certain Warrants, and the mention which has been made of the names of the parties included in certain others: these being the circumstances which have mainly led to the inquiry which Your Committee has been appointed to conduct. On these cases, therefore, Your Committee consider it their duty to report particularly.

The Warrants referred to are the following:

1. During the outbreak in the manufacturing and mining districts, which took place in August 1842, in the week of the greatest anxiety, a clerk was sent down from the London Post-office, with directions, under the authority of a Secretary of State's Warrant, to open the Letters of six parties named therein, all taking a prominent part in the disturbances of that period. In the same week, the same clerk was directed, under authority of two other such Warrants, to open the Letters of 10 other persons named, and a fortnight later to open the Letters of one other person; making 17 in all. Most of the persons whose Letters were ordered on this occasion to be opened, were indicted, and many both indicted and convicted, before the special commission appointed to try the parties concerned in those disturbances. With one exception, these Warrants were issued between the 18th and the 25th of August 1842, and they were all cancelled on the 14th of October.

About the same time, two clerks were sent down, to two provincial towns, each with directions under authority of a Secretary of State's Warrant, to open and examine the Letters addressed to one individual in each town: but in one of these cases there were no Letters to open. One clerk employed on this duty returned to his ordinary business after a week's absence, the other after an absence of 5 weeks.

2. In the autumn of 1843, during the disturbances which took place in South Wales, two clerks were sent down from the Post-office, into the disturbed districts, with directions, under authority of a Warrant from the Secretary of State, one to inspect the Letters of one person at a particular town, the other to inspect the Letters of another person at another town; and subsequently, under authority of a different Warrant, this second clerk was sent to a third town, there to inspect the Letters of a third person. In all three instances the persons whose Letters were to be inspected, were specifically named in the Warrant. One of these Warrants was in force 18, the other 7 days.

It is these facts, probably, that have given rise to the report of a Commission or Commissions having visited the manufacturing districts, charged with a general authority to open and inspect Letters.

3. The third of these cases is that of a Warrant to open and detain the Letters addressed to Mr. Mazzini. This Warrant was issued on the 1st of March, and cancelled on the 3d of June, in the present year. Throughout that period the intercepted correspondence was transmitted unread from the Home-office to the

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Secretary of State for Foreign Affairs. The facts of the case, so far as Your Committee feel themselves at liberty to disclose them, appear to be as follows :

Representations had been made to the British Government, from high sources, that plots, of which Mr. Mazzini was the centre, were carrying on, upon British territory, to excite an insurrection in Italy: and that such insurrection, should it assume a formidable aspect, would, from peculiar political circumstances, disturb the peace of Europe. The British Government, considering the extent to which British interests were involved in the maintenance of that peace, issued on their own judgment, but not at the suggestion of any Foreign Power, a Warrant to open and detain Mr. Mazzini's letters. Such information deduced from those letters as appeared to the British Government calculated to frustrate this attempt, was communicated to a Foreign Power; but the information so communicated was not of a nature to compromise, and did not compromise, the safety of any individual within the reach of that Foreign Power; nor was it made known to that Power by what means, or from what source that information had been obtained.

4. A Warrant to open and detain all Letters addressed to Mr. Worcell and to Mr. Stolzmann was issued on the 17th of April 1844, and cancelled on the 20th of June.

5. A Warrant to open and detain all Letters addressed to Mr. Grodicki at Paris, and to another foreign gentleman, was issued on the 3d of June 1844, and cancelled on the 13th of the same month.

The last two Warrants rested on grounds connected with the personal safety of a Foreign Sovereign, entrusted to the protection of England. It appears to Your Committee that, under circumstances so peculiar, even a slight suspicion of danger would justify a minister in taking extraordinary measures of precaution. The Committee have not learned that there appeared in the letters that were detained, anything to criminate the gentlemen whom the Committee have very reluctantly named.

The Committee think it may be desirable for them to make known, that the above three Warrants are the only Warrants to open the Letters of foreigners which the present Government has issued.

The Warrants issued during the present century may be divided into two classes :

1st. Those issued in furtherance of criminal justice, and, usually, for the purpose of obtaining a clue to the hiding-place of some offender, or to the mode or place of concealment of property criminally abstracted: and these, for brevity's sake, the Committee will term Criminal Warrants.

2d. Those issued for the purpose of discovering the designs of persons known or suspected to be engaged in proceedings, dangerous to the State, or (as in Mazzini's case,) deeply involving British interests, and carried on in the United Kingdom or in British Possessions beyond the seas.

With regard to both these classes of Warrants, the object in issuing them has been, in many cases, to ascertain the views, not of the party receiving, but of the party sending, the letter.

In issuing these Warrants, the mode of proceeding is as follows:—

1st. In the case of Criminal Warrants, they do not originate with the Home-office. The application is made, in the first instance, to that one of the two Under Secretaries of State who is of the legal profession; and the usual course is for the applicant to state the circumstances in writing; but if the case be very urgent, owing to the time being too short, before the departure of the post, to draw out a written statement, that condition is sometimes dispensed with. The general object of this class of Warrants has been already stated; and the principle which governs the issuing of them appears to be, not to make them subservient to private and family concerns, or to the support of a civil right, where an action only could be maintained, as in many cases of fraud or bankruptcy; but to reserve the exercise of the power to those cases exclusively where crime has been committed, and in respect to which there is good ground to believe that correspondence is going on with a particular party, which is likely to lead to detection. If the Under Secretary accedes to the application, he submits the case to the Principal Secretary of State; with whose approval, a Warrant is drawn
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by the head clerk of the Domestic Department, under the instructions of the Under Secretary, and is then signed by the Principal Secretary of State. A record of the date of the Warrant is kept under lock and key, in a private book, to which the two Under Secretaries and the above-mentioned head clerk have access. To the applicant information is given, according to circumstances, of the Post-mark or Address merely, or of the Contents of the Letters detained: or, if the case require it, the original Letter is put into his hands.

2d. In the case of Warrants of the second description, they originate with the Home-office. The Principal Secretary of State, of his own discretion, determines when to issue them, and gives instructions accordingly to the Under Secretary, whose office is then purely ministerial. The mode of preparing them, and keeping record of them in a private book, is the same as in the case of Criminal Warrants. There is no record kept of the grounds on which they are issued, except so far as correspondence preserved at the Home-office may lead to infer them.

Your Committee will here notice a statement which has been made, that instances have occurred of sending entire mail-bags with Letters to the Home-office for examination. Your Committee are satisfied that no instance of the kind has occurred. None but separate Letters or Packets are ever sent, out of the ordinary course, from the Post-office to the Home-office, and those never but under a Secretary of State's Warrant; and that Warrant usually directs that a Letter or Letters, directed to certain persons, or written in a certain hand-writing, be detained; and that either a copy of the post-mark, or of the address, or of the contents, or that extracts from the contents, or the Letters themselves be sent to the Principal Secretary of State. In some cases the Warrant directs that some deputy postmaster shall communicate information to the same effect to a magistrate, or some other person, in the country; and when that is the case, the presence of some third person, named in the warrant, is usually required.

It may, perhaps, be necessary to state that, in some very few cases, the Secretary of State has been required to authorize the Postmaster-general to return to the writer a Letter, which has been already posted. Some doubt seems to have existed how far this can lawfully be done. In the year 1795, Holland being in the occupation of the French army, one of the principal Secretaries of State, by Warrant under his hand and seal, detained the entire Mails of the 13th, 16th, and 20th of January, intended for that country; and an Act of Parliament (35 G. 3, cap. 62) was passed to enable the Postmaster-general "to open the Letters contained in those Mails, and return the same to the parties by whom they were written, signed, or sent." A case nearly similar occurred regarding the Ham-burgh Mail (see 47 Geo. 3, session 2, c. 53), in 1807. The number of Warrants issued under this head from 1799 to 1844 is 7, as stated in the Abstract.

The general conclusion which the Committee draw from the Returns before abstracted is, that in equal intervals of time these Warrants have been issued in nearly equal number, by the several Administrations which have been in power from the commencement of 1799 until now. For although in certain years, in consequence of internal commotion, it happened that the number of Warrants issued by certain Secretaries of State, was unusually great, yet in other years, if they continued sufficiently long in office, the number of Warrants they issued for similar purposes proved to be unusually small; so that the annual average of all the Warrants they issued, during the whole period of their continuance in office, did not rise materially above the general annual mean.

The general average of the Warrants issued during the present century, does not much exceed 8 a-year. This number would comprehend, on an average, the Letters of about 16 persons annually; but how many Letters to and from each person coming within the scope of these Warrants, have, on an average, been opened, Your Committee have no means of estimating, since no record of the number of Letters detained and opened under Warrant has been kept by the Post-office; but there is no reason to believe that number to be great; and the Committee have ascertained that, in the case of many Warrants, no Letters whatever have been opened. Those which do not appear to relate to the object for which the Warrant is issued do not undergo particular examination. Of the average number of days for which a Warrant is in force, the Committee cannot form any just estimate. It was only as regards the Warrants issued from 1822 to 1844 that any Return was made to Your Committee, showing how long they continued in operation; and in the early part of this period, there appears to have

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been some inattention in seeing to their timely revocation; it is probable that many a Warrant had become inoperative long before the period when it was cancelled. In that respect there is a marked improvement in the practice of the present Home Secretary as compared with that of his predecessors; since the average duration of the Warrants issued since September 1841, does not exceed 40 days; and in many cases it is as low as 3 or 4 days.

From the Abstract that has been given of the Warrants issued in the present century, it appears that about two-thirds of them were Criminal Warrants; for by far the greater portion of those marked "Uncertain," appears to belong to this class.

So far as the Criminal Warrants go, no suspicion arises that unfairness or partiality has directed their issue. With regard to the other class of Warrants, though there have been some few issued by different Administrations that have been in power during the last 22 years, in regard to which it is obvious that on a subsequent review of the facts, a difference of opinion might arise, as to the discretion exercised in each particular case, yet Your Committee see no reason to doubt that the conduct of the Secretaries of State belonging to each of those Administrations, has been guided by no other motive than an anxious desire to preserve the public peace, with the maintenance of which they were charged.

It does not appear to Your Committee necessary to follow the Warrant from the time of its reception at the Post-office, to that of its execution. The Letters which have been detained and opened are, unless retained by special order, as sometimes happens in criminal cases, closed and resealed, without affixing any mark to indicate that they have been so detained and opened; and are forwarded by post according to their respective superscriptions.

There are other cases, under the 33d and 36th chapters of the 1st of Victoria, besides the case we have been considering, in which Post Letters may lawfully be detained, or delayed, or opened, by an officer of the Post-office. These excepted cases are the following: when the person consents, to whom the Letter is directed; when the Letter is returned for want of due direction; when the person to whom it is directed is dead or cannot be found, or shall have refused it, or shall have refused or neglected to pay the Postage thereof. If any Letter not included in the above exceptional cases be opened, delayed, detained, or abstracted at the Post-office, through the malpractices of any officers of that department, such offenders are liable to severe punishment under the latter of these Acts.

With regard to all other Inland Letters, Your Committee are assured by the Postmaster-general, by the Secretary of the Post-office, and by the President of the Inland Department at the General Post-office, that the secrecy of correspondence is inviolate; and this assurance they have seen no reason to doubt.

Your Committee will here notice a statement which has been made, that Letter-bags from Dublin, Brighton, and other places, have of late, before being opened, been taken, out of the usual course, into an inner room of the Inland-office at the General Post-office, for the purpose of being there examined. The allegation of fact is correct, so far as counting the Letters, and observing their external appearance, goes. This is frequently done, in order to ascertain the condition of the bags on their arrival, before their contents are delivered over to be sorted, it having been found a necessary check upon the commission of irregularities by the subordinate functionaries of the Post-office; but this examination has no connexion whatever with the opening of Letters under Warrant, and it is not the method practised when Letters are detained and opened by authority of the Secretary of State.

On the subject of the Foreign Department at the General Post-office, the secrecy of private correspondence, Your Committee are assured, is kept inviolate. Certain Warrants bearing respectively the signatures of the Right hon. Charles James Fox, when Secretary of State for Foreign Affairs, in 1782, and of his successor, the Marquis of Carmarthen, were laid before Your Committee; which, being of a very comprehensive nature, have, in conjunction with other information, induced Your Committee to believe that diplomatic correspondence, when posted in ordinary course, incurred in this country and in the other great States of Europe nearly equal risk of inspection. How long similar Warrants continued, and when they were finally recalled, Your Committee have no information, nor do they think it their duty to report as to any practice which may have existed in reference to this part of the subject. Of this they are satisfied,

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satisfied, that no such Warrants or practices now exist; and that public as well as private correspondence, foreign as well as domestic, passing through the Office in regular course, now enjoys complete security, subject only to the contingency of a Secretary of State's Warrant, directed for special reasons against a particular Letter or Letters.

In making the above statement, however, it is right to observe that there exists another channel of communication with foreign countries, by means of the King's Messengers and Foreign-office bags. This is not under the control of the Postmaster-general, but of the Secretary of State for Foreign Affairs. It is conducted by officers appointed and paid by the latter, from whom alone they receive their orders, and to whom alone they are responsible. Some years ago no inconsiderable number of private Letters, passing between this and foreign countries, was sent and received by these bags; but this abuse (for such it was, as payment of postage was thus evaded) has been almost entirely discontinued; and Your Committee believe that at present the bags contain little more than the official correspondence of our own diplomatic agents, and of the Ministers of such foreign states as may choose to avail themselves of that mode of transmitting their despatches. The authority of Your Committee extends no farther than to inquire how correspondence is dealt with, while remaining in the custody of the Post-office.

It remains for your Committee, after treating of the correspondence in Great Britain, to make a brief statement as to the law and practice regarding the same matters in Ireland. The Statute of Anne extended to that country, and whatever legal force the Warrants of the Principal Secretaries of State, directing the opening of Letters, had in Great Britain, the same force those Warrants had in Ireland. But previously to the passing, in 1783, of the Irish Statute, the 23d & 24th of Geo. 3, c. 17, intituled, "An Act for Establishing a Post-office in this Kingdom," the Principal Secretaries of State were in the habit of delegating to the Lord Lieutenant authority for this purpose. Nor was this all; for by a Warrant, dated October 31st, 1740, Secretary the Duke of Newcastle directs Sir Marmaduke Wyvill, the Postmaster-general for Ireland, to open and detain all such Letters as the Duke of Devonshire, then Lord Lieutenant of Ireland, or any other person appointed by him, should authorize and direct: copies to be sent to the Duke.

The necessity for having recourse to a twice-delegated authority was removed by the Statute above referred to, which gave the same indemnity to persons in Ireland, opening Letters by authority of the Lord Lieutenant, that the Statute of Anne gave to persons in Great Britain and Ireland, opening Letters by authority of a Principal Secretary of State.

Your Committee here submit an Abstract of the Warrants issued by the Lord Lieutenant, or other Chief Governor or Governors of Ireland, to the Postmaster-general for Ireland, for every year, from 1832 to the present time, being a period of years 12 $\frac{1}{2}$. They have added another Abstract arranging the Warrants under different heads, according to the grounds whereon they were issued:—

YEAR.	NUMBER OF WARRANTS.	Number of Persons Comprehended in the said Warrants.
1832 - - - - -	1	1
1833 - - - - -	0	0
1834 - - - - -	3	3
1835 - - - - -	1	1
1836 - - - - -	2	4
1837 - - - - -	4	8
1838 - - - - -	1	1
1839 - - - - -	9	16
1840 - - - - -	2	11
1841 - - - - -	3	9
1842 - - - - -	3	3
1843 - - - - -	2	3
1844 - - - - -	0	0
TOTAL - - - - -	31	60

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Crimes, murder, robbery, &c.	-	-	-	-	-	-	-	-	-	14
Ribbonism	-	-	-	-	-	-	-	-	-	12
Sedition, &c.	-	-	-	-	-	-	-	-	-	2
Bankruptcy	-	-	-	-	-	-	-	-	-	1
Forging a Post-office stamp	-	-	-	-	-	-	-	-	-	1
Letter returned to the writer	-	-	-	-	-	-	-	-	-	1
										<hr/>
Total	-	-	-	-	-	-	-	-	-	31

The Lords Lieutenant and others who have signed these Warrants are arranged in the following List, according to date :—

Year.	
1832	- Marquis of Anglesey.
1834	- E. J. Littleton (Secretary)
—	- Marquis Wellesley.
1835	- Earl of Mulgrave.
1836	- Ditto.
—	- T. Drummond (Secretary).
1837	- Ditto.
—	- Lord Plunkett (one of the Lords Justices).
—	- Archbishop of Dublin - (ditto).
1838	- Lord Morpeth (Secretary).
1839	- Marquess of Normanby.
—	- Lord Viscount Ebrington.
—	- Gen. Sir T. Blakeney (one of the Lords Justices).
1840	- Lord Viscount Ebrington.
1841	- Chief Justice Bushe (one of the Lords Justices).
—	- Earl de Grey.
1842	- Ditto.
—	- Sir E. Sugden (one of the Lords Justices).
1843	- Earl de Grey.

The Warrants issued in Ireland do not exceed 3 per annum, on the average. Each Warrant comprehends, on the average, about two persons.

The only Warrant which bears the signature of the late Chief Justice Bushe, one of the Lords Justices, was issued with a view to obtain a clue to a murder; but it appearing that the magistrate to whom it was sent had applied for it for another purpose, that of ascertaining the state of the country, this was not assented to, and the Warrant was not acted upon.

There are no data to show how many Letters were opened under each Warrant; nor how long each Warrant remained in force: 4 of the 31 Warrants bear the Signature of only the Secretary for Ireland. More than a third of the Warrants concern Ribbonism, which wore a peculiarly threatening aspect in one particular year. The Letters in Ireland are not opened by the Postmaster-General, but by a confidential clerk in the Office of the Chief Secretary for Ireland.

The Committee have, in conclusion, to lay before The House the following observations for their consideration, arising out of the facts which it has been their duty to state.

1. With regard to the utility of the Warrants issued in furtherance of Criminal Justice, their annual average in Great Britain does not exceed 6, and this number of Warrants does not extend to the Letters of more, on an average, than 12 persons a year. There is no evidence whatever to show in what proportion of cases these Warrants lead to discovery. On the one hand therefore it will be doubted by some, taking into account the strong moral feeling which exists against the practice of opening Letters, with its accompaniments of mystery and concealment, whether it is worth retaining in this class of cases. On the other hand it must be admitted that these are not the cases in favour of which public feeling is most enlisted; and that of all that give rise to the exercise of this power, they present the least temptation to abuse.

2. With regard to the utility of such Warrants, for the detection of seditious conspiracies, or other practices endangering the public safety, or the discovery of the views entertained by those who engage in them, it would be unreasonable to deny that, in certain cases, this practice may have aided the Executive Government, in various ways, and, amongst others which are more obvious, by informing them of the real strength of the conspirators and extent of their combinations, and thus preventing the Ministers of the time from taking exaggerated views of the

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the force arrayed against the State, and claiming extraordinary powers to meet apprehended danger. Still, however, the argument derived from the smallness of the number of Warrants as compared with the number of persons who may be supposed to entertain such criminal designs, is not to be lost sight of; while, on the other hand, it must be admitted that the number of those to whom this class of Warrants would apply, as being the chosen leaders of multitudes would not be very great. The Warrants of this class have amounted, on the average, to little more than 2 a year, which would extend to little more than 4 persons. The greatest number of Warrants of this description, issued in any year within the present century, is about 16, extending in these cases to between 40 or 50 persons. In addition to the argument derived from the smallness of the number affected, it must not be forgotten that, after the publicity given to the fact, that the Secretary of State has occasionally recourse to the opening of Letters as a means of defence in dangerous and difficult times, few who hereafter may engage in dangerous designs, will venture to communicate their intentions by the medium of the Post; and the importance of retaining the power, as a measure of detective police, will consequently be greatly diminished. The last argument, however, supposes that there is no absolute certainty that a letter may not be intercepted; and it may appear to some, that to leave it a mystery whether or no this power is ever exercised, is the way best calculated to deter the evil-minded from applying the Post to improper uses. It must also be remembered that if such a power as this were formally abolished, the question would not be left quite in the same condition as though the power had never been exercised or disputed; by withdrawing it, every criminal and conspirator against the public peace would be publicly assured that he should enjoy secure possession of the easiest, cheapest, and most unobserved channel of communication, and that the Secretary of State would not under any circumstances interfere with his correspondence. It must not be forgotten, however, that at present other rapid means of communicating their views are of easy access to the evil intentioned, and that, as far as internal order is concerned, the same rapid means afford the Government unexampled facilities for suppressing tumult.

If the result of this Inquiry had been such as to impress Your Committee with a conviction of the importance of the frequent use of this power in the ordinary administration of affairs, they would have been prepared to recommend some Legislative measures for its regulation and control; and it might not be difficult to devise Regulations which would materially diminish the objections to its exercise; as, for example, that no Criminal Warrant should be issued except on a written information on oath; that a formal record should be preserved in the Secretary of State's Office of the grounds on which every Warrant had been issued, of the time during which it has remained in force, of the number of Letters opened under it, and of the results obtained. It is, however, on the other hand, to be considered whether any legislative measure of this kind might not have an indirect effect in giving an additional sanction to the power in question, and thereby possibly extending its use.

Under these circumstances it will be for Parliament to consider whether they will determine upon any legislative regulation, or whether they will prefer leaving the power, on its present footing in point of law, in the hands of the Secretary of State, to be used, on his responsibility, in those cases of emergency in which, according to the best of his judgment, its exercise would be sanctioned by an enlightened public opinion, and would appear to be strongly called for by important public interests.

5 August 1844.
