

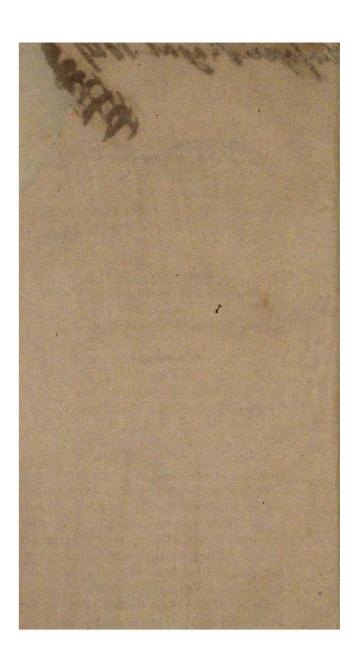
STAT NOMINIS UMBRA.

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## LETTERS OF JUNIUS:

1345

LETTER XXXVII.

TO

THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

19 March, 1770.

I BELIEVE there is no man, however indifferent about the interests of this country, who will not readily confess that the fituation to which we are now reduced, whether it has arisen from the violence of faction, or from an arbitrary system of government, justifies the most melancholy apprehensions, and calls for the exertion of whatever wisdom or vigour is left among us. The King's answer to the remonstrance of the city of London, and the measures since adopted by the ministry, amount to

a plain declaration, that the principle on which Mr. Luttrell was feated in the House of Commons, is to be supported in all its consequences, and carried to its utmost extent. The fame spirit which violated the freedom of election now invades the declaration and bill of rights, and threatens to punish the subject for exercifing a privilege hitherto undisputed, of petitioning the crown. The grievances of the people are aggravated by infults; their complaints not merely difregarded, but checked by authority; and every one of those acts against which they remonfirated, confirmed by the King's decifive approbation. At fuch a moment no honest man will remain filent or inactive. However diftinguished by rank or property, in the rights of freedom we are all equal. As we are Englishmen, the least considerable man among us has an interest equal to the proudest nobleman in the laws and constitution of his country, and is equally called upon to make a generous contribution in support of them; whether it be the heart to conceive, the understanding to direct, or the hand to execute. It is a common cause, in which we are all interested, in which we should all be engaged. The man who deferts it at this alarming crifis is an enemy to his country, and, what I think of infinitely less importance, a traitor to his Sovereign. The fubject who is truly loval to the chief magistrate will neither advise nor submit to arbitrary measures. The city of London have given an example which, I doubt not, will be

followed by the whole kingdom. The noble spirit of the metropolis is the life-blood of the state, collected at the heart: from that point it circulates with health and vigour through every artery of the constitution. The time is come when the body of the English people must affert their own cause: conscious of their strength, and animated by a sense of their duty, they will not surrender their birthright to ministers, parliaments, or kings.

The city of London have expressed their fentiments with freedom and firmness; they have fpoken truth boldly; and, in whatever light their remonstrance may be represented by courtiers, I defy the most subtle lawyer in this country to point out a fingle inftance in which they have exceeded the truth. Even that affertion, which we are told is most offensive to parliament, in the theory of the English constitution, is strictly true. If any part of the reprefentative body be not chosen by the people, that part vitiates and corrupts the whole. there be a defect in the representation of the people, that power which alone is equal to the making of the laws in this country is not complete, and the acts of parliament under that circumstance are not the acts of a pure and entire legislature. I speak of the theory of our conftitution; and, whatever difficulties or inconveniencies may attend the practice, I am ready to maintain, that, as far as the fact deviates from the principle, fo far the practice is vicious and corrupt. I have not heard a question raifed upon any other part of the remonstrance. That the principle on which the Middlefex election was determined is more pernicious in its effects than either the levying of ship-money by Charles the First, or the suspending power assumed by his fon, will hardly be difputed by any man who understands or wishes well to the English constitution. It is not an act of open violence done by the King, or any direct or palpable breach of the laws attempted by his minister, that can ever endanger the liberties of this country. Against such a King or minister the people would immediately take the alarm, and all the parties unite to oppose him. The laws may be grofsly violated in particular inftances without any direct attack upon the whole fystem. Facts of that kind fland alone; they are attributed to necessity, not defended by principle. We can never be really in danger until the forms of parliament are made use of to destroy the substance of our civil and political liberties; until parliament itfelf betrays its truft, by contributing to establish new principles of government, and employing the very weapons committed to it by the collective body to flab the conflitution.

As for the terms of the remonstrance, I presume it will not be affirmed, by any person less polished than a gentleman usher, that this is a season for compliments. Our gracious King indeed is abundantly civil to himfelf. Inflead of an answer to a petition, his Majesty very gracefully pronounces his own panegyric; and I confess, that as far as his perfonal behaviour, or the royal purity of his intentions, is concerned, the truth of those declarations which the minister has drawn up for his Master cannot decently be disputed. In every other refpect, I affirm, that they are absolutely unsupported either in argument or fact. I must add too, that fuppofing the speech were otherwise unexceptionable, it is not a direct answer to the petition of the city. His Majesty is pleased to say, that he is always ready to receive the requests of his subjects, yet the sheriffs were twice fent back with an excufe, and it was certainly debated in council whether or no the magistrates of the city of London should be admitted to an audience. Whether the remonstrance be or be not injurious to parliament, is the very question between the parliament and the people, and fuch a question as cannot be decided by the affertion of a third party, however refpectable. That the petitioning for a diffolution of parliament is irreconcileable with the principles of the conftitution, is a new doctrine. His Majesty perhaps has not been informed, that the House of Commons themselves have, by a formal resolution, admitted it to be the right of the fubject. His Majesty proceeds to affure us that he has made the laws the rule of his conduct. Was it in ordering or permiting his ministers to apprehend Mr. Wilkes by a

general warrant? Was it in suffering his ministers to revive the obsolete maxim of nullum tempus to rob the Duke of Portland of his property, and there by give a decifive turn to a county election? Was it in erecting a chamber confultation of furgeons, with authority to examine into and superfede the legal verdict of a jury? Or did his Majesty confult the laws of this country when he permitted his Secretary of State to declare, that whenever the civil magistrate is trifled with, a military force must be fent for, without the delay of a moment, and effedually employed? Or was it in the barbarous exactness with which this illegal, inhuman doctrine was carried into execution? If his Majesty had recollected thefe facts, I think he would never have faid, at least with any reference to the measures of his government, that he had made the laws the rule of his conduct. To talk of preferving the affections, or relying on the support, of his subjects, while he continues to act upon these principles, is indeed paying a compliment to their loyalty which I hope they have too much spirit and understanding to deferve.

His Majesty, we are told, is not only punctual in the performance of his own duty, but careful not to assume any of those powers which the constitution has placed in other hands. Admitting this last asfertion to be strictly true, it is no way to the purpose. The city of London have not desired the King to assume a power placed in other hands. If they had, I should hope to see the person who dared to prefent fuch a petition immediately impeached. They folicit their Sovereign to exert that conftitutional authority which the laws have vefted in him for the benefit of his fubjects. They call upon him to make use of his lawful prerogative in a case which our laws evidently supposed might happen, fince they have provided for it by trufting the Sovereign with a difcretionary power to diffolve the parliament. This request will, I am confident, be fupported by remonstrances from all parts of the kingdom. His Majesty will find at last, that this is the fense of his people, and that it is not his interest to support either ministry or parliament at the hazard of a breach with the collective body of his fubjects. That he is the King of a free people is indeed his greatest glory. That he may long continue the King of a free people is the fecond wish that animates my heart. The first is, that the people may be free.2 All the second that the second second

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the performance of his own duty, but control not to affinne any of these powers which the conflitution has placed in other hands. Admitting this last affection to be furelly true, it is no way to the purpose. The city of London bare not deliced the

His Majelia, we are told is not only made est up

### LETTER XXXVIII.



#### THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

3 April, 1770.

In my last letter I offered you my opinion of the truth and propriety of his Majesty's answer to the city of London, considering it merely as the fpeech of a minister, drawn up in his own defence, and delivered, as usual, by the chief magistrate. I would separate, as much as possible, the King's perfonal character and behaviour from the acts of the prefent government. I wish it to be understood that his Majesty had in effect no more concern in the fubftance of what he faid than Sir James Hodges had in the remonstrance, and that as Sir James, in virtue of his office, was obliged to fpeak the fentiments of the people, his Majesty might think himfelf bound, by the fame official obligation, to give a graceful utterance to the fentiments of his minister. The cold formality of a well

repeated leffon is widely diffant from the animated expression of the heart.

This diffinction, however, is only true with refpect to the measure itself. The consequences of it reach beyond the minister, and materially affect his Majesty's honour. In their own nature they are formidable enough to alarm a man of prudence; and difgraceful enough to afflict a man of spirit. A fubject whose fincere attachment to his Majesty's person and family is founded upon rational principles, will not, in the prefent conjuncture, be forupulous of alarming or even of afflicting his Sovereign. I know there is another fort of loyalty of which his Majesty has had plentiful experience. When the loyalty of Tories, Jacobites, and Scotchmen, has once taken possession of an unhappy Prince, it feldom leaves him without accomplishing his destruction. When the poison of their doctrines has tainted the natural benevolence of his disposition, when their infidious counfels have corrupted the stamina of his government, what antidote can reftore him to his political health and honour, but the firm fincerity of his English subjects?

It has not been usual in this country, at least fince the days of Charles the First, to see the Sovereign personally at variance, or engaged in a direct altercation, with his subjects. Acts of grace and indulgence are wisely appropriated to him, and

fhould conftantly be performed by himself. He never should appear but in an amiable light to his fubjects. Even in France, as long as any ideas of a limited monarchy were thought worth preferving, it was a maxim, that no man should leave the royal presence discontented. They have lost or renounced the moderate principles of their government, and now, when their parliaments venture to remonstrate, the tyrant comes forward, and answers absolutely for himself. The spirit of their present constitution requires that the King should be feared, and the principle, I believe, is tolerably supported by the fact. But in our political system the theory is at variance with the practice, for the King should be beloved. Measures of greater severity may indeed, in some circumstances, be necessary; but the minister who advifes should take the execution and odium of them entirely upon himfelf. He not only betrays his Mafter, but violates the spirit of the English conftitution, when he exposes the chief magistrate to the personal hatred or contempt of his subjects. When we fpeak of the firmness of government, we mean an uniform fystem of measures, deliberately adopted and refolutely maintained by the fervants of the Crown, not a peevish asperity in the language or behaviour of the Sovereign. The government of a weak irrefolute monarch may be wife, moderate, and firm; that of an obstinate, capricious prince, on the contrary, may be feeble, undetermined, and relaxed. The reputation of public measures

depends upon the minister, who is responsible, not upon the King, whose private opinions are not supposed to have any weight against the advice of his counsel, whose personal authority should therefore never be interposed in public affairs. This, I believe, is true conflitutional doctrine. But for a moment let us suppose it false. Let it be taken for granted, that an occasion may arise in which a king of England shall be compelled to take upon himfelf the ungrateful office of rejecting the petitions and cenfuring the conduct of his fubjects; and let the city remonstrance be supposed to have created fo extraordinary an occasion. On this principle, which I prefume no friend of administration will dispute, let the wisdom and spirit of the ministry be examined. They advise the King to hazard his dignity by a positive declaration of his own fentiments; they fuggest to him a language full of severity and reproach. What follows? When his Majefty had taken fo decifive a part in support of his ministry and parliament, he had a right to expect from them a reciprocal demonstration of firmness. in their own cause, and of their zeal for his honour. He had reason to expect (and such, I doubt not, were the bluftering promifes of Lord North) that the persons whom he had been advised to charge with having failed in their respect to him, with having injured parliament, and violated the principles of the conflitution, should not have been permitted to escape without some severe marks of the displeafure and vengeance of parliament. As the matter ftands, the minister, after placing his Sovereign in the most unfavourable light to his subjects, and after attempting to fix the ridicule and odium of his own precipitate measures upon the royal character, leaves him a solitary figure upon the scene, to recall, if he can, or to compensate, by future compliances, for one unhappy demonstration of ill-supported firmness, and ineffectual resentment. As a man of spirit, his Majesty cannot but be sensible, that the losty terms in which he was persuaded to reprimand the city, when united with the filly conclusion of the business, resemble the pomp of a mock-tragedy, where the most pathetic sentiments, and even the sufferings of the hero, are calculated for derision.

Such has been the boafted firmness and confistency of a minister b whose appearance in the House of Commons was thought effential to the King's fervice; whose presence was to influence every division; who had a voice to persuade, an eye to penetrate, a gesture to command. The reputation of these great qualities has been fatal to his friends. The little dignity of Mr. Ellis has been committed. The mine was sunk, combustibles provided, and Welbore Ellis, the Guy Faux of the fable, waited only for the signal of command. All of a sudden the country gentlemen discover how grossly they have been deceived; the minister's heart fails him, the grand plot is deseated in a moment, and poor

Mr. Ellis and his motion taken into cuftody. From the event of Friday laft, one would imagine that fome fatality hung over this gentleman. Whether he makes or fuppreffes a motion, he is equally fure of his differace. But the complexion of the times will fuffer no man to be vice-treafurer of Ireland with impunity.<sup>c</sup>

I do not mean to express the smallest anxiety for the minister's reputation. He acts separately for himfelf, and the most shameful inconsistency may perhaps be no difgrace to him. But when the So vereign, who represents the majesty of the state, appears in person, his dignity should be supported. The occasion should be important; the plan well confidered; the execution fleady and confiftent. My zeal for his Majesty's real honour compels me to affert, that it has been too much the fystem of the prefent reign to introduce him perfonally, either to act for, or to defend his fervants. They perfuade him to do what is properly their bufinefs, and defert him in the midst of it. Yet this is an inconvenience to which he must for ever be exposed while he adheres to a ministry divided among themselves; or unequal in credit and ability to the great talk they have undertaken. Instead of referving the interposition of the royal personage, as the last resource of government, their weakness obliges them to apply it to every ordinary occasion, and to render it cheap and common in the opinion of the people. Instead of supporting their Master, they look to him for support; and for the emoluments of remaining one day more in office, care not how much his facred character is prostituted and dishonoured.

If I thought it possible for this paper to reach the closet, I would venture to appeal at once to his Majesty's judgment. I would ask him, but in the most respectful terms, 'As you are a young man, ' Sir, who ought to have a life of happiness in prof-' pect; as you are a husband; as you are a father ' (your filial duties I own have been religiously per-' formed); is it bona fide for your interest or your honour to facrifice your domestic tranquillity, and ' to live in a perpetual difagreement with your peo-' ple, merely to preferve fuch a chain of beings ' as North, Barrington, Weymouth, Gower, Ellis, ' Onflow, Rigby, Jerry Dyfon, and Sandwich? 'Their very names are a fatire upon all govern-' ment, and I defy the gravest of your chaplains to ' read the catalogue without laughing.'

For my own part, Sir, I have always confidered addresses from parliament as a fashionable unmeaning formality. Usurpers, idiots, and tyrants, have been successively complimented with almost the same professions of duty and affection. But let us suppose them to mean exactly what they profess. The consequences deserve to be considered. Either the sovereign is a man of high spirit, and dangerous am-

bition, ready to take advantage of the treachery of his parliament, ready to accept of the furrender they made him of the public liberty; or he is a mild, undefigning prince, who, provided they indulge him with a little state and pageantry, would of himself intend no mischief. On the first supposition, it must foon be decided by the fword, whether the conftitution should be lost or preserved. On the second, a prince no way qualified for the execution of a great and hazardous enterprife, and without any determined object in view, may nevertheless be driven into fuch desperate measures as may lead directly to his ruin, or difgrace himfelf by a shameful fluctuation between the extremes of violence at one moment, and timidity at another. The minister perhaps may have reason to be fatisfied with the fuccess of the present hour, and with the profits of his employment. He is the tenant of the day, and has no interest in the inheritance. The Sovereign himself is bound by other obligations, and ought to look forward to a superior, a permanent interest. His paternal tenderness should remind him how many hostages he has given to society. The ties of nature come powerfully in aid of oaths and proteftations. The father who confiders his own precarious state of health, and the possible hazard of a long minority, will wish to see the family estate free and unincumbered.d What is the dignity of the crown, though it were really maintained; what is the honour of parliament, fuppofing it could exist

without any foundation of integrity and justice; or what is the vain reputation of firmness, even if the scheme of the government were uniform and confiftent, compared with the heartfelt affections of the people, with the happiness and security of the royal family, or even with the grateful acclamations of the populace! Whatever style of contempt may be adopted by ministers or parliaments, no man fincerely despises the voice of the English nation. The House of Commons are only interpreters, whose duty it is to convey the fense of the people faithfully to the Crown. If the interpretation be false or imperfect, the constituent powers are called upon to deliver their own fentiments. Their speech is rude, but intelligible; their gestures fierce, but full of explanation. Perplexed by fophistries, their honest eloquence rises into action. Their first appeal was to the integrity of their representatives; the second to the King's justice; the last argument of the people, whenever they have recourse to it, will carry more perhaps than persuafion to parliament, or fupplication to the throne.

JUNIUS.

### LETTER XXXIX.

TO

### THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

28 May, 1770.

WHILE parliament was fitting, it would neither have been fafe, nor perhaps quite regular, to offer any opinion to the public upon the justice or wisdom of their proceedings. nounce fairly upon their conduct, it was necessary to wait until we could confider, in one view, the beginning, progrefs, and conclusion of their delibe-The cause of the public was undertaken rations. and supported by men whose abilities and united authority, to fay nothing of the advantageous ground they flood on, might well be thought fufficient to determine a popular question in favour of the people. Neither was the House of Commons so absolutely engaged in defence of the ministry, or even of their own refolutions, but that they might have paid fome decent regard to the known disposition of their conflituents, and, without any dishonour to

their firmness, might have retracted an opinion too haftily adopted, when they faw the alarm it had created, and how ftrongly it was opposed by the general fense of the nation. The ministry too would have confulted their own immediate interest in making some concession fatisfactory to the moderate part of the people. Without touching the fact, they might have confented to guard against, or give up the dangerous principle on which it was established. In this state of things, I think it was highly improbable, at the beginning of the feffion, that the complaints of the people upon a matter which, in their apprehension at least, immediately affected the life of the conftitution, would be treated with as much contempt by their own reprefentatives, and by the House of Lords, as they had been by the other branch of the legislature. Defpairing of their integrity, we had a right to expect fomething from their prudence, and fomething from their fears. The Duke of Grafton certainly did not foresee to what an extent the corruption of a parliament might be carried. He thought, perhaps, that there still was some portion of shame or virtue left in the majority of the House of Commons, or that there was a line in public proftitution beyond which they would feruple to proceed. Had the young man been a little more practifed in the world, or had he ventured to measure the characters of other men by his own, he would not have been fo eafily discouraged.

The prorogation of parliament naturally calls upon us to review their proceedings, and to confider the condition in which they have left the kingdom. I do not question but they have done what is usually called the King's bufiness, much to his Majesty's satisfaction. We have only to lament, that in confequence of a fystem introduced or revived in the present reign, this kind of merit should be very confistent with the neglect of every duty they owe to the nation. The interval between the opening of the last and close of the former session was longer than usual. Whatever were the views of the minister in deferring the meeting of parliament, sufficient time was certainly given to every Member of the House of Commons to look back upon the fteps he had taken, and the confequences they had produced. The zeal of party, the violence of perfonal animofities, and the heat of contention, had leifure to fubfide. From that period, whatever refolution they took was deliberate and prepenfe. In the preceding fession, the dependents of the miniftry had affected to believe, that the final determination of the question would have satisfied the nation, or at least put a stop to their complaints; as if the certainty of an evil could diminish the sense of it, or the nature of injustice could be altered by decision. But they found the people of England were in a temper very distant from submission; and, although it was contended that the House of Commons could not themselves reverse a resolu-

lution which had the force and effect of a judicial fentence, there were other conftitutional expedients which would have given a fecurity against any fimilar attempts for the future. The general proposition, in which the whole country had an interest, might have been reduced to a particular fact, in which Mr. Wilkes and Mr. Luttrell would alone have been concerned. The House of Lords might interpofe; the King might diffolve the parliament; or, if every other refource failed, there still lay a grand conftitutional writ of error, in behalf of the people, from the decision of one court to the wifdom of the whole legislature. Every one of these remedies has been fuccessively attempted. people performed their part with dignity, spirit, and perseverance. For many months his Majesty heard nothing from his people but the language of complaint and refentment; unhappily for this country, it was the daily triumph of his courtiers, that he heard it with an indifference approaching to contempt.

The House of Commons having assumed a power unknown to the constitution, were determined not merely to support it in the single instance in question, but to maintain the doctrine in its utmost extent, and to establish the fact as a precedent in law, to be applied in whatever manner his Majesty's fervants should hereafter think fit. Their proceedings upon this occasion are a strong proof that a de-

ciston, in the first instance illegal and unjust, can only be supported by a continuation of falsehood and injuffice. To support their former resolutions, they were obliged to violate fome of the best known and established rules of the House. In one instance they went fo far as to declare, in open defiance of truth and common fense, that it was not the rule of the House to divide a complicated question at the request of a member.e But after trampling upon the laws of the land, it was not wonderful that they should treat the private regulations of their own affembly with equal difregard. fpeaker, being young in office, began with pretended ignorance, and ended with deciding for the miniftry. We were not furprifed at the decision; but' he hefitated and blufhed at his own bafeness, and every man was aftonished.f

The interest of the public was vigorously supported in the House of Lords. Their right to defend the constitution against an incroachment of the other estates, and the necessity of exerting it at this period, was urged to them with every argument that could be supposed to influence the heart or the understanding. But it soon appeared, that they had already taken their part, and were determined to suppose the House of Commons, not only at the expence of truth and decency, but even by a surrender of their own most important rights. Instead of performing that duty which the constitution ex-

pected from them, in return for the dignity and independence of their station, in return for the hereditary share it has given them in the legislature, the majority of them made common cause with the other House in oppressing the people, and established another doctrine as false in itself, and, if possible, more pernicious to the constitution than that on which the Middlefex election was determined. By refolving, 'that they had no right to impeach a ' judgment of the House of Commons in any case ' whatfoever, where that House has a competent ' jurisdiction,' they in effect gave up that constitutional check and reciprocal control of one branch of the legislature over the other, which is perhaps the greatest and most important object provided for by the division of the whole legislative power into three estates; and now let the judicial decisions of the House of Commons be ever so extravagant, let their declarations of the law be ever fo flagrantly false, arbitrary, and oppressive to the subject, the House of Lords have imposed a flavish filence upon themselves; they cannot interpose, they cannot protect the fubject, they cannot defend the laws of their country. A concession so extraordinary in itfelf, fo contradictory to the principles of their own inftitution, cannot but alarm the most unsuspecting mind. We may well conclude, that the Lords would hardly have yielded fo much to the other House without the certainty of a compensation, which can only be made to them at the expence of

the people.g The arbitrary power they have affumed of imposing fines, and committing during pleafure, will now be exercised in its full extent. The House of Commons are too much in their debt to question or interrupt their proceedings. The Crown too, we may be well affured, will lofe nothing in this new distribution of power. After declaring, that to petition for a diffolution of parliament is irreconcileable with the principles of the conflitution, his Majesty has reason to expect that fome extraordinary compliment will be returned to the royal prerogative. The three branches of the legislature feem to treat their separate rights and interests as the Roman Triumvirs did their friends. They reciprocally facrifice them to the animofities of each other, and establish a detestable union among themselves, upon the ruin of the laws and liberty of the commonwealth.

Through the whole proceedings of the House of Commons in this session, there is an apparent, a palpable consciousness of guilt, which has prevented their daring to affert their own dignity where it has been immediately and grossly attacked. In the course of Doctor Musgrave's examination, he said every thing that can be conceived mortifying to individuals, or offensive to the House. They voted his information frivolous, but they were awed by his firmness and integrity, and sunk under it.h The terms in which the sale of a patent to

Mr. Hine were communicated to the public naturally called for a parliamentary inquiry. The integrity of the House of Commons was directly impeached; but they had not courage to move in their own vindication, because the inquiry would have been fatal to Colonel Burgoyne and the Duke of Grafton. When Sir George Savile branded them with the name of traitors to their conftituents, when the Lord Mayor, the Sheriffs, and Mr. Trecothick, expressly avowed and maintained every part of the city remonstrance, why did they tamely submit to be infulted? Why did they not immediately expel those refractory members? Conscious of the motives on which they had acted, they prudently preferred infamy to danger, and were better prepared to meet the contempt, than to rouse the indignation of the whole people. Had they expelled those five members, the consequences of the new doctrine of incapacitation would have come immediately home to every man. The truth of it would then have been fairly tried, without any reference to Mr. Wilkes's private character, or the dignity of the House, or the obstinacy of one particular county. Thefe topics, I know, have had their weight with men, who affecting a character of moderation, in reality confult nothing but their own immediate éafe; who are weak enough to acquiesce under a flagrant violation of the laws, when it does not directly touch themselves, and care not what injustice is practifed upon a man whose moral character they pioufly think themselves obliged to condemn. any other circumstances, the House of Commons must have forfeited all credit and dignity if, after fuch gross provocation, they had permitted those five gentlemen to fit any longer among them. We should then have feen and felt the operation of a precedent which is represented to be perfectly barren and harmless. But there is a fet of men in this country whose understandings measure the violation of law by the magnitude of the inflance, not by the important confequences which flow directly from the principle; and the minister, I presume, did not think it fafe to quicken their apprehenfions too foon. Had Mr. Hampden reasoned and acted like the moderate men of these days, instead of hazarding his whole fortune in a law-fuit with the crown, he would have quietly paid the twenty shillings demanded of him, the Stuart family would probably have continued upon the throne, and at this moment the imposition of ship-money would have been an acknowledged prerogative of the crown.

What then has been the business of the session after voting the supplies, and confirming the determination of the Middlesex election? The extraordinary prorogation of the Irish parliament, and the just discontents of that kingdom, have been passed by without notice. Neither the general situation of our Colonies, nor that particular distress which forced the inhabitants of Boston to take up arms in

their defence, have been thought worthy of a moment's confideration. In the repeal of those acts which were most offensive to America, the parliament have done every thing but remove the offence. They have relinquished the revenue, but judiciously taken care to preserve the contention. It is not pretended that the continuation of the tea duty is to produce any direct benefit whatsoever to the mother country. What is it then but an odious, unprofitable exertion of a speculative right, and fixing a badge of slavery upon the Americans, without service to their masters? But it has pleased God to give us a ministry and a parliament who are neither to be persuaded by argument, nor instructed by experience.

Lord North, I prefume, will not claim an extraordinary merit from any thing he has done this year in the improvement or application of the revenue. A great operation, directed to an important object, though it should fail of success, marks the genius and elevates the character of a minister. A poor contracted understanding deals in little schemes, which dishonour him if they fail, and do him no credit when they succeed. Lord North had fortunately the means in his possession of reducing all the four per cents at once. The failure of his first enterprize in finance is not half so disgraceful to his reputation as a minister, as the enterprize itself is injurious to the public. Instead of striking one

decifive blow, which would have cleared the market at once, upon terms proportioned to the price of the four per cents fix weeks ago, he has tampered with a pitiful portion of a commodity which ought never to have been touched but in gross; he has given notice to the holders of that stock, of a defign formed by government to prevail upon them to furrender it by degrees, confequently has warned them to hold up and inhance the price; fo that the plan of reducing the four per cents must either be dropped entirely, or continued with an increasing difadvantage to the public. The minister's fagacity has ferved to raife the value of the thing he means to purchase, and to fink that of the three per cents, which it is his purpose to sell. In effect, he has contrived to make it the interest of the proprietor of four per cents to fell out and buy three per cents in the market, rather than fubfcribe his flock upon any terms that can possibly be offered by government.

The state of the nation leads us naturally to consider the situation of the King. The prorogation of parliament has the effect of a temporary disfolution. The odium of measures adopted by the collective body sits lightly upon the separate members who composed it. They retire into summer quarters, and rest from the disgraceful labours of the campaign. But as for the Sovereign, it is not so with him. He has a permanent existence in this

country; he cannot withdraw himfelf from the contplaints, the discontents, the reproaches of his subjects. They purfue him to his retirement, and invade his domestic happiness, when no address can be obtained from an obsequious parliament to encourage or confole him. In other times, the interest of the King and people of England was, as it ought to be, entirely the fame. A new fystem has not only been adopted in fact, but professed upon principle. Ministers are no longer the public fervants of the state, but the private domestics of the Sovereign. One particular class of meni are permitted to call themselves the King's friends, as if the body of the people were the King's enemies; or as if his Majesty looked for a resource or consolation in the attachment of a few favourites, against the general contempt and deteftation of his fubjects. Edward and Richard the Second made the same diffinction between the collective body of the people, and a contemptible party who furrounded the throne. The event of their miftaken conduct might have been a warning to their fucceffors. Yet the errors of those princes were not without excuse. They had as many false friends as our present gracious Sovereign, and infinitely greater temptations to feduce them. They were neither fober, religious, nor demure. Intoxicated with pleafure, they wasted their inheritance in pursuit of it. Their lives were like a rapid torrent, brilliant in profpect, though useless or dangerous in its course. In the dull, un-

animated existence of other princes, we see nothing but a fickly, ftagnant water, which taints the atmosphere without fertilizing the foil. The morality of a king is not to be meafured by vulgar rules. His fituation is fingular. There are faults which do him honour, and virtues that diffrace him. A faultless, insipid equality in his character, is neither capable of vice nor virtue in the extreme; but it fecures his fubmission to those persons whom he has been accustomed to respect, and makes him a dangerous inftrument of their ambition. Secluded from the world, attached from his infancy to one fet of persons, and one set of ideas, he can neither open his heart to new connexions, nor his mind to better information. A character of this fort is the foil fittest to produce that obstinate bigotry in politics and religion which begins with a meritorious facrifice of the understanding, and finally conducts the monarch and the martyr to the block.

At any other period, I doubt not, the fcandalous diforders which have been introduced into the government of all the dependencies in the empire would have roufed the attention of the public. The odious abufe and profitution of the prerogative at home, the unconftitutional employment of the military, the arbitrary fines and commitments by the House of Lords and Court of King's Bench, the mercy of a chaste and pious Prince extended cheerfully to a wilful murderer, because that murderer

is the brother of a common proftitute,k would, I think, at any other time, have excited univerfal indignation. But the daring attack upon the conftitution, in the Middlefex election, makes us callous and indifferent to inferior grievances. No man regards an eruption upon the furface when the noble parts are invaded, and he feels a mortification approaching to his heart. The free election of our reprefentatives in parliament comprehends, because it is, the fource and fecurity of every right and privilege of the English nation. The ministry have realifed the compendious ideas of Caligula. They know that the liberty, the laws, and property of an Englishman have in truth but one neck, and that to violate the freedom of election strikes deeply at them all.

JUNIUS.



### LETTER XL.

# TO LORD NORTH.

MY LORD,

22 Aug. 1770.

Mr. Luttrell's fervices were the chief fupport and ornament of the Duke of Grafton's administration. The honour of rewarding them was referved for your Lordship. The Duke, it seems, had contracted an obligation he was ashamed to acknowledge, and unable to acquit. You, my Lord, had no scruples. You accepted the succession with all its incumbrances, and have paid Mr. Luttrell his legacy, at the hazard of ruining the estate.

When this accomplished youth declared himfelf the champion of government, the world was bufy in inquiring what honours or emoluments could be a fufficient recompense to a young man of his rank and fortune, for submitting to mark his entrance into life with the usual contempt and de testation of his country His noble father had not been fo precipitate. To vacate his feat in parliament; to intrude upon a county in which he had no interest or connexion; to possess himself of another man's right, and to maintain it in desiance of public shame as well as justice, bespoke a degree of zeal or of depravity, which all the favour of a pious Prince could hardly requite. I protest, my Lord, there is in this young man's conduct a strain of prostitution which, for its singularity, I cannot but admire. He has discovered a new line in the human character; he has degraded even the name of Luttrell, and gratisted his father's most sanguine expectations.

The Duke of Grafton, with every possible difposition to patronize this kind of merit, was contented with pronouncing Colonel Luttrell's panegyric. The gallant spirit, the disinterested zeal of the young adventurer, were echoed through the House of Lords. His Grace repeatedly pledged himself to the House, as an evidence of the purity of his friend Mr. Luttrell's intentions, that he had engaged without any prospect of personal benefit, and that the idea of compensation would mortally offend him.1 The noble Duke could hardly be in earnest; but he had lately quitted his employment, and began to think it necessary to take some care of his reputation. At that very moment the Irish negociation was probably begun. Come forward, thou worthy representative of Lord Bute, and tell

this infulted country who advised the King to appoint Mr. Luttrell Adjutant-General to the army in Ireland. By what management was Colonel Cuninghame prevailed on to refign his employment, and the obsequious Gisborne to accept of a pension for the government of Kinfale? m Was it an original stipulation with the Princess of Wales, or does he owe his preferment to your Lordship's partiality, or to the Duke of Bedford's friendship? My Lord, though it may not be possible to trace this meafure to its fource, we can follow the ftream, and warn the country of its approaching destruction. The English nation must be roused, and put upon its guard. Mr. Luttrell has already shewn us how far he may be trufted whenever an open attack is to be made upon the liberties of this country. I do not doubt that there is a deliberate plan formed. Your Lordship best knows by whom; the corruption of the legislative body on this fide, a military force on the other, and then, Farewell to England! It is impossible that any minister shall dare to advife the King to place fuch a man as Luttrell in the confidential post of Adjutant-General, if there were not fome fecret purpose in view which only such a man as Luttrell is fit to promote The infult offered to the army in general is as grofs as the outrage intended to the people of England. What! Lieutenant-Colonel Luttrell Adjutant-General of an army of fixteen thousand men! One would think his Majesty's campaigns at Blackheath and Wimbledon might have taught him better. I cannot help wishing General Harvey joy of a colleague who does fo much honour to the employment. But, my Lord, this measure is too daring to pass unnoticed, too dangerous to be received with indiffer-You fhall not have time to ence or fubmission. new-model the Irish army. They will not submit to be garbled by Colonel Luttrell. As a mischief to the English constitution (for he is not worth the name of enemy) they already detest him. As a boy, impudently thrust over their heads, they will receive him with indignation and contempt. As for you, my Lord, who perhaps are no more than the blind, unhappy instrument of Lord Bute and her Royal Highness the Princess of Wales, be affured that you shall be called upon to answer for the advice which has been given, and either difcover your accomplices, or fall a facrifice to their fecurity.

JUNIUS.



#### LETTER XII.

TO

THE RIGHT HONOURABLE LORD MANSFIELD.

MY LORD,

14 Nov. 1770.

THE appearance of this letter will attract the curiofity of the public, and command even your Lordship's attention. I am confiderably in your debt, and shall endeavour, once for all, to balance the account. Accept of this address, my Lord, as a prologue to more important scenes in which you will probably be called upon to act or fuffer.

You will not question my veracity, when I affure you that it has not been owing to any particular respect for your person that I have abstained from you so long. Besides the distress and danger with which the press is threatened when your Lordship is party, and the party is to be judge, I confess I have been deterred by the difficulty of the task. Our language has no term of reproach, the mind

has no idea of detestation, which has not already been happily applied to you, and exhausted. Ample justice has been done by abler pens than mine to the separate merits of your life and character. Let it be my humble office to collect the scattered sweets, till their united virtue tortures the sense.

Permit me to begin with paying a just tribute to Scotch fincerity wherever I find it. I own I am not apt to confide in the professions of gentlemen of that country, and when they fmile, I feel an involuntary emotion to guard myfelf against mischief. With this general opinion of an ancient nation, I always thought it much to your Lordship's honour, that, in your earlier days, you were but little infected with the prudence of your country. had fome original attachments, which you took every proper opportunity to acknowledge. The liberal spirit of youth prevailed over your native difcretion. Your zeal in the cause of an unhappy prince was expressed with the fincerity of wine, and fome of the folemnities of religion. This, I conceive, is the most amiable point of view in which your character has appeared. Like an honest man, you took that part in politics which might have been expected from your birth, education, country, and connexions. There was fomething generous in your attachment to the banished house of Stuart. We lament the mistakes of a good man, and do not begin to detest him until he affects to renounce his principles. Why did you not adhere to that loyalty you once professed? Why did you not follow the example of your worthy brother? With him you might have fhared in the honour of the Pretender's confidence; with him you might have preferved the integrity of your character, and England, I think, might have fpared you without regret. Your friends will fay, perhaps, that although you deferted the fortune of your liege Lord, you have adhered firmly to the principles which drove his father from the throne; that without openly fupporting the person, you have done effential service to the cause, and consoled yourself for the loss of a favourite family by reviving and establishing the maxims of their government. This is the way in which a Scotchman's understanding corrects the error of his heart. My Lord, I acknowledge the truth of the defence, and can trace it through all your conduct. I fee through your whole life one uniform plan to enlarge the power of the Crown at the expence of the liberty of the fubject. this object your thoughts, words, and actions, have been conflantly directed. In contempt or ignorance of the common law of England, you have made it your fludy to introduce into the court where you prefide maxims of jurifprudence unknown to Eng-The Roman code, the law of nations, and the opinion of foreign civilians, are your perpetual theme; but whoever heard you mention Magna Charta or the Bill of Rights with approba-

tion or respect? By such treacherous arts the noble fimplicity and free spirit of our Saxon laws were first corrupted. The Norman conquest was not complete until Norman lawyers had introduced their laws, and reduced flavery to a fystem. one leading principle directs your interpretation of the laws, and accounts for your treatment of juries. It is not in political questions only (for there the courtier might be forgiven), but let the cause be what it may, your understanding is equally on the rack, either to contract the power of the jury, or to mislead their judgment. For the truth of this asfertion. I appeal to the doctrine you delivered in Lord Grofvenor's caufe. An action for criminal conversation being brought by a peer against a prince of the blood, you were daring enough to tell the jury, that, in fixing the damages, they were to pay no regard to the quality or fortune of the parties; that it was a trial between A. and B. that they were to confider the offence in a moral light only, and give no greater damages to a peer of the realm than to the meanest mechanic. I shall not attempt to refute a doctrine which, if it was meant for law, carries falsehood and absurdity upon the face of it; but if it was meant for a declaration of your political creed, is clear and confiftent. Under an arbitrary government, all ranks and distinctions are confounded. The honour of a nobleman is no more confidered than the reputation of a peafant, for, with different liveries, they are equally flaves.

Even in matters of private property we see the fame bias and inclination to depart from the decifions of your predecessors, which you certainly ought to receive as evidence of the common law. Instead of those certain, positive rules; by which the judgment of a court of law fhould invariably be determined, you have fondly introduced your own unsettled notions of equity and substantial justice. Decifions given upon fuch principles do not alarm the public fo much as they ought, because the confequence and tendency of each particular inftance is not observed or regarded. In the mean time the practice gains ground; the Court of King's Bench becomes a Court of Equity, and the judge, instead of confulting strictly the law of the land, refers only to the wisdom of the court, and to the purity of his own conscience. The name of Mr. Justice Yates will naturally revive in your mind fome of those emotions of fear and deteftation with which you always beheld him. That great lawyer, that honest man, faw your whole conduct in the light that I do. After years of ineffectual refiftance to the pernicious principles introduced by your Lordship, and uniformly supported by your humble friends upon the bench, he determined to quit a court whose proceedings and decisions he could neither affent to with honour, nor oppose with succefs.

The injustice done to an individual p is some-

times of fervice to the public. Facts are apt to alarm us more than the most dangerous principles. The fufferings and firmness of a printer have roused the public attention. You knew and felt that your conduct would not bear a parliamentary inquiry, and you hoped to escape it by the meanest, the basest facrifice of dignity and confistency that ever was made by a great magistrate. Where was your firmness, where was that vindictive spirit, of which we have feen fo many examples, when a man fo inconfiderable as Bingley could force you to confess, in the face of this country, that for two years together you had illegally deprived an English subject of his liberty, and that he had triumphed over you at last? Yet I own, my Lord, that yours is not an uncommon character. Women, and men like women, are timid, vindictive, and irrefolute. Their passions counteract each other, and make the same creature, at one moment hateful, at another contemptible. I fancy, my Lord, fome time will elapse before you venture to commit another Englishman for refusing to answer interrogatories.9

The doctrine you have conftantly delivered in cases of libel, is another powerful evidence of a settled plan to contract the legal power of juries, and to draw questions inseparable from fact, within the arbitrium of the court. Here, my Lord, you have fortune of your side. When you invade the province of the jury in matter of libel, you, in es-

fect, attack the liberty of the prefs, and with a fingle stroke wound two of your greatest enemies. In fome inftances you have fucceeded, because jurymen are too often ignorant of their own rights, and too apt to be awed by the authority of a chief justice. In other criminal profecutions, the malice of the defign is confessedly as much the subject of confideration to a jury, as the certainty of the fact. If a different doctrine prevails in the case of libels, why should it not extend to all criminal cases? Why not to capital offences? I fee no reason (and I dare fay you will agree with me that there is no good one) why the life of the fubject thould be better protected against you than his liberty or property. should you enjoy the full power of pillory, fine, and imprisonment, and not be indulged with hanging or transportation? With your Lordship's fertile genius and merciful disposition, I can conceive such an exercise of the power you have, as could hardly be aggravated by that which you have not.

But, my Lord, fince you have laboured (and not unfuccefsfully) to defiroy the fubfiance of the trial, why should you fuffer the form of the verdict to remain? Why force twelve honest men, in palpable violation of their oaths, to pronounce their fellow subject a guilty man, when, almost at the same moment, you forbid their inquiring into the only circumstance which, in the eye of law and reason, constitutes guilt, the malignity or innocence of

his intentions? But I understand your Lordship. If you could succeed in making the trial by jury useless and ridiculous, you might then with greater fafety introduce a bill into parliament for enlarging the jurisdiction of the court, and extending your favourite trial by interrogatories to every question in which the life or liberty of an Englishman is concerned.

Your charge to the jury in the profecution against Almon and Woodfall contradicts the highest legal authorities, as well as the plainest dictates of reason. In Miller's cause, and still more expressly in that of Baldwin, you have proceeded a ftep farther, and grossly contradicted yourfelf. You may know perhaps, though I do not mean to infult you by an appeal to your experience, that the language of truth is uniform and confiftent. To depart from it fafely requires memory and difcretion. In the two last trials, your charge to the jury began, as ufual, with affuring them that they had nothing to do with the law, that they were to find the bare fact, and not concern themselves about the legal inferences drawn from it, or the degree of the defendant's guilt. Thus far you were confiftent with your former practice. But how will you account for the conclusion? You told the jury, that, 'if, af-' ter all, they would take upon themselves to deter-' mine the law, they might do it, but they must be ' very fure that they determined according to law,

1 law, for it touched their consciences, and they ' acted at their peril.' If I understand your first proposition, you meant to affirm, that the jury were not competent judges of the law in the criminal case of a libel; that it did not fall within their jurifdiction; and that, with respect to them, the malice or innocence of the defendant's intentions would be a question coram non judice. But the second proposition clears away your own difficulties, and restores the jury to all their judicial capacities. You make the competence of the court's to depend upon the legality of the decision. In the first instance you deny the power abfolutely. In the fecond you admit the power, provided it be legally exercifed. Now, my Lord, without pretending to reconcile the diffinctions of Westminster-hall with the fimple information of common fense, or the integrity of fair argument, I shall be understood by your Lordship, when I affert that, if a jury, or any other court of judicature (for jurors are judges), have no right to entertain a cause, or question of law, it fignifies nothing whether their decision be or be not according to law. Their decision is in itself a mere nullitye: the parties are not bound to fubmit to it; and, if the jury run any risque of punishment, it is not for pronouncing a corrupt or illegal verdict, but for the illegality of meddling with a point on which they have no legal authority to decide.t

I cannot quit this subject without reminding

your Lordship of the name of Mr. Benson. Without offering any legal objection, you ordered a special juryman to be set aside in a cause where the King was prosecutor. The novelty of the fact required explanation. Will you condescend to tell the world by what law or custom you were authorised to make a peremptory challenge of a juryman? The parties indeed have this power, and perhaps your Lordship, having accustomed yourself to unite the characters of judge and party, may claim it in virtue of the new capacity you have assumed, and profit by your own wrong. The time within which you might have been punished for this daring attempt to pack a jury, is, I fear, elapsed; but no length of time shall erase the record of it.

The mischiefs you have done this country are not confined to your interpretation of the laws. You are a minister, my Lord, and, as such, have long been consulted. Let us candidly examine what use you have made of your ministerial influence. I will not descend to little matters, but come at once to those important points on which your resolution was waited for, on which the expectation of your opinion kept a great part of the nation in suspense. A constitutional question arises upon a declaration of the law of parliament, by which the freedom of election and the birthright of the subject were supposed to have been invaded. The King's servants are accused of violating the consti-

tution. The nation is in a ferment. The ablest men of all parties engage in the question, and exert their utmost abilities in the discussion of it. What part has the honest Lord Mansfield acted? As an eminent judge of the law, his opinion would have been respected. As a peer, he had a right to demand an audience of his Sovereign, and inform him that his ministers were pursuing unconstitutional meafures. Upon other occasions, my Lord, you have no difficulty in finding your way into the closet. The pretended neutrality of belonging to no party, will not fave your reputation. In questions merely political, an honest man may stand neuter. But the - laws and conftitution are the general property of the fubject; not to defend is to relinquish; and who is there to fenfeless as to renounce his share in a common benefit, unless he hopes to profit by a new division of the spoil? As a Lord of parliament, you were repeatedly called upon to condemn or defend the new law declared by the House of Commons. You affected to have fcruples, and every expedient was attempted to remove them. The queftion was proposed and urged to you in a thousand different shapes. Your prudence still supplied you with evafion; your refolution was invincible. For my own part, I am not anxious to penetrate this folemn fecret. I care not to whose wisdom it is intrufted, nor how foon you carry it with you to your grave." You have betrayed your opinion by the very care you have taken to conceal it. It is

not from Lord Mansfield that we expect any referve in declaring his real fentiments in favour of government, or in opposition to the people; nor is it difficult to account for the motions of a timid, dishonest heart, which neither has virtue enough to acknowledge truth, nor courage to contradict it. Yet you continue to support an administration which you know is univerfally odious, and which, on fome occasions, you yourself speak of with contempt. You would fain be thought to take no fhare in government, while, in reality, you are the main spring of the machine. Here too we trace the little, prudential policy of a Scotchman. Instead of acting that open, generous part, which becomes your rank and flation, you meanly skulk into the closet, and give your Sovereign fuch advice as you have not fpirit to avow or defend. You fecretly engross the power, while you decline the title, of minister; and though you dare not be Chancellor, you know how to fecure the emoluments of the office. Are the feals to be for ever in commission, that you may enjoy five thousand pounds a year? I beg pardon, my Lord; your fears have interpoled at last, and forced you to refign. The odium of continuing Speaker of the House of Lords upon such terms was too formidable to be refifted. What a multitude of bad paffions are forced to submit to a constitutional infirmity! But though you have relinquished the falary, you still assume the rights of a minister. Your conduct, it feems, must be defended in parliament. For what other purpose is your wretched friend, that miserable serjeant, posted to the House of Commons? Is it in the abilities of a Mr. Leigh to defend the great Lord Manssield? Or is he only the punch of the puppet-shew, to speak as he is prompted, by the chief juggler behind the curtain?\*

In public affairs, my Lord, cunning, let it be ever fo well wrought, will not conduct a man honourably through life. Like bad money, it may be current for a time, but it will foon be cried down. It cannot confift with a liberal spirit, though it be fometimes united with extraordinary qualifications. When I acknowledge your abilities, you may believe I am fincere. I feel for human nature, when I fee a man, fo gifted as you are, defcend to fuch vile practice. Yet do not fuffer your vanity to confole you too foon. Believe me, my good Lord, you are not admired in the fame degree in which you are detefted. It is only the partiality of your friends that balances the defects of your heart with the superiority of your underflanding. No learned man, even among your own tribe, thinks you qualified to prefide in a court of common law. Yet it is confessed that, under Justinian, you might have made an incomparable prætor. It is remarkable enough, but I hope not ominous, that the laws you understand best, and the judges you affect to admire most, flourished in

the decline of a great empire, and are supposed to have contributed to its fall.

Here, my Lord, it may be proper for us to paufe together. It is not for my own fake that I wifh you to confider the delicacy of your fituation. Beware how you indulge the first emotions of your resentment. This paper is delivered to the world, and cannot be recalled. The persecution of an innocent printer cannot alter facts nor resute arguments. Do not furnish me with farther materials against yourself. An honest man, like the true religion, appeals to the understanding, or modestly consides in the internal evidence of his conscience. The impostor employs force instead of argument, imposes silence where he cannot convince, and propagates his character by the sword.

JUNIUS.



#### LETTER XLII.

TO

# THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

30 Jan. 1771.

IF we recollect in what manner the King's friends have been constantly employed, we shall have no reason to be surprised at any condition of difgrace to which the once-respected name of Englishmen may be degraded. His Majesty has no cares but fuch as concern the laws and constitution of this country. In his royal breast there is no room left for refentment, no place for hoftile fentiments against the natural enemies of his crown. The fystem of government is uniform. Violence and oppression at home can only be supported by treachery and submission abroad. When the civil rights of the people are daringly invaded on one fide, what have we to expect, but that their political rights fhould be deferted and betrayed in the fame proportion on the other? The plan of domeftic policy which has been invariably purfued from the moment of his present Majesty's accession, engroffes all the attention of his fervants. They know that the fecurity of their places depends upon their maintaining, at any hazard, the fecret fystem of the closet. A foreign war might embarrass, an unfavourable event might ruin the minister, and defeat the deep-laid scheme of policy to which he and his affociates owe their employments. Rather than fuffer the execution of that scheme to be delayed or interrupted, the King has been advifed to make a public furrender, a folemn facrifice, in the face of all Europe, not only of the interests of his subjects, but of his own personal reputation, and of the dignity of that crown which his predeceffors have worn with honour. These are strong terms, Sir, but they are supported by fact and argument.

The King of Great Britain had been for some years in possession of an island to which, as the ministry themselves have repeatedly afferted, the Spaniards had no claim of right. The importance of the place is not in question. If it were, a better judgment might be formed of it from the opinion of Lord Anson and Lord Egmont, and from the anxiety of the Spaniards, than from any fallacious infinuations thrown out by men whose interest it is to undervalue that property which they are determined to relinquish. The pretensions of Spain were a subject of negociation between the two courts. They had been discussed, but not admitted.

The King of Spain, in these circumstances, bids adieu to amicable negociation, and appeals directly to the fword. The expedition against Port Egmont does not appear to have been a fudden ill-concerted enterprife. It feems to have been conducted not only with the usual military precautions, but in all the forms and ceremonies of war. A frigate was first employed to examine the strength of the place. A message was then sent, demanding immediate possession, in the Catholic King's name, and ordering our people to depart. At last a military force appears, and compels the garrifon to furrender. A formal capitulation enfues, and his Majesty's ship, which might at least have been permitted to bring home his troops immediately, is detained in port twenty days, and her rudder forcibly taken away. This train of facts carries no appearance of the rashness or violence of a Spanish governor. On the contrary, the whole plan feems to have been formed and executed, in confequence of deliberate orders, and a regular inftruction from the Spanish court. Mr. Bucarelli is not a pirate, nor has he been treated as fuch by those who employed him. I feel for the honour of a gentleman, when I affirm that our King owes him a fignal reparation. Where will the humiliation of this country end! A King of Great Britain, not contented with placing himfelf upon a level with the Spanish governor, descends so low as to do a notorious injustice to that governor. As a falvo for his own reputation, he has been advised to traduce the character of a brave officer, and to treat him as a common robber, when he knew with certainty that Mr. Bucarelli had acted in obedience to his orders, and had done no more than his duty. Thus it happens in private life with a man who has no spirit nor sense of honour. One of his equals orders a servant to strike him. Instead of returning the blow to the master, his courage is contented with throwing an aspersion equally salse and public upon the character of the servant.

This fhort recapitulation was necessary to introduce the confideration of his Majesty's speech of 13 November, 1770, and the fubfequent measures of government. The exceffive caution with which the fpeech was drawn up, had impressed upon me an early conviction, that no ferious refentment was thought of, and that the conclusion of the business, whenever it happened, must, in some degree, be dishonourable to England. There appears through the whole fpeech a guard and referve in the choice of expression, which shows how careful the ministry were not to embarrass their future projects by any firm or fpirited declaration from the throne. When all hopes of peace are loft, his Majesty tells his parliament, that he is preparing, not for barbarous war, but (with all his mother's foftness) for a different fituation. An open hostility, authorised by the Catholic King, is called an act of a governor. This act, to avoid the mention of a regular fiege and furrender, passes under the piratical description of seizing by force; and the thing taken is described, not as a part of the King's territory or proper dominion, but merely as a poffession, a word expressly chosen in contradiffinction to, and exclusion of, the idea of right, and to prepare us for a future furrender both of the right and of the possession. Yet this speech, Sir, cautious and equivocal as it is, cannot, by any fophistry, be accommodated to the measures which have fince been adopted. It feemed to promife, that whatever might be given up by fecret ftipulation, fome care would be taken to fave appearances to the public. The event flews us, that to depart in the minutest article from the nicety and strictnefs of punctilio, is as dangerous to national honour as to female virtue. The woman who admits of one familiarity, feldom knows where to ftop, or what to refuse; and when the counsels of a great country give way in a fingle inftance, when they once are inclined to fubmission, every step accelerates the rapidity of the defcent. The ministry themselves, when they framed the speech, did not foresee that they should ever accede to such an accommodation as they have fince advifed their master to accept of.

The King fays, 'The honour of my erown and the rights of my people are deeply affected.' The Spaniard, in his reply, fays, 'I give you back pofferfion, but I adhere to my claim of prior right, re-

' ferving the affertion of it for a more favourable ' opportunity.'

The speech says, 'I made an immediate demand ' of satisfaction, and, if that sails, I am prepared to ' do myself justice.' This immediate demand must have been sent to Madrid on the 12th of September, or in a sew days after. It was certainly refused, or evaded, and the King has not done himself justice. When the first magistrate speaks to the nation, some care should be taken of his apparent veracity.

The fpeech proceeds to fay, 'I shall not discon-' tinue my preparations until I have received proper ' reparation for the injury.' If this affurance may be relied on, what an enormous expence is entailed, fine die, upon this unhappy country! Restitution of a possession, and reparation of an injury, are as different in fubstance as they are in language. very act of restitution may contain, as in this instance it palpably does, a shameful aggravation of the injury. A man of spirit does not measure the degree of an injury by the mere positive damage he has fustained. He confiders the principle on which it is founded; he refents the superiority afferted over him; and rejects with indignation the claim of right which his adversary endeavours to establish, and would force him to acknowledge.

The motives on which the Catholic King makes

eflitution are, if possible, more infolent and difgraceful to our Sovereign, than even the declaratory condition annexed to it. After taking four months to confider, whether the expedition was undertaken by his own orders or not, he condefcends to difavow the enterprise, and to restore the island, not from any regard to justice, not from any regard he bears to his Britannic Majesty, but merely from the persuasion, ' in which he is, of the pacific fentiments of the ' King of Great Britain.' At this rate, if our King had discovered the spirit of a man, if he had made a peremptory demand of fatisfaction, the King of Spain would have given him a peremptory refufal. But why this unfeafonable, this ridiculous mention of the King of Great Britain's pacific intentions? Have they ever been in question? Was he the aggreffor? Does he attack foreign powers without provocation? Does he even refift when he is infulted? No, Sir, if any ideas of strife or hostility have entered his royal mind, they have a very different direction. The enemies of England have nothing to fear from them.

After all, Sir, to what kind of difavowal has the King of Spain at laft confented? Supposing it made in proper time, it should have been accompanied with instant restitution; and if Mr. Bucarelli acted without orders, he deserved death. Now, Sir, instead of immediate restitution, we have a four months negociation, and the officer whose act is

difavowed returns to court, and is loaded with honours.

If the actual fituation of Europe be confidered, the treachery of the King's fervants, particularly of Lord North, who takes the whole upon himfelf, will appear in the strongest colours of aggravation. Our allies were mafters of the Mediterranean. The King of France's prefent aversion from war, and the distraction of his affairs, are notorious. He is now in a state of war with his people. vain did the Catholic King folicit him to take part in the quarrel against us. His finances were in the last disorder, and it was probable that his troops might find fufficient employment at home. In these circumstances, we might have dictated the law to Spain. There are no terms to which fhe might not have been compelled to fubmit. At the worft, a war with Spain alone carries the fairest promife of advantage. One good effect at leaft would have been immediately produced by it. The defertion of France would have irritated her ally, and in all probability have diffolved the family compact. The scene is now fatally changed. The advantage is thrown away. The most favourable opportunity is loft. Hereafter we shall know the value of it. When the French King is reconciled to his fubjects; when Spain has completed her preparations; when the collected firength of the house of Bourbon attacks us at once, the King himfelf will be able to determine upon the wisdom or imprudence of his present conduct. As far as the probability of a gument extends, we may fafely pronounce, that a conjuncture which threatens the very being of this country, has been wilfully prepared and forwarded by our own ministry. How far the people may be animated to resistance under the present administration, I know not; but this I know with certainty, that, under the present administration, or if any thing like it should continue, it is of very little moment whether we are a conquered nation or not.

Having travelled thus far in the high road of matter of fact, I may now be permitted to wander a little into the field of imagination. Let us banish from our minds the perfuation that these events have really happened in the reign of the best of princes. Let us confider them as nothing more than the materials of a fable in which we may conceive the Sovereign of fome other country to be concerned. I mean to violate all the laws of probability, when I fuppose that this imaginary King, after having voluntarily difgraced himfelf in the eyes of his fubjects, might return to a fense of his difhonour; that he might perceive the fnare laid for him by his ministers, and feel a spark of shame kindling in his breaft. The part he must then be obliged to act would overwhelm him with confufion. To his parliament he must fay, 'I called you ' together to receive your advice, and have never ' asked your opinion.' To the merchant, ' I have ' diffressed your commerce; I have dragged your ' feamen out of your ships, I have loaded you with a ' grievous weight of infurances.' To the landholder, ' I told you war was too probable, when I was de-' termined to fubmit to any terms of accommoda-' tion; I extorted new taxes from you before it was ' possible they could be wanted, and am now unable ' to account for the application of them.' To the public creditor, 'I have delivered up your fortunes ' a prey to foreigners and to the vileft of your fellow ' fubjects.' Perhaps this repenting Prince might conclude with one general acknowledgment to them all-' I have involved every rank of my fubjects in ' anxiety and diffress, and have nothing to offer you ' in return, but the certainty of national dishonour, ' an armed truce, and peace without fecurity.'

If these accounts were settled, there would still remain an apology to be made to his navy and to his army. To the first he would say, 'You were' once the terror of the world. But go back to your harbours. A man dishonoured, as I am, has no use' for your service.' It is not probable that he would appear again before his soldiers, even in the pacific ceremony of a review. But wherever he appeared, the humiliating confession would be extorted from him. 'I have received a blow, and had not spirit to resent it. I demanded satisfaction, and have ac-

' cepted a declaration in which the right to firike ' me again is afferted and confirmed.' His countenance at leaft would fpeak this language, and even his guards would blufh for him.

But to return to our argument. The ministry, it feems, are labouring to draw a line of diffinction between the honour of the crown and the rights of the people. This new idea has yet been only flarted in discourse, for in effect both objects have been equally facrificed. I neither understand the diffinction, nor what use the ministry propose to make of it. The King's honour is that of his people. Their real honour and real interest are the fame. I am not contending for a vain punctilio. A clear unblemished character, comprehends not only the integrity that will not offer, but the spirit that will not fubmit to an injury; and whether it belongs to an individual or to a community, it is the foundation of peace, of independence, and of fafety. Private credit is wealth; public honour is fecurity. The feather that adorns the royal bird support his flight. Strip him of his plumage, and you fix him to the earth.

IUNIUS.

### LETTER XLIII.

TO

# THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

6 Feb. 1771.

I HOPE your correspondent Junius is better employed than in answering or reading the criticisms of a newspaper. This is a task, from which, if he were inclined to submit to it, his friends ought to relieve him. Upon this principle, I shall undertake to answer Anti-Junius; more I believe to his conviction than to his satisfaction. Not daring to attack the main body of Junius's last letter, he triumphs in having, as he thinks, surprised an out-post, and cut off a detached argument, a mere straggling proposition. But even in this petty warfare he shall find himself deseated.

Junius does not speak of the Spanish nation as the natural enemies of England. He applies that description with the strictest truth and justice to the Spanish court. From the moment when a prince of the House of Bourbon ascended that throne, their whole system of government was inverted, and became hostile to this country. Unity of possession introduced a unity of politics, and Lewis the Fourteenth had reason when he said to his grandson, 'The Pyrenees are removed.' The history of the present century is one continued confirmation of the prophecy.

The affertion 'that violence and oppression at ' home can only be supported by treachery and ' fubmission abroad,' is applied to a free people, whose rights are invaded, not to the government of a country, where defpotic, or abfolute power is confessedly vested in the prince; and with this application, the affertion is true. An absolute monarch having no points to carry at home, will naturally maintain the honour of his crown in all his transactions with foreign powers. But if we could suppose the Sovereign of a free nation, possessed with a defign to make himfelf absolute, he would be inconfiftent with himfelf if he fuffered his projects to be interrupted or embarraffed by a foreign war; unless that war tended, as in some cases it might, to promote his principal defign. Of the three exceptions to this general rule of conduct (quoted by Anti-Junius), that of Oliver Cromwell is the only one in point. Harry the Eighth, by the fubmission of his parliament, was as absolute a prince as Lewis the Fourteenth. Queen Elizabeth's government was not oppressive to the people, and as to her foreign wars, it ought to be confidered that they were unavoidable. The national honour was not in question. She was compelled to fight in defence of her own person and of her title to the crown. In the common cause of selfish policy, Oliver Cromwell should have cultivated the friendship of foreign powers, or at least have avoided difputes with them, the better to establish his tyranny at home. Had he been only a bad man, he would have facrificed the honour of the nation to the fuccefs of his domestic policy. But with all his crimes he had the spirit of an Englishman. The conduct of fuch a man must always be an exception to vulgar rules. He had abilities fufficient to reconcile contradictions, and to make a great nation at the fame moment unhappy and formidable. If it were not for the respect I bear the minister, I could name a man, who, without one grain of understanding, can do half as much as Oliver Cromwell.

Whether or no there be a fecret fystem in the closet, and what may be the object of it, are questions which can only be determined by appearances, and on which every man must decide for himself.

The whole plan of Junius's letter proves that he himfelf makes no distinction between the real honour of the crown and the real interest of the people. In the climax to which your correspondent objects, Junius adopts the language of the Court, and by that conformity gives ftrength to his argument. He says that 'the King has not only sa' crificed the interests of his people, but (what was 'likely to touch him more nearly) his personal reference of putation and the dignity of his crown.'

The queries put by Anti-Junius can only be answered by the ministry. Abandoned as they are, I fancy they will not confess that they have for so many years maintained possession of another man's property. After admitting the affertion of the ministry, viz. that the Spaniards had no rightful claim, and after justifying them for saying so, it is his business, not mine, to give us some good reason for their suffering the pretensions of Spain to be a subject of negociation. He admits the sacts;—let him reconcile them if he can.

The laft paragraph brings us back to the original question, whether the Spanish declaration contains such a satisfaction as the King of Great Britain ought to have accepted. This was the field upon which he ought to have encountered Junius openly and fairly. But here he leaves the argument as no longer desentible. I shall therefore conclude with one general admonition to my fellow subjects—that when they hear these matters debated, they should not suffer themselves to be mis-

led by general declamations upon the conveniences of peace, or the miferies of war. Between peace and war, abstractedly, there is not, there cannot be, a question in the mind of a rational being. The real questions are, Have we any security that the peace we have so dearly purchased will last a twelvemonth? and if not, have we, or have we not, sacrificed the fairest opportunity of making war with advantage?

PHILO JUNIUS.



# LETTER XLIV.

TO

## THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

22 April, 1771.

To write for profit, without taxing the press; to write for fame, and to be unknown; to fupport the intrigues of faction, and to be difowned, as a dangerous auxiliary by every party in the kingdom, are contradictions which the minister must reconcile, before I forfeit my credit with the public. I may quit the fervice, but it would be abfurd to fuspect me of desertion. The reputation of these papers is an honourable pledge for my attachment to the people. To facrifice a respected character, and to renounce the effecm of fociety, requires more than Mr. Wedderburne's refolution; and though in him it was rather a profession than a defertion of his principles, (I fpeak tenderly of this gentleman, for when treachery is in question, I think we should make allowances for a Scotchman,) yet we have feen him in the House of Commons overwhelmed with confusion, and almost bereft of his faculties. But in truth, Sir, I have left
no room for an accommodation with the piety of
St. James's. My offences are not to be redeemed
by recantation or repentance. On one side, our
warmest patriots would disclaim me as a burthen
to their honest ambition. On the other, the vilest
prostitution, if Junius could descend to it, would
lose its natural merit and influence in the cabinet,
and treachery be no longer a recommendation to
the royal favour.

The persons who, till within these few years, have been most distinguished by their zeal for high church and prerogative, are now, it feems, the great affertors of the privileges of the House of Commons. This fudden alteration of their fentiments or language carries with it a fuspicious appearance. When I hear the undefined privileges of the popular branch of the legislature exalted by Tories and Jacobites, at the expence of those strict rights which are known to the fubject and limited by the laws, I cannot but suspect that some mischievous scheme is in agitation to deftroy both law and privilege, by opposing them to each other. They who have uniformly denied the power of the whole legiflature to alter the descent of the crown, and whose ancestors, in rebellion against his Majesty's family, have defended that doctrine at the hazard of their lives, now tell us that privilege of parliament is the

only rule of right, and the chief fecurity of the public freedom. I fear, Sir, that while forms remain, there has been fome material change in the fubftance of our conflitution. The opinions of thefe men were too abfurd to be fo eafily renounced. Liberal minds are open to conviction. Liberal doctrines are capable of improvement. There are profelytes from atheifm, but none from fuperfition. If their present professions were sincere, I think they could not but be highly offended at feeing a question, concerning parliamentary privilege, unnecessarily started at a season so unfavourable to the House of Commons, and by so very mean and infignificant a person as the minor Onslow. They knew that the present House of Commons, having commenced hostilities with the people, and degraded the authority of the laws by their own example, were likely enough to be refifted, per fas et nefas. If they were really friends to privilege, they would have thought the question of right too dangerous to be hazarded at this feafon, and, without the formality of a convention, would have left it undecided.

I have been filent hitherto, though not from that shameful indifference about the interests of fociety, which too many of us profess, and call moderation. I confess, Sir, that I felt the prejudices of my education in favour of a House of Commons still hanging about me. I thought that a question

between law and privilege could never be brought to a formal decision without inconvenience to the public service, or a manifest diminution of legal liberty; that it ought therefore to be carefully avoided: and when I saw that the violence of the House of Commons had carried them too far to retreat, I determined not to deliver a hasty opinion upon a matter of so much delicacy and importance.

The flate of things is much altered in this country fince it was necessary to protect our representatives against the direct power of the Crown. We have nothing to apprehend from prerogative, but every thing from undue influence. Formerly it was the interest of the people, that the privileges of parliament should be left unlimited and undefined. At prefent it is not only their interest, but I hold it to be effentially necessary to the preservation of the constitution, that the privileges of parliament should be strictly ascertained, and confined within the narrowest bounds the nature of their institution will admit of. Upon the same principle on which I would have refifted prerogative in the last century, I now refift privilege. It is indifferent to me, whether the Crown, by its own immediate act, impofes new, and difpenses with old laws; or whether the fame arbitrary power produces the fame effects through the medium of the House of Commons. We trusted our representatives with privileges for their own defence and ours. We cannot hinder

their defertion, but we can prevent their carrying over their arms to the fervice of the enemy. It will be faid, that I begin with endeavouring to reduce the argument concerning privilege to a mere queftion of convenience; that I deny at one moment what I would allow at another; and that to refift the power of a proftituted House of Commons may effablish a precedent injurious to all future parliaments. To this I answer generally, that human asfairs are in no instance governed by strict positive right. If change of circumstances were to have no weight in directing our conduct and opinions, the mutual intercourse of mankind would be nothing more than a contention between positive and equitable right. Society would be a state of war, and law itself would be injustice. On this general ground, it is highly reasonable, that the degree of our fubmission to privileges which have never been defined by any positive law, should be considered as a question of convenience, and proportioned to the confidence we repose in the integrity of our reprefentatives. As to the injury we may do to any future and more respectable House of Commons, I own I am not now fanguine enough to expect a more plentiful harvest of parliamentary virtue in one year than another. Our political climate is feverely altered; and, without dwelling upon the depravity of modern times, I think no reasonable man will expect that, as human nature is constituted, the enormous influence of the Crown should ceafe

to prevail over the virtue of individuals. The mifchief lies too deep to be cured by any remedy lefs than fome great convulsion, which may either carry back the conftitution to its original principles, or utterly deftroy it. I do not doubt that, in the first fession after the next election, some popular meafures may be adopted. The prefent House of Commons have injured themselves by a too early and public profession of their principles; and if a strain of profitution, which had no example, were within the reach of emulation, it might be imprudent to hazard the experiment too foon. But after all, Sir, it is very immaterial whether a House of Commons thall preferve their virtue for a week, a month, or a year. The influence which makes a feptennial parliament dependent upon the pleasure of the Crown, has a permanent operation, and cannot fail of fuccefs. My premifes, I know, will be denied in argument, but every man's conscience tells him they are true. It remains then to be confidered, whether it be for the interest of the people that privilege of parliament (which, z in respect to the purpofes for which it has hitherto been acquiefced under, is merely nominal) should be contracted within fome certain limits, or whether the fubject shall be left at the mercy of a power arbitrary upon the face of it, and notoriously under the direction of the Crown.

I do not mean to decline the question of right.

On the contrary, Sir, I join iffue with the advocates for privilege, and affirm, that, 'excepting ' the cases wherein the House of Commons are a ' court of judicature (to which, from the nature of ' their office, a coercive power must belong), and ' excepting fuch contempts as immediately interrupt their proceedings, they have no legal autho-' rity to imprison any man for any supposed viola-' tion of privilege whatfoever.' It is not pretended that privilege, as now claimed, has ever been defined or confirmed by flatute; neither can it be faid, with any colour of truth, to be a part of the common law of England, which had grown into prefcription long before we knew any thing of the existence of a House of Commons. As for the law of parliament, it is only another name for the privilege in question; and fince the power of creating new privileges has been formally renounced by both Houses, fince there is no code in which we can fludy the law of parliament, we have but one way left to make ourselves acquainted with it; that is, to compare the nature of the inftitution of a House of Commons with the facts upon record. To establish a claim of privilege in either House, and to diffinguish original right from usurpation, it must appear that it is indispensably necessary for the performance of the duty they are employed in, and also that it has been uniformly allowed. From the first part of this description it follows clearly, that whatever privilege does of right belong to the prefent House of Commons, did equally belong to the first affembly of their predeceffors, was as completely vested in them, and might have been exercised in the fame extent. From the fecond we must infer that privileges which, for feveral centuries, were not only never allowed, but never even claimed, by the House of Commons, must be founded upon usurpation. The constitutional duties of a House of Commons are not very complicated nor myfterious. They are to propose or affent to wholesome laws for the benefit of the nation. They are to. grant the necessary aids to the King, petition for the redrefs of grievances, and profecute treafon or high crimes against the state. If unlimited privilege be necessary to the performance of these duties, we have reason to conclude that, for many centuries after the inftitution of the House of Commons, they were never performed. I am not bound to prove a negative, but I appeal to the English history when I affirm that, with the exceptions already stated (which yet I might safely relinquish), there is no precedent, from the year 1265 to the death of Queen Elizabeth, of the House of Commons having imprisoned any man (not a member of their house) for contempt or breach of privilege. In the most flagrant cases, and when their acknowledged privileges were most grossly violated, the poor Commons, as they then styled themselves, never took the power of punishment into their own hands. They either fought redrefs by petition to

the King, or, what is more remarkable, applied for justice to the House of Lords; and when satisfaction was denied them or delayed, their only remedy was to refuse proceeding upon the King's business. So little conception had our ancestors of the monstrous doctrines now maintained concerning privilege, that in the reign of Elizabeth even liberty of speech, the vital principle of a deliberative assembly, was restrained, by the Queen's authority, to a simple aye or no; and this restriction, though imposed upon three successive parliaments, was never once disputed by the House of Commons.

I know there are many precedents of arbitrary commitments for contempt. But befides that they are of too modern a date to warrant a prefumption that fuch a power was originally vested in the House of Commons, fact alone does not conftitute right. If it does, general warrants were lawful. An ordinance of the two Houses has a force equal to law; and the criminal jurifdiction assumed by the Commons in 1621, in the case of Edward Lloyd, is a good precedent to warrant the like proceedings against any man who shall unadvifedly mention the folly of a king, or the ambition of a princels. The truth is, Sir, that the greatest and most exceptionable part of the privileges now contended for, were introduced and afferted by a House of Commons which abolished both monarchy and peerage, and whose proceedings, although they ended in one glorious act of fubftantial justice, could no way be reconciled to the forms of the constitution. Their successors profited by the example, and confirmed their power by a moderate or a popular use of it. Thus it grew by degrees, from a notorious innovation at one period, to be tacitly admitted as the privilege of parliament at another.

If however it could be proved, from confiderations of necessity or convenience, that an unlimited power of commitment ought to be intrufted to the House of Commons, and that in fact they have exercifed it without opposition, still, in contemplation of law, the prefumption is ftrongly against them. It is a leading maxim of the laws of England (and, without it, all laws are nugatory), that there is no right without a remedy, nor any legal power without a legal course to carry it into effect. Let the power now in question be tried by this rule. Speaker iffues his warrant of attachment. party attached either relifts force with force, or appeals to a magistrate, who declares the warrant illegal, and discharges the prisoner. Does the law provide no legal means for enforcing a legal warrant? Is there no regular proceeding pointed out in our law books to affert and vindicate the authority of fo high a court as the House of Commons? The question is answered directly by the fact. Their unlawful commands are refifted, and they have no remedy. The imprisonment of their own members

is revenge indeed, but it is no affertion of the privilege they contend for. b Their whole proceeding flops, and there they fland, ashamed to retreat, and unable to advance. Sir, thefe ignorant men should be informed that the execution of the laws of England is not left in this uncertain, defencelefs condition. If the process of the courts of Westminsterhall be refifted, they have a direct course, sufficient to enforce fubmission. The Court of King's Bench commands the Sheriff to raife the poffe comitatûs. The Courts of Chancery and Exchequer iffue a writ of rebellion, which must also be supported, if necesfary, by the power of the county. To whom will our honest representatives direct their writ of rebellion? The guards, I doubt not, are willing enough to be employed, but they know nothing of the doctrine of writs, and may think it necessary to wait for a letter from Lord Barrington.

It may now be objected to me, that my arguments prove too much; for that certainly there may be inftances of contempt and infult to the House, of Commons, which do not fall within my own exceptions, yet, in regard to the dignity of the House ought not to pass unpunished. Be it so. The courts of criminal jurisdiction are open to prosecutions, which the Attorney General may commence by information or indictment. A libel, tending to asperse or vilify the House of Commons, or any of their members, may be as severely punished in

the Court of King's Bench, as a libel upon the King. Mr. De Grey thought fo when he drew up the information of my letter to his Majesty, or he had no meaning in charging it to be a scandalous libel upon the House of Commons. In my opinion, they would consult their real dignity much better by appealing to the laws when they are offended, than by violating the first principle of natural justice, which forbids us to be judges when we are parties to the cause.

I do not mean to purfue them through the remainder of their proceedings. In their first resolutions it is possible they might have been deceived by ill-considered precedents. For the rest there is no colour of palliation or excuse. They have advised the King to resume a power of dispensing with the laws by royal proclamation; and kings we see are ready enough to follow such advice. By mere violence, and without the shadow of right, they have expunged the record of a judicial proceeding. Nothing remained, but to attribute to their own vote a power of stopping the whole distribution of criminal and civil justice.

The public virtues of the Chief Magistrate have long since ceased to be in question. But it is said that he has private good qualities, and I myself have been ready to acknowledge them. They are now brought to the test. If he loves his people, he

will diffolve a parliament which they can never confide in or refpect. If he has any regard for his own honour, he will diffain to be any longer connected with fuch abandoned profitution. But if it were conceivable, that a king of this country had loft all fense of personal honour, and all concern for the welfare of his subjects, I confess, Sir, I should be contented to renounce the forms of the constitution once more, if there were no other way to obtain substantial justice for the people.

JUNIUS.



#### LETTER XLV.

TO

THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

1 May, 1771.

THEY who object to detached parts of Junius's last letter, either do not mean him fairly, or have not confidered the general scope and course of his argument. There are degrees in all the private vices. Why not in public proftitution? The influence of the crown naturally makes a feptennial parliament dependent. Does it follow that every House of Commons will plunge at once into the lowest depths of proftitution? Junius supposes that the prefent House of Commons, in going such enormous lengths, have been imprudent to themselves, as well as wicked to the public; that their example is not within the reach of emulation; and that, in the first session after the next election, some popular measures may probably be adopted. He does not expect that a diffolution of parliament will deftroy corruption, but that at least it will be a check and

terror to their fucceffors, who will have feen that, in flagrant cases, their conftituents can and will interpose with effect. After all, Sir, will you not endeavour to remove or alleviate the most dangerous fymptoms, because you cannot eradicate the disease? Will you not punish treason or parricide, because the fight of a gibbet does not prevent highway robberies? When the main argument of Junius is admitted to be unanswerable, I think it would become the minor critic, who hunts for blemishes, to be a little more diffruftful of his own fagacity. The other objection is hardly worth an answer. When Junius observes that kings are ready enough to follow fuch advice, he does not mean to infinuate that, if the advice of parliament were good, the King would be fo ready to follow it.

PHILO JUNIUS.

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#### LETTER XLVI.

#### ADDRESSED TO

## THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

22 May, 1771.

VERY early in the debate upon the decision of the Middlesex election, it was well obferved by Junius, that the House of Commons had not only exceeded their boafted precedent of the expulsion and subsequent incapacitation of Mr. Walpole, but that they had not even adhered to it ftrictly as far as it went. After convicting Mr. Dyfon of giving a false quotation from the journals, and having explained the purpose which that contemptible fraud was intended to answer, he proceeds to state the vote itself by which Mr. Walpole's supposed incapacity was declared, viz. 'Resolved,

- ' That Robert Walpole, Efq. having been this fef-
- ' fion of parliament committed a prisoner to the
- ' tower, and expelled this House for a high breach
- ' of trust in the execution of his office, and notori-
- ' ous corruption when fecretary at war, was and is
- ' incapable of being elected a member to ferve in

' this present parliament.' And then observes that, from the terms of the vote, we have no right to annex the incapacitation to the expulsion only, for that, as the proposition stands, it must arise equally from the expulsion and the commitment to the tower. I believe, Sir, no man who knows any thing of dialectics, or who understands English, will dispute the truth and fairness of this construction. But Junius has a great authority to fupport him, which, to fpeak with the Duke of Grafton, I accidentally met with this morning in the course of my reading. It contains an admonition which cannot be repeated too often. Lord Sommers, in his excellent tract upon the rights of the people, after reciting the votes of the convention of the 28th of January, 1689, viz. 'That King James the Se-' cond, having endeavoured to fubvert the conftitu-' tion of this kingdom, by breaking the original ' contract between King and people; and by the · advice of jefuits and other wicked perfons hav-' ing violated the fundamental laws, and having ' withdrawn himfelf out of this kingdom, hath ab-' dicated the government, &c.' makes this observation upon it. 'The word abdicated relates to all ' the clauses aforegoing, as well as to his deferting ' the kingdom, or elfe they would have been wholly ' in vain.' And that there might be no pretence for confining the abdication merely to the withdrawing, Lord Sommers farther observes, 'That ' King James, by refufing to govern us according

'according to that law by which he held the crown, did implicitly renounce his title to it.'

If Junius's conftruction of the vote against Mr. Walpole be now admitted (and indeed I cannot comprehend how it can honeftly be disputed), the advocates of the House of Commons must either give up their precedent entirely, or be reduced to the necessity of maintaining one of the grossest abfurdities imaginable, viz. 'That a commitment to the tower is a constituent part of, and contributes half at least to the incapacitation of the person who suffers it.'

I need not make you any excuse for endeavouring to keep alive the attention of the public to the decision of the Middlesex election. The more I confider it, the more I am convinced that, as a fact, it is indeed highly injurious to the rights of the people; but that, as a precedent, it is one of the most dangerous that ever was established against those who are to come after us. Yet I am so far a moderate man, that I verily believe the majority of the House of Commons, when they passed this dangerous vote, neither understood the question, nor knew the consequence of what they were doing. Their motives were rather despicable than criminal, in the extreme. One effect they certainly did not foresee. They are now reduced to such a situation, that if a member of the present House of Com-

mons were to conduct himself ever so improperly, and in reality deserve to be fent back to his conftituents with a mark of difgrace, they would not dare to expel him, because they know that the people, in order to try again the great question of right, or to thwart an odious House of Commons, would probably overlook his immediate unworthiness, and return the same person to parliament. But in time the precedent will gain ftrength. A future House of Commons will have no fuch apprehensions, confequently will not fcruple to follow a precedent which they did not establish. The miser himself feldom lives to enjoy the fruit of his extortion; but his heir fucceeds to him of courfe, and takes poffeffion without cenfure. No man expects him to make restitution, and no matter for his title, he lives quietly upon the estate.

PHILO JUNIUS.

#### LETTER XLVII.

TO

# THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

25 May, 1771.

I confess my partiality to Junius, and feel a confiderable pleafure in being able to communicate any thing to the public in fupport of The doctrine laid down in his last his opinions. letter, concerning the power of the House of Commons to commit for contempt, is not fo new as it appeared to many people, who, dazzled with the name of privilege, had never fuffered themselves to examine the question fairly. In the course of my reading this morning, I met with the following passage in the journals of the House of Commons. (Vol. I. page 603.) Upon occasion of a jurisdiction unlawfully affumed by the House in the year 1621, Mr. Atttorney General Noye gave his opinion as follows. 'No doubt but, in fome cafes, this ' House may give judgment; -in matters of returns, ' and concerning members of our house, or falling

- out in our view in parliament; but, for foreign
- ' matters, knoweth not how we can judge it.
- ' Knoweth not that we have been used to give
- ' judgment in any case but those before men-
- ' tioned.'

Sir Edward Coke, upon the fame subject, says, (page 604) 'No question but this is a house of re-

- ' cord, and that it hath power of judicature in some
- cafes—have power to judge of returns and mem-
- ' bers of our house; one, no member, offending
- out of the parliament, when he came hither and
- ' justified it, was censured for it.'

Now, Sir, if you will compare the opinion of these great sages of the law with Junius's doctrine, you will find they tally exactly. He allows the power of the House to commit their own members (which however they may grossly abuse). He allows their power in cases where they are acting as a court of judicature, viz. elections, returns, &c. and he allows it in such contempts as immediately interrupt their proceedings, or, as Mr. Noye expresses it, 'falling out in their view in parliament.'

They who would carry the privileges of parliament farther than Junius, either do not mean well, to the public, or know not what they are doing. The government of England is a government of law. We betray ourfelves, we contradict the fpi-

rit of our laws, and we shake the whole system of English jurisprudence, whenever we intrust a discretionary power over the life, liberty, or fortune, of the subject, to any man, or set of men whatsoever, upon a presumption that it will not be abused.

PHILO JUNIUS.



LETTER XLVIII.

TO

THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

28 May, 1771.

Any man, who takes the trouble of perufing the journals of the House of Commons, will foon be convinced, that very little, if any regard at all, ought to be paid to the resolutions of one branch of the legislature, declaratory of the law of the land, or even of what they call the law of parliament. It will appear that thefe refolutions have no one of the properties by which, in this country, particularly, law is diffinguished from mere will and pleafure; but that, on the contrary, they bear every mark of a power arbitrarily affumed and capricioufly applied: - That they are usually made in times of contest, and to serve some unworthy purpose of pasfion or party; -that the law is feldom declared until after the fact, by which it is supposed to be violated; -that legislation and jurifdiction are united in the same persons, and exercised at the same moment;—and that a court, from which there is no appeal, affumes an original jurifdiction in a criminal case;—in short, Sir, to collect a thousand absurdaties into one mass, 'we have a law, which cannot be known because it is expost facto, the party is both legislature and judge, and the jurifdiction is 'without appeal.' Well might the judges say, The law of parliament is above us.

You will not wonder, Sir, that, with these qualifications, the declaratory refolutions of the House of Commons should appear to be in perpetual contradiction, not only to common fense and to the laws we are acquainted with (and which alone we can obey), but even to one another. I was led to trouble you with these observations by a passage which, to fpeak in lutestring, I met with this morning in the course of my reading, and upon which I mean to put a question to the advocates for privilege. On the 8th of March, 1704, (vide Journals, Vol. XIV. p. 565) the House thought proper to come to the following refolutions. 1. 'That no com-' moner of England, committed by the House of ' Commons for breach of privilege or contempt of ' that House, ought to be, by any writ of Habeas ' Corpus, made to appear in any other place, or before any other judicature, during that fession of ' parliament wherein fuch person was so com-' mitted.'

- 2. 'That the Serjeant at Arms attending this ' House do make no return of, or yield any obedi-
- ' ence to, the faid writs of Habeas Corpus, and for
- ' fuch his refusal, that he have the protection of
- ' the House of Commons.'s

Welbore Ellis, What fay you? Is this the law of parliament, or is it not? I am a plain man, Sir, and cannot follow you through the phlegmatic forms of an oration. Speak out, Grildrig; fay yes, or no .- If you fay yes, I fhall then inquire by what authority Mr. De Grey, the honest Lord Mansfield, and the Barons of the Exchequer, dared to grant a writ of Habeas Corpus for bringing the bodies of the Lord Mayor and Mr. Oliver before them, and why the Lieutenant of the Tower made any return to a writ which the House of Commons had in a similar instance declared to be unlawful. If you fay no, take care you do not at once give up the cause, in support of which you have fo long and fo laboriously tortured your understanding. Take care you do not confess that there is no test by which we can distinguish, no evidence by which we can determine what is, and what is not, the law of parliament. The refolutions I have quoted stand upon your journals, uncontroverted and unrepealed; they contain a declaration of the law of parliament by a court competent to the question, and whose decision, as you and Lord Mansfield fay, must be law, because there is no appeal from it, and they were made not hastily,

but after long deliberation upon a constitutional question. What farther fanction or folemnity will you annex to any resolution of the present House of Commons, beyond what appears upon the face of those two resolutions, the legality of which you now deny? If you fay that parliaments are not infallible, and that Queen Anne, in confequence of the violent proceedings of that House of Commons, was obliged to prorogue and diffolve them, I shall agree with you very heartily, and think that the precedent ought to be followed immediately. But you, Mr. Ellis, who hold this language, are inconfiftent with your own principles. You have hitherto maintained that the House of Commons are the sole judges of their own privileges, and that their declaration does, ipfo facto, constitute the law of parliament; yet now you confess that parliaments are fallible, and that their refolutions may be illegal, confequently that their resolutions do not constitute the law of parliament. When the King was urged to dissolve the present parliament, you advised him to tell his fubjects, that he was careful not to affume any of those powers which the constitution had placed in other hands, &c. Yet Queen Anne, it feems, was justified in exerting her prerogative to ftop a House of Commons whose proceedings, compared with those of the assembly of which you are a most worthy member, were the perfection of justice and reason.

In what a labyrinth of nonfense does a man involve himself who labours to maintain falsehood by argument! How much better would it become the dignity of the House of Commons to speak plainly to the people, and tell us at once, that their will must be obeyed, not because it is lawful and reasonable, but because it is their will. Their constituents would have a better opinion of their candour, and, I promise you, not a worse opinion of their integrity.

PHILO JUNIUS.



#### LETTER XLIX.

TO

# HIS GRACE THE DUKE OF GRAFTON.

MY LORD,

22 June, 1771.

THE profound respect I bear to the gracious Prince who governs this country with no less honour to himself than satisfaction to his fubjects, and who restores you to your rank under his standard, will save you from a multitude of reproaches. The attention I should have paid to your failings is involuntarily attracted to the hand that rewards them; and though I am not fo partial to the royal judgment, as to affirm, that the favour of a king can remove mountains of infamy, it ferves to leffen at leaft, for undoubtedly it divides the burthen. While I remember how much is due to his facred character, I cannot, with any decent appearance of propriety, call you the meanest and the baseft fellow in the kingdom. I protest, my Lord, I do not think you fo. You will have a dangerous rival in that kind of fame to which you have

hitherto fo happily directed your ambition, as long as there is one man living who thinks you worthy of his confidence, and fit to be trufted with any fhare in his government. I confefs you have great intrinsic merit; but take care you do not value it too highly. Confider how much of it would have been lost to the world, if the King had not graciously affixed his stamp, and given it currency among his subjects. If it be true that a virtuous man, struggling with adversity, be a scene worthy of the gods, the glorious contention between you and the best of princes deserves a circle equally attentive and respectable. I think I already see other gods rising from the earth to behold it.

But this language is too mild for the occasion. The King is determined that our abilities shall not be lost to society. The perpetration and description of new crimes will find employment for us both. My Lord, if the persons who have been loudest in their professions of patriotism, had done their duty to the public with the same zeal and perseverance that I did, I will not affert that government would have recovered its dignity, but at least our gracious Sovereign must have spared his subjects this last insult, which, if there be any feeling left among us, they will resent more than even the real injuries they received from every measure of your Grace's administration. In vain would he have looked round him for another character so

confummate as yours. Lord Mansfield shrinks from his principles; his ideas of government perhaps go farther than your own, but his heart difgraces the theory of his understanding. Charles Fox is yet in bloffom; and as for Mr. Wedderburne, there is fomething about him which even treachery cannot truft. For the present, therefore, the best of princes must have contented himself with Lord Sandwich. You would long fince have received your final difmission and reward; and I, my Lord, who do not esteem you the more for the high office you possess, would willingly have followed you to your retirement. There is furely fomething fingularly benevolent in the character of our Sovereign. From the moment he ascended the throne, there is no crime, of which human nature is capable (and I call upon the Recorder to witness it), that has not appeared venal in his fight. With any other prince, the shameful desertion of him, in the midst of that diffress which you alone had created, in the very crifis of danger, when he fancied he faw the throne already furrounded by men of virtue and abilities, would have outweighed the memory of your former fervices. But his Majesty is full of justice, and understands the doctrine of compensations. He remembers with gratitude how foon you had accommodated your morals to the necessity of his fervice; how cheerfully had you abandoned the engagements of private friendship, and renounced the most solemn professions to the public. The facrifice of Lord Chatham was not loft upon him. Even the cowardice and perfidy of deferting him may have done you no differvice in his efteem. The inftance was painful, but the principle might pleafe.

You did not neglect the magistrate while you flattered the man. The expulsion of Mr. Wilkes predetermined in the cabinet; the power of depriving the fubject of his birthright, attributed to a refolution of one branch of the legislature; the conflitution impudently invaded by the House of Commons; the right of defending it treacheroutly renounced by the House of Lords. These are the ftrokes, my Lord, which, in the present reigh, recommend to office, and constitute a minister. They would have determined your Sovereign's judgment if they had made no impression upon his heart. We need not look for any other species of merit to account for his taking the earliest opportunity to recall you to his councils. Yet you have other merit in abundance. Mr. Hine, the Duke of Portland, and Mr. Yorke. Breach of truft, robbery, and murder. You would think it a compliment to your gallantry, if I added rape to the catalogue; but the ftyle of your amours fecures you from refiftance. I know how well these several charges have been defended. In the first instance, the breach of trust is supposed to have been its own reward. Mr. Bradshaw affirms upon his honour (and fo may the gift of fmiling never depart from him!), that you referved no part

of Mr. Hine's purchase-money for your own use, but that every shilling of it was scrupulously paid to Governor Burgoyne. Make haste, my Lord, another patent, applied in time, may keep the Oaks in the family. If not, Birnham Wood, I fear, must come to the Macaroni.

The Duke of Portland was in life your earlieft friend. In defence of his property he had nothing to plead but equity against Sir James Lowther, and prescription against the Crown. You felt for your friend; but the law must take its course. Posterity will scarce believe that Lord Bute's fon-in-law had barely interest enough at the treasury to get his grant completed before the general election k.

Enough has been faid of that deteftable transaction, which ended in the death of Mr. Yorke. I cannot speak of it without horror and compassion. To excuse yourself, you publickly impeach your accomplice, and to his mind perhaps the accusation may be flattery. But in murder you are both principals. It was once a question of emulation, and if the event had not disappointed the immediate schemes of the closet, it might still have been a hopeful subject of jest and merriment between you.

This letter, my Lord, is only a preface to my future correspondence. The remainder of the fummer shall be dedicated to your amusement. I mean

now and then to relieve the feverity of your morning studies, and to prepare you for the business of the day. Without pretending to more than Mr. Bradshaw's sincerity, you may rely upon my attachment as long as you are in office.

Will your Grace forgive me, if I venture to express some anxiety for a man whom I know you do not love? My Lord Weymouth has cowardice to plead, and a desertion of a later date than your own. You know the privy seal was intended for him; and if you consider the dignity of the post he deserted, you will hardly think it decent to quarter him on Mr. Rigby. Yet he must have bread, my Lord; or rather he must have wine. If you deny him the cup, there will be no keeping him within the pale of the ministry.

JUNIUS.



#### LETTER L.

TO

## HIS GRACE THE DUKE OF GRAFTON.

MY LORD,

9 July, 1771.

THE influence of your Grace's fortune still feems to prefide over the treasury. The genius of Mr. Bradshaw inspires Mr. Robinson1. How remarkable it is (and I fpeak of it not as matrer of reproach, but as fomething peculiar to your character) that you have never yet formed a friendfhip which has not been fatal to the object of it, nor adopted a cause to which, one way or other, you have not done mifchief. Your attachment is infamy while it lasts, and, whichever way it turns, leaves ruin and difgrace behind it. The deluded girl who yields to fuch a profligate, even while he is constant, forfeits her reputation as well as her innocence, and finds herfelf abandoned at last to mifery and shame. Thus it happened with the best of Princes. Poor Dingley too! I proteft I hardly know which of them we ought most to lament-The unhappy man who finks under the fenfe of his dishonour, or him who furvives it. Characters, so finished, are placed beyond the reach of panegyric. Death has fixed his feal upon Dingley, and you, my Lord, have set your mark upon the other.

The only letter I ever addressed to the King was fo unkindly received, that I believe I shall never prefume to trouble his Majesty in that way again. But my zeal for his fervice is fuperior to neglect, and, like Mr. Wilkes's patriotifm, thrives by perfecution. Yet his Majesty is much addicted to useful reading, and, if I am not ill-informed, has honoured the Public Advertiser with particular attention. I have endeavoured therefore, and not without fuccels (as perhaps you may remember), to furnish it with fuch interesting and edifying intelligence as probably would not reach him through any other channel. The fervices you have done the nation, your integrity in office, and fignal fidelity to your approved good Mafter, have been faithfully recorded. Nor have his own virtues been entirely neglected. These letters, my Lord, are read in other countries and in other languages; and I think I may affirm without vanity, that the gracious character of the best of Princes is by this time not only perfectly known to his fubjects, but tolerably well understood by the rest of Europe. In this respect alone I have the advantage of Mr. Whitehead. His plan, I think, is too narrow. He feems to manufacture his verses for the fole use of the hero who is supposed to be the subject of them, and, that his meaning may not be exported in foreign bottoms, sets all translation at defiance.

Your Grace's re-appointment to a feat in the cabinet was announced to the public by the ominous return of Lord Bute to this country. When that noxious planet approaches England, he never fails to bring plague and peftilence along with him. The King already feels the malignant effect of your influence over his councils. Your former adminiftration made Mr. Wilkes an Alderman of London, and Repefentative of Middlefex. Your next appearance in office is marked with his election to the shrievalty. In whatever measure you are concerned, you are not only disappointed of fuccess, but always contrive to make the government of the best of Princes contemptible in his own eyes, and ridiculous to the whole world. Making all due allowance for the effect of the minister's declared interpofition, Mr. Robinfon's activity, and Mr. Horne's new zeal in support of administration, we still want the genius of the Duke of Grafton to account for committing the whole interest of government in the city to the conduct of Mr. Harley. I will not bear hard upon your faithful friend and emissary Mr. Touchet, for I know the difficulties of his fituation. and that a few lottery tickets are of use to his economy. There is a proverb concerning persons in

the predicament of this gentleman, which however cannot be firictly applied to him. They commence dupes, and finish knaves. Now Mr. Touchet's character is uniform. I am convinced that his fentiments never depended upon his circumstances, and that, in the most prosperous state of his fortune, he was always the very man he is at prefent. But was there no other person of rank and consequence in the city, whom government could confide in, but a notorious Jacobite? Did you imagine that the whole body of the Diffenters, that the whole Whiginterest of London, would attend at the levy, and fubmit to the directions of a notorious Jacobite? Was there no Whig magistrate in the city to whom the fervants of George the Third could intrust the management of a bufinefs fo very interesting to their mafter as the election of sheriffs? Is there no room at St. James's but for Scotchmen and Jacobites? My Lord, I do not mean to question the fincerity of Mr. Harley's attachment to his Majesty's government. Since the commencement of the prefent reign I have feen still greater contradictions reconciled. The principles of these worthy Jacobites are not fo abfurd as they have been reprefented. Their ideas of divine right are not fo much annexed to the person or family, as to the political character of the Sovereign. Had there ever been an honest man among the Stuarts, his Majesty's prefent friends would have been Whigs upon principle. But the conversion of the best of Princes has removed their feruples. They have forgiven him the fins of his Hanoverian ancestors, and acknowledge the hand of Providence in the descent of the crown upon the head of a true Stuart. In you, my Lord, they also behold, with a kind of predilection which borders upon loyalty, the natural representative of that illustrious family. The mode of your descent from Charles the Second is only a bar to your pretensions to the crown, and no way interrupts the regularity of your succession to all the virtues of the Stuarts.

The unfortunate fuccess of the Reverend Mr. Horne's endeavours in support of the ministerial nomination of fheriffs, will I fear obstruct his preferment. Permit me to recommend him to your Grace's protection. You will find him copiously gifted with those quatities of the heart which usually direct you in the choice of your friendships. He too was Mr. Wilkes's friend, and as incapable as you are of the liberal refentment of a gentleman. No, my Lord, it was the folitary, vindictive malice of a monk, brooding over the infirmities of his friend, until he thought they quickened into public life, and feafting, with a rancorous rapture, upon the fordid catalogue of his diffretses. Now, let him go back to his cloifter. The church is a proper retreat for him. In his principles he is already a bishop.

The mention of this man has moved me from my natural moderation. Let me return to your Grace. You are the pillar upon which I am determined to rest all my resentments. What idea can the best of Sovereigns form to himself of his own government? in what repute can he conceive that he flands with his people, when he fees, beyond the poffibility of a doubt, that, whatever be the office, the fuspicion of his favour is fatal to the candidate, and that, when the party he wishes well to has the fairest prospect of success, if his royal inclination should unfortunately be discovered, it drops like an acid, and turns the election. This event, among others, may perhaps contribute to open his Majefty's eyes to his real honour and interest. In spite of all your Grace's ingenuity, he may at last perceive the inconvenience of selecting, with fuch a curious felicity, every villain in the nation to fill the various departments of his government. Yet I should be forry to confine him in the choice either of his footmen or his friends.

JUNIUS.

#### LETTER II.

#### FROM

THE REVEREND MR. HORNE TO JUNIUS.

SIR,

13 July, 1771.

Farce, Comedy, and Tragedy,—Wilkes, Foote, and Junius, united at the fame time against one poor Parson, are fearful odds. The two former are only labouring in their vocation, and may equally plead in excuse, that their aim is a livelihood. I admit the plea for the second; his is an honest calling, and my clothes were lawful game; but I cannot so readily approve Mr. Wilkes, or commend him for making patriotism a trade, and a fradulent trade. But what shall I say to Junius? the grave, the solemn, the didactic! Ridicule, indeed, has been ridiculously called the test of truth; but surely to confess that you lose your natural moderation when mention is made of the man, does

not promife much truth or justice when you speak of him yourself.

You charge me with 'a new zeal in support of 'administration,' and with 'endeavours in support of the ministerial nomination of Sheriffs.' The reputation which your talents have deservedly gained to the signature of Junius, draws from me a reply, which I disdained to give to the anonymous lies of Mr. Wilkes. You make frequent use of the word gentleman; I only call myself a man, and desire no other distinction: if you are either, you are bound to make good your charges, or to confess that you have done me a hasty injustice upon no authority.

I put the matter fairly to iffue.—I fay, that fo far from any new 'zeal in support of administration,' I am possessed with the utmost abhorrence of their measures; and that I have ever shewn mysfelf, and am still ready, in any rational manner, to lay down all I have—my life, in opposition to those measures. I say, that I have not, and never have had, any communication or connexion of any kind, directly or indirectly, with any courtier or ministerial man, or any of their adherents: that I never have received, or solicited, or expected, or desired, or do now hope for, any reward of any fort, from any party or set of men in administration or opposition; I say, that I never used any 'endeavours in support of the ministerial nomination of Sheriss:'

that I did not folicit any one liveryman for his vote for any one of the candidates, nor employ any other perfon to folicit: and that I did not write one fingle line or word in favour of Meffrs. Plumbe and Kirkman, whom I understand to have been supported by the ministry.——

You are bound to refute what I here advance, or to lofe your credit for veracity. You must produce facts; furmise and general abuse, in however elegant language, ought not to pass for proofs. You have every advantage, and I have every disadvantage: you are unknown, I give my name: all parties, both in and out of administration, have their reasons (which I shall relate hereafter) for uniting in their wishes against me: and the popular prejudice is as strongly in your favour as it is violent against the Parson.

Singular as my prefent fituation is, it is neither painful, nor was it unforefeen. He is not fit for public bufiness who does not even at his entrance prepare his mind for such an event. Health, fortune, tranquillity, and private connexions, I have sacrificed upon the altar of the public; and the only return I receive, because I will not concur to dupe and mislead a senseless multitude, is barely, that they have not yet torn me in pieces. That this has been the only return, is my pride, and a source of more real satisfaction than honours or prosperity.

I can practife, before I am old, the leffons I learned in my youth; nor shall I ever forget the words of my ancient Monitor:

'Tis the last key-stone

- ' That makes the arch: the rest that there were put,
- Are nothing till that comes to bind and shut.
- 'Then stands it a triumphal mark! then men
- ' Observe the strength, the height, the why and when
- ' It was erected; and still walking under,
- " Meet fome new matter to look up and wonder!"

I am, Sir, your humble Servant,

JOHN HORNE.



# LETTER LII.

TC

# THE REVEREND MR. HORNE.

SIR,

24 July, 1771:

I CANNOT descend to an altercation with you in the newspapers. But fince I have attacked your character, and you complain of injuftice, I think you have fome right to an explanation. You defy me to prove that you ever folicited a vote, or wrote a word in support of the ministerial Sir, I did never fuspect you of fuch Aldermen. gross folly. It would have been impossible for Mr. Horne to have folicited votes, and very difficult to have written for the newspapers in defence of that cause, without being detected and brought to shame. Neither do I pretend to any intelligence concerning you, or to know more of your conduct, than you yourfelf have thought proper to communicate to the public. It is from your own letters I conclude that you have fold yourfelf to the ministry; or, if that charge be too fevere, and supposing it possible

to be deceived by appearances fo very ftrongly against you, what are your friends to fay in your defence? Must they not confess that, to gratify your personal hatred of Mr. Wilkes, you facrificed, as far as depended upon your interest and abilities, the cause of the country? I can make allowance for the violence of the paffions, and if ever I should be convinced that you had no motive but to destroy Wilkes, I shall then be ready to do justice to your character, and to declare to the world, that I despife you fomewhat less than I do at present. But as a public man, I must for ever condemn you. You cannot but know,-nay, you dare not pretend to be ignorant, that the highest gratification of which in this nation is capathe most detestable ble, would have been the defeat of Wilkes. I know that man much better than any of you. Nature intended him only for a good humoured fool. lystematical education, with long practice, has made him a confummate hypocrite. Yet this man, to fay nothing of his worthy ministers, you have most affiduously laboured to gratify. To exclude Wilkes, it was not necessary you should solicit votes for his opponents. We incline the balance as effectually by leffening the weight in one scale, as by increasing it in the other.

The mode of your attack upon Wilkes (though I am far from thinking meanly of your abilities) convinces me, that you either want judgment ex-

tremely, or that you are blinded by your refentment. You ought to have forefeen that the charges you urged against Wilkes could never do him any mischief. After all, when we expected discoveries highly interesting to the community, what a pitiful detail did it end in !- Some old clothes, a Welsh poney, a French footman, and a hamper of claret. Indeed, Mr. Horne, the public should, and will forgive him his claret and his footmen, and even the ambition of making his brother chamberlain of London, as long as he stands forth against a ministry and parliament who are doing every thing they can to enflave the country, and as long as he is a thorn in the King's fide. You will not fuspect me of fetting up Wilkes for a perfect character. The question to the public is, Where shall we find a man who, with purer principles, will go the lengths, and run the hazards, that he has done? The feafon calls for fuch a man, and he ought to be supported. What would have been the triumph of that odious hypocrite and his minions if Wilkes had been defeated! It was not your fault, Reverend Sir, that he did not enjoy it completely. But now, I promife you, you have so little power to do mischief, that I much question whether the ministry will adhere to the promifes they have made you. It will be in vain to fay that I am a partizan of Mr. Wilkes, or perfonally your enemy. You will convince no man, for you do not believe it yourfelf. Yet, I confess, I am a little offended at the low rate at which you

feem to value my understanding. I beg, Mr. Horne, you will hereafter believe that I measure the integrity of men by their conduct, not by their professions. Such tales may entertain Mr. Oliver, or your grandmother, but, trust me, they are thrown away upon Junius.

You fay you are a man. Was it generous, was it manly, repeatedly to introduce into a newspaper the name of a young lady with whom you must heretofore have lived on terms of politeness and good-humour? But I have done with you. In my opinion your credit is irrecoverably ruined. Townshend, I think, is nearly in the same predicament. Poor Oliver has been fhamefully duped by you. You have made him facrifice all the honour he got by his imprisonment. As for Mr. Sawbridge, whose character I really respect, I am assonished he does not fee through your duplicity. Never was fo base a defign so poorly conducted. This letter, you fee, is not intended for the public, but if you think it will do you any fervice, you are at liberty to publifh it.m

JUNIUS.

### LETTER LIH.

#### FROM

THE REVEREND MR. HORNE TO JUNIUS.

SIR,

31 July, 1771.

You have disappointed me. When I told you that furmife and general abuse, in however elegant language, ought not to pass for proofs, I evidently hinted at the reply which I expected: but you have dropped your usual elegance, and seem willing to try what will be the effect of furmife and general abuse in very coarse language. Your anfwer to my letter (which I hope was cool and temperate and modest) has convinced me that my idea of a man is much superior to yours of a gentlemen. Of your former letters I have always faid materiem fuperabat opus: I do not think fo of the prefent; the principles are more detestable than the expreffions are mean and illiberal. I am contented that all those who adopt the one should for ever load me with the other.

I appeal to the common fenfe of the public, to which I have ever directed myself. I believe they have it, though I am fometimes half-inclined to fuspect that Mr. Wilkes has formed a truer judgment of mankind than I have. However of this I am fure, that there is nothing else upon which to place a fleady reliance. Trick, and low cunning, and addreffing their prejudices and paffions, may be the fittest means to carry a particular point; but if they have not common fense, there is no prospect of gaining for them any real permanent good. The fame passions which have been artfully used by an honest man for their advantage, may be more artfully employed by a difhonest man for their destruction. I defire them to apply their common fenfe to this letter of Junius, not for my fake, but their own; it concerns them most nearly, for the principles it contains lead to difgrace and ruin, and are inconfistent with every notion of civil society.

The charges which Junius has brought against me are made ridiculous by his own inconsistency and self-contradiction. He charges me positively with 'a new zeal in support of administration;' and with 'endeavours in support of the ministerial 'nomination of Sheriffs.' And he assigns two inconsistent metives for my conduct: either that I have 'fold myself to the ministry;' or am instigated 'by the solitary, vindictive malice of a monk:' either that I am instruenced by a fordid desire of

gain; or am hurried on by 'perfonal hatred, and ' blinded by refentment.' In his letter to the Duke of Grafton he fupposes me actuated by both; in his letter to me he at first doubts which of the two, whether interest, or revenge, is my motive: however, at last he determines for the former, and again positively afferts that 'the ministry have made me ' promises;' yet he produces no instance of corruption, nor pretends to have any intelligence of a minifterial connexion: he mentions no cause of personal hatred to Mr. Wilkes, nor any reason for my refentment, or revenge; nor has Mr. Wilkes himfelf ever hinted any, though repeatedly preffed. When Junius is called upon to justify his accusation, he answers, 'he cannot descend to an alterca-' tion with me in the newspapers.' Junius, who exists only in the newspapers, who acknowledges ' he has attacked my character' there, and 'thinks ' I have fome right to an explanation;' yet this Junius ' cannot descend to an altercation in the news-' papers!' and because he cannot descend to an altercation with me in the newspapers, he fends a letter of abuse by the printer, which he finishes with telling me 'I am liberty to publish it.' This, to be fure, is a most excellent method to avoid an altercation in the newspapers!

The proofs of his positive charges are as extraordinary. 'He does not pretend to any intelligence 'concerning me, or to know more of my conduct \* than I myfelf have thought proper to communicate to the public.' He does not fuspect me of fuch gross folly as to have folicited votes, or to have written anonymoufly in the newspapers; because it is impossible to do either of these without being detected and brought to shame. Junius fays this! who yet imagines that he has himself written two years under that fignature (and more under others), without being detected! his warmest admirers will not hereafter add, without being brought to shame. But though he did never suspect me of such gross folly as to run the hazard of being detected and brought to shame by anonymous writing, he infifts that I have been guilty of a much groffer folly of incurring the certainty of shame and detection by writings figned with my name! But this is a fmall flight for the towering Junius: 'He is far from ' thinking meanly of my abilities,' though he is ' convinced that I want judgment extremely,' and can ' really respect Mr. Sawbridge's character,' though he declares him n to be fo poor a creature as not to ' fee through the bafeft defign conducted in ' the poorest manner!' And this most base design is conducted in the poorest manner by a man whom he does not suspect of gross folly, and of whose abilities he is far from thinking meanly!

Should we ask Junius to reconcile these contradictions, and explain this nonsense, the answer is ready, 'he cannot descend to an altercation in the 'newspapers.' He feels no reluctance to attack the character of any man: the throne is not too high, nor the cottage too low: his mighty malice can grasp both extremes: he hints not his accusations as opinion, conjecture, or inference; but delivers them as positive affertions. Do the accused complain of injustice? He acknowledges they have some fort of right to an explanation; but if they ask for proofs and facts, he begs to be excused: and though he is no where else to be encountered, 'he cannot descend to an altercation in the newspasers.'

And this perhaps Junius may think 'the liberal refentment of a gentleman:' this skulking assaffination he may call courage. In all things as in this I hope we differ:

I thought that fortitude had been a mean

- 'Twixt fear and rashness; not a lust obscene
- ' Or appetite of offending; but a skill
- 4 And nice difcernment between good and ill.
- ' Her ends are honesty and public good,
- " And without these she is not understood."

Of two things however he has condescended to give proof. He very properly produces a young lady to prove that I am not a man: and a good old woman, my grandmother, to prove Mr. Oliver a fool. Poor old foul! she read her bible far otherwise than Junius! she often found there that the fins of the

fathers had been vifited on the children; and therefore was cautious that herfelf and her immediate defeendants should leave no reproach on her posterity: and they lest none. How little could she fore fee this reverse of Junius, who visits my political sins upon my grandmother! I do not charge this to the score of malice in him, it proceeded entirely from his propensity to blunder; that whilst he was reproaching me for introducing, in the most harmless manner, the name of one female, he might himself, at the same instant, introduce two.

I am represented alternately, as it suits Junius's purpose, under the opposite characters of a gloomy Monk, and a man of politeness and good humour. I am called 'a folitary Monk,' in order to confirm the notion given of me in Mr. Wilkes's anonymous paragraphs, that I never laugh: and the terms of politeness and good humour on which I am faid to have lived heretofore with the young lady, are intended to confirm other paragraphs of Mr. Wilkes, in which he is supposed to have offended me by refufing his daughter. Ridiculous! Yet I cannot deny but that Junius has proved me unmanly and ungenerous as clearly as he has shewn me corrupt and vindictive: and I will tell him more; I have paid the present ministry as many visits and compliments as ever I paid to the young lady, and shall all my life treat them with the fame politeness and good humour.

But Junius 'begs me to believe that he mea-' fures the integrity of men by their conduct, not by their professions.' Sure this Junius must imagine his readers as void of understanding as he is of modesty! Where shall we find the standard of his integrity? By what are we to meafure the conduct of this lurking affaffin? And he fays this to me, whose conduct, wherever I could personally appear, has been as direct and open and public as my words: I have not, like him, concealed myfelf in my chamber to shoot my arrows out of the window; nor contented myself to view the battle from afar; but publicly mixed in the engagement, and shared the danger. To whom have I, like him, refused my name upon complaint of injury? what printer have I defired to conceal me? in the infinite variety of business I have been concerned, where it is not fo eafy to be faultless, which of my actions can he arraign! to what danger has any man been exposed which I have not faced? information, action, imprisonment, or death? what labour have I refused? what expence have I declined? what pleafure have I not renounced? But Junius, to whom no conduct belongs, 'measures the integrity of men by their ' conduct, not by their professions;' himself all the while being nothing but professions, and those too anonymous! The political ignorance or wilful falfehood of this declaimer is extreme: his own former letters justify both my conduct and those whom his last letter abuses: for the public measures which

Junius has been all along defending, were ours, whom he attacks; and the uniform opposer of those measures has been Mr. Wilkes, whose bad actions and intentions he endeavours to screen.

Let Junius now, if he pleafes, change his abuse; and, quitting his loofe hold of interest and revenge, accuse me of vanity, and call this defence boafting. I own I have a pride to fee ftatues decreed, and the highest honours conferred, for measures and actions which all men have approved: whilft those who counfelled and caufed them are execrated and infulted. The darkness in which Junius thinks himself shrouded, has not concealed him; nor the artifice of only attacking under that fignature those he would pull down (whilft he recommends by other ways those he would have promoted) disguised from me whose partizan he is. When Lord Chatham can forgive the aukward fituation in which for the fake of the public he was defignedly placed by the thanks to him from the city; and when Wilkes's name ceases to be necessary to Lord Rockingham to keep up a clamour against the persons of the miniftry, without obliging the different factions now in opposition to bind themselves beforehand to some certain points, and to ftipulate fomé precife advantages to the public: then, and not till then, may those whom he now abuses expect the approbation of Junius. The approbation of the public for our faithful attention to their interest by endeavours for

those ftipulations which have made us as obnoxious to the factions in opposition as to those in administration, is not perhaps to be expected till some years hence, when the public will look back and see how shamefully they have been deluded, and by what arts they were made to lose the golden opportunity of preventing what they will surely experience—a change of ministers, without a material change of measures, and without any security for a tottering constitution.

But what cares Junius for the fecurity of the constitution? He has now unfolded to us his diabolical principles. As a public man he must ever condemn any measure which may tend accidentally to gratify the Sovereign: and Mr. Wilkes is to be fupported and affifted in all his attempts (no matter how ridiculous and mischievous his projects) as long as he continues to be a thorn in the King's fide! The cause of the country it seems, in the opinion of Junius, is merely to vex the King, and any rafcal is to be supported in any roguery, provided he can only thereby plant a thorn in the King's fide. This is the very extremity of faction, and the last degree of political wickedness. Because Lord Chatham has been ill-treated by the King, and treacheroufly betrayed by the Duke of Grafton, the latter is to be 'the pillow on which Junius will rest his ' refentment;' and the public are to oppose the measures of government from mere motives of perfonal enmity to the Sovereign! These are the avowed principles of the man who in the fame letter fays, 'if ever he should be convinced that I had no ' motive but to destroy Wilkes, he shall then be ' ready to do justice to my character, and to declare ' to the world that he despifes me somewhat less ' than he does at prefent!' Had I ever acted from personal affection or enmity to Mr. Wilkes, I should justly be despised. But what does he deserve whose avowed motive is perfonal enmity to the Sovereign? The contempt which I should otherwise feel for the abfurdity and glaring inconfiftency of Junius, is here fwallowed up in my abhorrence of his principle. The right divine and facredness of kings is to me a fenfeless jargon. It was thought a daring expression of Oliver Cromwell in the time of Charles the First, that if he found himself placed opposite to the King in battle, he would discharge his piece into his bosom as foon as into any other man's. I go farther: had I lived in those days, I would not have waited for chance to give me an opportunity' of doing my duty; I would have fought him through the ranks, and without the least personal enmity, have discharged my piece into his bosom rather than into any other man's. The king whose actions justify rebellion to his government, deferves death from the hand of every subject. And should fuch a time arrive, I shall be as free to act as to fay. But till then my attachment to the person and family of the Sovereign shall ever be found more zealous and fincere than that of his flatterers. I would offend the Sovereign with as much reluctance as the parent; but if the happiness and security of the whole family made it necessary, so far, and no farther, I would offend him without remorfe.

But let us confider a little whither these principles of Junius would lead us. Should Mr. Wilkes once more commission Mr. Thomas Walpole to procure for him a pension of one thousand pounds upon the Irish establishment for thirty years, he must be supported in the demand by the public, because it would mortify the King!

Should he wish to see Lord Rockingham and his friends once more in administration, unclogged by any stipulations for the people, that he might again enjoy a pension of one thousand and forty pounds a year, viz. From the First Lord of the Treasury, 500l.; from the Lords of the Treasury, 60l. each; from the Lords of Trade, 40l. each, &c. the public must give up their attention to points of national benefit, and affist Mr. Wilkes in his attempt, because it would mortify the King!

Should he demand the government of Canada, or of Jamaica, or the embaffy to Conftantinople; and in case of resusal threaten to write them down, as he had before served another administration, in a year and a half; he must be supported in his pre-

tensions, and upheld in his insolence, because it would mortify the King!

Junius may choose to suppose that these things cannot happen! But that they have happened, notwithftanding Mr. Wilkes's denial, I do aver. I maintain that Mr. Wilkes did commission Mr. Thomas Walpole to folicit for him a penfion of one thousand pounds on the Irish establishment for thirty years; with which and a pardon he declared he would be fatisfied: and that, notwithstanding his letter to Mr. Onflow, he did accept a clandestine, precarious, and eleemofynary penfion from the Rockingham administration; which they paid in proportion to and out of their falaries: and fo entirely was it ministerial, that as any of them went out of the ministry, their names were scratched out of the lift, and they contributed no longer. I fay, he did folicit the governments and the embaffy, and threatened their refusal nearly in these words: ' It cost me a year and a half to write down the last ' administration; should I employ as much time ' upon you, very few of you would be in at the ' death.' When these threats did not prevail, he came over to England to embarrass them by his prefence; and when he found that Lord Rockingham was fomething firmer and more manly than he expected, and refused to be bullied into what he could not perform, Mr. Wilkes declared that he could not leave England without money; and the Duke of

Portland and Lord Rockingham purchased his abfence with one hundred pounds apiece; with which he returned to Paris. And for the truth of what I here advance, I appeal to the Duke of Portland, to Lord Rockingham, to Lord John Cavendish, to Mr. Walpole, &c. I appeal to the hand-writing of Mr. Wilkes, which is still extant.

Should Mr. Wilkes afterwards (failing in this wholefale trade) choose to dole out his popularity by the pound, and expose the city offices to sale to his brother, his attorney, &c. Junius will tell us, it is only an ambition that he has to make them chamberlain, town-clerk, &c. and he must not be opposed in thus robbing the ancient citizens of their birth-right, because any defeat of Mr. Wilkes would gratify the King!

Should he, after confuming the whole of his own fortune and that of his wife, and incurring a debt of twenty thousand pounds merely by his own private extravagance, without a fingle fervice or exertion all this time for the public, whilst his estate remained; should he, at length, being undone, commence patriot, have the good fortune to be illegally perfecuted, and in confideration of that illegality be espoused by a few gentlemen of the purest public principles; should his debts (though none of them were contracted for the public) and all his other incumbrances be discharged; should he be offered

600l. or 1000l. a year to make him independent for the future; and should he, after all, instead of gratitude for these services, insolently forbid his benefactors to bestow their own money upon any other object but himself, and revile them for setting any bounds to their supplies; Junius (who, any more than Lord Chatham, never contributed one farthing to these enormous expences) will tell them, that if they think of converting the supplies of Mr. Wilkes's private extravagance to the support of public measures, they are as great fools as my grandmother, and that Mr. Wilkes ought to hold the strings of their purses as long as he continues to be a thorn in the King's side!

Upon these principles I never have acted, and I never will act. In my opinion, it is less dishonourable to be the creature of a court than the tool of a faction. I will not be either. I understand the two great leaders of opposition to be Lord Rockingham and Lord Chatham; under one of whose banners all the opposing members of both Houses, who desire to get places, enlist. I can place no confidence in either of them, or in any others, unless they will now engage, whilst they are out, to grant certain effential advantages for the security of the public when they shall be in administration. These points they refuse to stipulate, because they are fearful less they should prevent any future overtures from the court. To force them to these stipulations has been

the uniform endeavour of Mr. Sawbridge, Mr. Townfend, Mr. Oliver, &c. and therefore they are abused by Junius. I know no reason but my zeal and industry in the same cause that should entitle me to the honour of being ranked by his abuse with persons of their fortune and station. It is a duty I owe to the memory of the late Mr. Beckford to fay, that he had no other aim than this when he provided that fumptuous entertainment at the Mansionhouse for the members of both houses in opposition. At that time he drew up the heads of an engagement, which he gave to me with a request that I would couch it in terms fo cautious and precife, as to leave no room for future quibble and evafion, but to oblige them either to fulfil the intent of the obligation, or to fign their own infamy, and leave it on record; and this engagement he was determined to propose to them at the Mansion-house, that either by their refusal they might forfeit the confidence of the public, or by the engagement lay a foundation for confidence. When they were informed of the intention, Lord Rockingham and his friends flatly refused any engagement; and Mr. Beckford as flatly fwore they flould then 'eat ' none of his broth;' and he was determined to put off the entertainment: but Mr. Beckford was prevailed upon by --- to indulge them in the ridiculous parade of a popular procession through the city, and to give them the foolish pleasure of an

imaginary confequence, for the real benefit only of the cooks and purveyors.

It was the fame motive which dictated the thanks of the city to Lord Chatham; which were expressed to be given for his declaration in favour of fhort parliaments: in order thereby to fix Lord Chatham at least to that one constitutional remedy, without which all others can afford no fecurity. The embarraffment, no doubt, was cruel. He had his choice either to offend the Rockingham party, who declared formally against short parliaments, and with the affiftance of whose numbers in both houses he must expect again to be minister; or to give up the confidence of the public, from whom finally all real consequence must proceed. Lord Chatham chofe the latter: and I will venture to fav, that by his answer to those thanks he has given up the people without gaining the friendship or cordial assistance of the Rockingham faction; whose little politics are confined to the making of matches, and extending their family connexions, and who think they gain more by procuring one additional vote to their party in the House of Commons, than by adding their languid property and feeble character to the abilities of a Chatham, or the confidence of a public.

Whatever may be the event of the present wretched state of politics in this country, the prin-

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ciples of Junius will fuit no form of government. They are not to be tolerated under any conftitution. Perfonal enmity is a motive fit only for the devil. Whoever or whatever is fovereign, demands the respect and support of the people. The union is formed for their happiness, which cannot be had without mutual respect; and he counsels malicioufly who would perfuade either to a wanton breach of it. When it is banished by either party, and when every method has been tried in vain to restore it, there is no remedy but a divorce: but even then he must have a hard and a wicked heart indeed, who punishes the greatest criminal merely for the fake of the punishment; and who does not let fall a tear for every drop of blood that is shed in a public ftruggle, however just the quarrel.

JOHN HORNE.



#### LETTER LIV.

TO

#### THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

15 Aug. 1771.

I ought to make an apology to the Duke of Grafton for fuffering any part of my attention to be diverted from his Grace to Mr. Horne. I am not justified by the fimilarity of their dispositions. Private vices, however deteftable, have not dignity fufficient to attract the censure of the prefs, unless they are united with the power of doing some fignal mischief to the community. Mr. Horne's fituation does not correspond with his intentions. In my own opinion (which I know will be attributed to my usual vanity and presumption) his letter to me does not deferve an answer. But I understand that the public are not fatisfied with my filence; that an answer is expected from me; and that if I persist in refufing to plead, it will be taken for conviction. I should be inconfistent with the principles ! profefs, if I declined an appeal to the good fense of the people, or did not willingly submit myself to the judgment of my peers.

If any coarse expressions have escaped me, I am ready to agree that they are unfit for Junius to make use of, but I see no reason to admit that they have been improperly applied.

Mr Horne, it feems, is unable to comprehend how an extreme want of conduct and diferetion can confift with the abilities I have allowed him; nor can he conceive that a very honest man, with a very good understanding, may be deceived by a knave. His knowledge of human nature must be limited indeed. Had he never mixed with the world, one would think that even his books might have taught him better. Did he hear Lord Mansfield when he defended his doctrine concerning libels? Or when he flated the law in profecutions for criminal conversation? Or when he delivered his reasons for calling the House of Lords together to receive a copy of his charge to the jury in Woodfall's trial? Had he been present upon any of these occasions, he would have feen how possible it is for a man of the first talents, to confound himself in abfurdities which would difgrace the lips of an idiot. Perhaps the example might have taught him not to value his own understanding so highly. Lord Littelton's integrity and judgment are unqueftionable; yet he is known to admire that cunning Scotchman, and verily believes him an honeft man. I fpeak to facts with which all of us are conversant. I fpeak to men and to their experience, and will not descend to answer the little sneering sophistries of a collegian. Distinguished talents are not necessarily connected with discretion. If there be any thing remarkable in the character of Mr. Horne, it is that extreme want of judgment should be united with his very moderate capacity. Yet I have not forgotten the acknowledgment I made him. He owes it to my bounty; and though his letter has lowered him in my opinion, I scorn to retract the charitable donation.

I faid it would be very difficult for Mr. Horne to write directly in defence of a ministerial measure, and not be detected; and even that difficulty I confined to his particular fituation. He changes the terms of the proposition, and supposes me to affert, that it would be impossible for any man to write for the newspapers and not be discovered.

He repeatedly affirms, or intimates at least, that he knows the author of these letters. With what colour of truth then can he pretend that I am no where to be encountered but in a newspaper? I shall leave him to his suspicions. It is not necessary that I should conside in the honour or discretion of a man who already seems to hate me with as much

rancour as if I had formerly been his friend. But he afferts that he has traced me through a variety of fignatures. To make the discovery of any importance to his purpose, he should have proved, either that the sistitious character of Junius has not been consistently supported, or that the author has maintained different principles under different fignatures. I cannot recall to my memory the numberless trifles I have written; but I rely upon the consciousness of my own integrity, and defy him to fix any colourable charge of inconsistency upon me.

I am not bound to assign the secret motives of his apparent hatred of Mr. Wilkes; nor does it follow that I may not judge fairly of his conduct, though it were true that I had no conduct of my own. Mr. Horne enlarges, with rapture, upon the importance of his fervices; the dreadful battles which he might have been engaged in, and the dangers he has escaped. In support of the formidable description, he quotes verses without mercy. The gentleman deals in fiction, and naturally appeals to the evidence of the poets. Taking him at his word, he cannot but admit the fuperiority of Mr. Wilkes in this line of fervice. On one fide we fee nothing but imaginary diffresses. On the other we fee real profecutions; real penalties; real imprisonment; life repeatedly hazarded; and, at one moment, almost the certainty of death. Thanks are undoubtedly due to every man who does his duty

in the engagement; but it is the wounded foldier who deferves the reward.

I did not mean to deny that Mr. Horne had been an active partizan. It would defeat my own purpose not to allow him a degree of merit, which aggravates his guilt. The very charge of contributing his utmost efforts to support a ministerial meafure, implies an acknowledgment of his former fervices. If he had not once been diftinguished by his apparent zeal in defence of the common cause, he could not now be diftinguished by deferting it. As for myself, it is no longer a question whether I fhall mix with the throng and take a fingle fhare in the danger. Whenever Junius appears, he must encounter a hoft of enemies. But is there no honourable way to ferve the public, without engaging in perfonal quarrels with infignificant individuals, or fubmitting to the drudgery of canvaffing votes for an election? Is there no merit in dedicating my life to the information of my fellow fubjects? What public question have I declined, what villain have I spared? Is there no labour in the composition of these letters? Mr. Horne, I fear, is partial to me, and measures the facility of my writings by the fluency of his own.

He talks to us, in high terms, of the gallant feats he would have performed if he had lived in the laft century. The unhappy Charles could hardly have

escaped him. But living princes have a claim to his attachment and refpect. Upon these terms, there is no danger in being a patriot. If he means any thing more than a pompous rhapfody, let us try how well his argument holds together. I prefume he is not yet fo much a courtier as to affirm that the conflitution has not been grofsly and daringly violated under the prefent reign. He will not fay, that the laws have not been shamefully broken or perverted; that the rights of the fubject have not been invaded; or that redrefs has not been repeatedly folicited and refused. Grievances like these were the foundation of the rebellion in the last century, and, if I understand Mr. Horne, they would, at that period, have justified him to his own mind in deliberately attacking the life of his Sovereign. I shall not ask him to what political constitution this doctrine can be reconciled. But, at least, it is incumbent upon him to fhew, that the prefent King has better excuses than Charles the First for the errors of his government. He ought to demonstrate to us that the conftitution was better understood a hundred years ago than it is at prefent; that the legal rights of the fubject and the limits of the prerogative were more accurately defined, and more clearly comprehended. If propositions like these cannot be fairly maintained, I do not fee how he can reconcile it to his conscience, not to act immediately with the fame freedom with which he speaks. I reverence the character of Charles the First as little as Mr. Horne; but I will not infult his misfortunes by a comparison that would degrade him.

It is worth observing, by what gentle degrees the furious, perfecuting zeal of Mr. Horne has softened into moderation. Men and measures were yesterday his object. What pains did he once take to bring that great state criminal Macquirk to execution! To-day he confines himself to measures only. No penal example is to be left to the successor of the Duke of Grafton. To-morrow, I prefume, both men and measures will be forgiven. The slaming patriot, who so lately scorched us in the meridian, finks temperately to the west, and is hardly selt as he descends.

I comprehend the policy of endeavouring to communicate to Mr. Oliver and Mr. Sawbridge a fhare in the reproaches with which he fuppofes me to have loaded him. My memory fails me, if I have mentioned their names with difrespect; unless it be reproachful to acknowledge a fincere respect for the character of Mr. Sawbridge, and not to have questioned the imnocence of Mr. Oliver's intentions.

It feems I am a partizan of the great leader of the opposition. If the charge had been a reproach, it should have been better supported. I did not intend to make a public declaration of the respect I bear Lord Chatham. I well knew what unworthy

conclusions would be drawn from it. But I am called upon to deliver my opinion, and furely it is not in the little cenfure of Mr. Horne to deter me from doing fignal justice to a man who, I confess, has grown upon my esteem. As for the common fordid views of avarice, or any purpole of vulgar ambition, I question whether the applause of Junius would be of fervice to Lord Chatham. My vote will hardly recommend him to an increase of his pension, or to a feat in the cabinet. But if his ambition be upon a level with his understanding; if he judges of what is truly honourable for himfelf, with the fame fuperior genius which animates and directs him to eloquence in debate, to wifdom in decision, even the pen of Junius shall contribute to reward him. Recorded honours shall gather round his monument, and thicken over him. It is a folid fabric, and will support the laurels that adorn it. I am not conversant in the language of panegyric. These praises are extorted from me; but they will wear well, for they have been dearly earned.

My deteftation of the Duke of Grafton is not founded upon his treachery to any individual: though I am willing enough to suppose that in public affairs it would be impossible to desert or betray Lord Chatham, without doing an effential injury to this country. My abhorrence of the Duke arises from an intimate knowledge of his character, and from a thorough conviction, that his baseness has

been the cause of greater mischief to England than even the unfortunate ambition of Lord Bute.

The fhortening the duration of parliaments is a fubject on which Mr. Horne cannot enlarge too warmly; nor will I question his fincerity. If I did not profess the same sentiments, I should be shamefully inconfiftent with myfelf. It is unnecessary to bind Lord Chatham by the written formality of an engagement. He has publicly declared himfelf a convert to Triennial Parliaments; and though I have long been convinced that this is the only poffible resource we have left to preserve the substantial freedom of the conflitution, I do not think we have a right to determine against the integrity of Lord Rockingham or his friends. Other measures may undoubtedly be supported in argument, as better adapted to the diforder, or more likely to be obtained

Mr. Horne is well affured that I never was the champion of Mr. Wilkes. But though I am not obliged to answer for the firmness of his future adherence to the principles he professes, I have no reason to presume that he will hereafter disgrace them. As for all those imaginary cases which Mr. Horne so petulantly urges against me, I have one plain, honest answer to make to him. Whenever Mr. Wilkes shall be convicted of soliciting a pension, an embassy, or a government, he must de-

part from that fituation, and renounce that character, which he affumes at prefent, and which, in my opinion, entitle him to the fupport of the public. By the fame act, and at the fame moment, he will forfeit his power of mortifying the King; and though he can never be a favourite at St. James's, his bafenes's may administer a solid satisfaction to the royal mind. The man I speak of has not a heart to feel for the frailties of his fellow-creatures. It is their virtues that afflict, it is their vices that confole him.

I give every possible advantage to Mr. Horne when I take the facts he refers to for granted. That they are the produce of his invention, feems highly probable; that they are exaggerated, I have no doubt. At the worst, what do they amount to, but that Mr. Wilkes, who never was thought of as a perfect pattern of morality, has not been at all times proof against the extremity of distress. How shameful is it in a man who has lived in friendship with him, to reproach him with failings, too naturally connected with defpair! Is no allowance to be made for banishment and ruin? Does a two years imprisonment make no atonement for his crimes? The refentment of a priest is implacable. ferings can foften, no penitence can appeafe him. Yet he himfelf, I think, upon his own fystem, has a multitude of political offences to atone for. I will not infift upon the naufeous detail with which he

fo long difgusted the public. He seems to be ashamed of it. But what excuse will he make to the friends of the constitution for labouring to promote this consummately bad man to a station of the highest national trust and importance? Upon what honourable motives did he recommend him to the livery of London for their representative; to the ward of Farringdon for their alderman; to the county of Middlesex for their knight? Will he assignment that, at that time, he was ignorant of Mr. Wilkes's solicitations to the ministry? That he should say so, is indeed very necessary for his own justification, but where will he find credulity to believe him?

In what school this gentleman learned his ethics I know not. His logic seems to have been studied under Mr. Dyson. That miserable pamphleteer, by dividing the only precedent in point, and taking as much of it as suited his purpose, had reduced his argument upon the Middlesex election to something like the shape of a syllogism. Mr. Horne has conducted himself with the same ingenuity and candour. I had affirmed that Mr. Wilkes would preferve the public savour 'as long as he stood forth 'against a ministry and parliament, who were dofing every thing they could to enslave the country, 'and as long as he was a thorn in the King's side.' Yet from the exulting triumph of Mr. Horne's reply, one would think that I had rested my expecta-

tion, that Mr. Wilkes would be fupported by the public, upon the fingle condition of his mortifying the King. This may be logic at Cambridge or at the Treafury, but among men of fense and honour it is folly or villany in the extreme.

I fee the pitiful advantage he has taken of a fingle unguarded expression in a letter not intended for the public. Yet it is only the expression that is unguarded. I adhere to the true meaning of that member of the fentence, taken separately as he takes it, and now, upon the cooleft deliberation, reaffert that, for the purposes I referred to, it may be highly meritorious to the public to wound the perfonal feelings of the Sovereign. It is not a general proposition, nor is it generally applied to the chief magistrate of this, or any other constitution. Mr. Horne knows as well as I do, that the best of princes is not displeased with the abuse which he sees thrown upon his oftenfible ministers. It makes them, I prefume, more properly the objects of his royal compassion; neither does it escape his fagacity, that the lower they are degraded in the public esteem, the more submissively they must depend upon his favour for protection. This, I affirm upon the most folemn conviction, and the most certain knowledge, is a leading maxim in the policy of the closet. It is unnecessary to pursue the argument any farther.

Mr. Horne is now a very loyal fubject. He laments the wretched state of politics in this country, and sees in a new light the weakness and folly of the opposition. Whoever or whatever is sovereign, demands the respect and support of the people, it was not so when Nero siddled while Rome was burning. Our gracious Sovereign has had wonderful success in creating new attachments to his perfon and family. He owes it, I presume, to the regular system he has pursued in the mystery of conversion. He began with an experiment upon the Scotch, and concludes with converting Mr. Horne. What a pity it is that the Jews should be condemned by Providence to wait for a Messiah of their own!

The priefthood are accused of misinterpreting the scriptures. Mr. Horne has improved upon his profession. He alters the text, and creates a resutable doctrine of his own. Such artifices cannot long delude the understanding of the people; and, without meaning an indecent comparison, I may venture to foretel, that the Bible and Junius will be read when the commentaries of the Jesuits are forgotten.

JUNIUS.

#### LETTER LV.

TO

## THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

26 Aug, 1771.

THE enemies of the people, having now nothing better to object to my friend Junius, are at last obliged to quit his politics, and to rail at him for crimes he is not guilty of. His vanity and impiety are now the perpetual topics of their abuse. I do not mean to lessen the force of such charges (fuppofing they were true), but to fhew that they are not founded. If I admitted the premises, I fhould readily agree in all the confequences drawn from them. Vanity indeed is a venial error, for it ufually carries its own punishment with it; but if I thought Junius capable of uttering a difrespectful word of the religion of his country. I should be the first to renounce and give him up to the public contempt and indignation. As a man, I am fatiffied that he is a Christian upon the most fincere conviction. As a writer, he would be grossly inconfiftent with his political principles, if he dared to attack a religion established by those laws which it seems to be the purpose of his life to defend. Now for the proofs. Junius is accused of an impious allusion to the holy facrament, where he says that, 'if Lord Weymouth be denied the cup, there 'will be no keeping him within the pale of the ministry.' Now, Sir, I affirm that this passage refers entirely to a ceremonial in the Roman catholic church which denies the cup to the laity. It has no manner of relation to the Protestant creed, and is, in this country, as fair an object of ridicule as transfubstantiation, or any other part of Lord Peter's history in the Tale of the Tub.

But Junius is charged with equal vanity and impiety in comparing his writings to the holy feripture. The formal protest he makes against any such comparison avails him nothing. It becomes necessary then to shew that the charge destroys itself. If he be vain, he cannot be impious. A vain man does not usually compare himself to an object which it is his design to undervalue. On the other hand, if he be impious, he cannot be vain. For his impiety, if any, must consist in his endeavouring to degrade the holy scriptures by a comparison with his own contemptible writings. This would be folly indeed of the grossest nature, but where lies the vanity? I shall now be told, 'Sir, 'what you say is plausible enough, but still you

' must allow that it is shamefully impudent in Ju' nius to tell us that his works will live as long as
' the Bible.' My answer is, Agreed: but first prove that he has said so. Look at his words, and you will find that the utmost he expects is, that the Bible and Junius will survive the commentaries of the Jesuits, which may prove true in a fortnight. The most malignant fagacity cannot shew that his works are, in his opinion, to live as long as the Bible. Suppose I were to foretel that Jack and Tom would survive Harry. Does it follow that Jack must live as long as Tom? I would only illustrate my meaning, and protest against the least idea of profaneness.

Yet this is the way in which Junius is usually answered, arraigned, and convicted. These candid critics never remember any thing he says in honour of our holy religion; though it is true that one of his leading arguments is made to rest upon the internal evidence which the purest of all religion carries with it. I quote his words, and conclude from them, that he is a true and hearty Christian in substance, not in ceremony; though possibly he may not agree with my Reverend Lords the Bishops, or with the head of the Church, that prayers are morality, or that kneeling is religion.

## LETTER LVI.

#### FROM

## THE REVEREND MR. HORNE TO JUNIUS.

17 August, 1771.

I CONGRATULATE you, Sir, on the recovery of your wonted ftyle, though it has coft you a fortnight. I compassionate your labour in the composition of your letters, and will communicate to you the secret of my fluency. Truth needs no ornament; and, in my opinion, what she borrows of the pencil is deformity.

You brought a positive charge against me of corruption. I denied the charge, and called for your proofs. You replied with abuse, and re-afferted your charge. I called again for proofs. You reply again with abuse only, and drop your accusation. In your fortnight's letter there is not one word upon the subject of my corruption.

I have no more to fay, but to return thanks to you for your condescension, and to a grateful pub-

lic and honeft ministry for all the favours they have conferred upon me. The two latter, I am sure, will never refuse me any grace I shall solicit; and since you have been pleased to acknowledge that you told a deliberate lie in my favour out of bounty, and as a charitable donation, why may I not expect that you will hereafter (if you do not forget you ever mentioned my name with disrespect) make the same acknowledgment for what you have said to my prejudice? This second recantation will perhaps be more abhorrent from your disposition; but should you decline it, you will only afford one more instance how much easier it is to be generous than just, and that men are sometimes bountiful who are not houest.

At all events I am as well fatisfied with panegyric as Lord Chatham can be. Monument I shall have none; but over my grave it will be faid, in your own words, 'Horne's situation did not cor-'respond with his intentions.'?

JOHN HORNE.

### LETTER LVII.

TO

#### HIS GRACE THE DUKE OF GRAFTON.

MY LORD,

28 Sept. 1771.

THE people of England are not apprifed of the full extent of their obligations to you. They have yet no adequate idea of the endless variety of your character. They have feen you diftinguished and fuccessful in the continued violation of those moral and political duties by which the little, as well as the great focieties of life, are collected and held together. Every colour, every character, became you. With a rate of abilities, which Lord Weymouth very juftly looks down upon with contempt, you have done as much mischief to the community as Cromwell would have done, if Cromwell had been a coward, and as much as Machiavel, if Machiavel had not known that an appearance of morals and religion are ufeful in fociety. To a thinking man, the influence of the Crown will, in no view, appear fo formidable as when he observes

to what enormous exceffes it has fafely conducted your Grace, without a ray of real understanding, without even the pretentions to common decency or principle of any kind, or a fingle fpark of perfonal refolution. What must be the operation of that pernicious influence (for which our Kings have wifely exchanged the nugatory name of prerogative) that, in the highest stations, can so abundantly supply the absence of virtue, courage, and abilities, and qualify a man to be the minister of a great nation, whom a private gentleman would be ashamed and afraid to admit into his family! Like the univerfal paffport of an ambaffador, it fuperfedes the prohibition of the laws, banishes the staple virtues of the country, and introduces vice and folly triumphantly into all the departments of the state. Other princes, befides his Majesty, have had the means of corruption within their reach, but they have used it with moderation. In former times corruption was confidered as a foreign auxiliary to government, and only called in upon extraordinary emergencies. The unfeigned piety, the fanctified religion of George the Third, have taught him to new-model the civil forces of the flate. The natural refources of the Crown are no longer confided in. Corruption glitters in the van; collects and maintains a standing army of mercenaries, and, at the same moment, impoverishes and enflaves the country. His Majefty's predeceffors (excepting that worthy family from which you, my Lord, are unquestionably de-

fcended) had fome generous qualities in their composition, with vices, I confess, or frailties, in abundance. They were kings or gentlemen, not hypocrites or priefts. They were at the head of the church, but did not know the value of their office. They faid their prayers without ceremony, and had too little priestcraft in their understanding to reconcile the fanctimonious forms of religion with the utter destruction of the morality of their people. My Lord, this is fact, not declamation. With all your partiality to the house of Stuart, you must confess, that even Charles the Second would have blushed at that open encouragement, at those eager, meretricious careffes, with which every species of private vice and public proftitution is received at St. James's. The unfortunate house of Stuart has been treated with an afperity which, if comparison be a defence, feems to border upon injustice. Neither Charles nor his brother were qualified to fupport fuch a fystem of measures as would be necesfary to change the government, and fubvert the conftitution of England. One of them was too much in earnest in his pleasures, the other in his religion. But the danger to this country would ceafe to be problematical, if the crown should ever defcend to a prince whose apparent fimplicity might throw his fubjects off their guard, who might be no libertine in behaviour, who should have no sense of honour to reftrain him, and who, with just religion enough to impose upon the multitude, might have

no scruples of conscience to interfere with his morality. With these honourable qualifications, and the decifive advantage of fituation, low craft and faltehood are all the abilities that are wanting to deftroy the wifdom of ages, and to deface the noblest monument that human policy has erected-I know fuch a man: my Lord, I know you both; and, with the bleffing of God (for I too am religious), the people of England shall know you as well as I do. I am not very fure that greater abilities would not in effect be an impediment to a defign which feems at first fight to require a superior capacity. A better understanding might make him sensible of the wonderful beauty of that fystem he was endeavouring to corrupt. The danger of the attempt might alarm him. The meannefs, and intrinfic worthlesiness of the object (supposing he could attain it), would fill him with shame, repentance, and difguft. But these are fensations which find no entrance into a barbarous, contracted heart. In fome men, there is a malignant passion to destroy the works of genius, literature, and freedom. The Vandal and the Monk find equal gratification in it.

Reflections like these, my Lord, have a general relation to your Grace, and inseparably attend you, in whatever company or situation your character occurs to us. They have no immediate connexion with the following recent fact, which I lay before

the public, for the honour of the best of Sovereigns, and for the edification of his people.

A Prince (whose piety and felf-denial, one would think, might fecure him from fuch a multitude of worldly necessities), with an annual revenue of near a million sterling, unfortunately wants money. The navy of England, by an equally ftrange concurrence of unforeseen circumstances (though not quite fo unfortunately for his Majesty), is in equal want of timber. The world knows in what a hopeful condition you delivered the navy to your fuccessor, and in what a condition we found it in the moment of diffrefs. You were determined it should continue in the fituation in which you left it. It happened, however, very luckily for the privy purse, that one of the above wants promised fair to fupply the other. Our religious, benevolent, generous Sovereign, has no objection to felling his own timber to his own Admiralty, to repair his own ships, nor to putting the money into his own pocket. People of a religious turn naturally adhere to the principles of the church. Whatever they acquire falls into mortmain. Upon a representation from the Admiralty of the extraordinary want of timber for the indispensable repairs of the navy, the Surveyor-General was directed to make a furvey of the timber in all the royal chases and forests in England. Having obeyed his orders with accuracy and attention, he reported, that the finest timber he had any

where met with, and the properest in every respect for the purpofes of the navy, was in Whittlebury Forest, of which your Grace, I think, is Hereditary Ranger. In confequence of this report, the usual warrant was prepared at the Treafury, and delivered to the Surveyor, by which he or his deputy were authorifed to cut down any trees in Whittlebury Forest which should appear to be proper for the purposes above mentioned. The Deputy being informed that the warrant was figned and delivered to his principal in London, croffes the country to Northamptonshire, and, with an officious zeal for the public fervice, begins to do his duty in the forest. Unfortunately for him, he had not the warrant in his pocket. The overfight was enormous, and you have punished him for it accordingly. You have infifted that an active ufeful officer should be dismissed from his place. You have ruined an innocent man and his family. In what language shall I address so black, so cowardly a tyrant; thou worse than one of the Brunfwicks, and all the Stuarts! To them who know Lord North, it is unneceffary to fay, that he was mean and base enough to submit to you. This, however, is but a fmall part of the fact. After ruining the Surveyor's deputy for acting without the warrant, you attacked the warrant itself. You declared it was illegal, and fwore, in a fit of foaming, frantic paffion, that it never should be executed. You afferted, upon your honour, that in the grant of the rangership of

Whittlebury Forest, made by Charles the Second (whom, with a modesty that would do honour to Mr. Rigby, you are pleafed to call your anceftor) to one of his baftards (from whom I make no doubt of your descent), the property of the timber is vested in the Ranger. I have examined the original grant, and now, in the face of the public, contradict you directly upon the fact. The very reverse of what you have afferted upon your honour is the truth. The grant, expressly and by a particular clause, referves the property of the timber for the use of the Crown. In spite of this evidence, in defiance of the representations of the Admiralty, in perfect mockery of the notorious diffresses of the English navy, and those equally preffing, and almost equally notorious, necessities of your pious Sovereign—here the matter refts. The Lords of the Treasury recall their warrant; the Deputy-Surveyor is ruined for doing his duty; Mr. John Pitt (whose name I suppose is offensive to you) submits to be brow-beaten and infulted; the oaks keep their ground; the King is defrauded, and the navy of England may perish for want of the best and finest timber in the island. And all this is fubmitted to, to appeare the Duke of Grafton! To gratify the man who has involved the King and his kingdom in confusion and distress, and who, like a treacherous coward, deferted his Sovereign in the midst of it!

There has been a strange alteration in your doc-

trines, fince you thought it advisable to rob the Duke of Portland of his property, in order to strengthen the interest of Lord Bute's son-in-law before the last general election. Nullum tempus occurrit regi, was then your boafted motto, and the cry of all your hungry partizans. Now it feems a grant of Charles the Second to one of his baftards is to be held facred and inviolable! It must not be questioned by the King's servants, nor submitted to any interpretation but your own. My Lord, this was not the language you held when it fuited you to infult the memory of the glorious deliverer of England from that detefted family, to which you are fill more nearly allied in principle than in blood. In the name of decency and common fense, what are your Grace's merits, either with King or ministry, that should entitle you to assume this domineering authority over both? Is it the fortunate confanguinity you claim with the house of Stuart? Is it the fecret correspondence you have for so many years carried on with Lord Bute, by the affiduous affiftance of your cream-coloured parafite? Could not your gallantry find fufficient employment for him in those gentle offices by which he first acquired the tender friendship of Lord Barrington? Or is it only that wonderful fympathy of manners which fubfifts between your Grace and one of your fuperiors, and does fo much honour to you both? Is the union of Blifil and Black George no longer a romance? From whatever origin your influence in this country arifes, it is a phænomenon in the hiftory of human virtue and understanding. Good men can hardly believe the fact. Wife men are unable to account for it. Religious men find exercise for their faith, and make it the last effort of their piety, not to repine against Providence.

JUNIUS.



#### LETTER LVIII.

# ADDRESSED TO THE LIVERY OF LONDON.

GENTLEMEN,

30 Sept. 1771.

Ir you alone were concerned in the event of the present election of a chief magistrate of the metropolis, it would be the highest presumption in a stranger to attempt to influence your choice, or even to offer you his opinion. But the situation of public affairs has annexed an extraordinary importance to your resolutions. You cannot, in the choice of your magistrate, determine for yourselves only. You are going to determine upon a point in which every member of the community is interested. I will not scruple to say, that the very being of that law, of that right, of that constitution, for which we have been so long contending, is now at stake. They who would ensure your judgment, tell you, it is a common, ordinary case,

and to be decided by ordinary precedent and practice. They artfully conclude, from moderate peaceable times, to times which are not moderate, and which ought not to be peaceable. While they folicit your favour, they infift upon a rule of rotation which excludes all idea of election.

Let me be honoured with a few minutes of your attention. The question to those who mean fairly to the liberty of the people (which we all profess to have in view) lies within a very narrow compass. Do you mean to defert that just and honourable fystem of measures which you have hitherto purfued, in hopes of obtaining from Parliament or from the Crown a full redrefs of past grievances, and a fecurity for the future? Do you think the cause desperate, and will you declare that you think so to the whole people of England? If this be your meaning and opinion, you will act confiftently with it in choofing Mr. Nash. I profess to be unacquainted with his private character. But he has acted as a magistrate, as a public man. As such I speak of I fee his name in a protest against one of your remonstrances to the Crown. He has done every thing in his power to destroy the freedom of popular elections in the city, by publishing the poll upon a former occasion; and I know, in general, that he has diffinguished himself by slighting and thwarting all those public measures which you have engaged in with the greatest warmth, and

hitherto thought most worthy of your approbation. From his past conduct what conclusion will you draw, but that he will act the same part as Lord Mayor, which he has invariably acted as Alderman and Sherist? I should be forry to injure the character of a man who perhaps may be honest in his intention, by supposing it possible that he can ever concur with you in any political measure or opinion.

If, on the other hand, you mean to perfevere in those resolutions for the public good which, though not always fuccefsful, are always honourable, your choice will naturally incline to those men who (whatever they be in other respects) are most likely to co-operate with you in the great purposes which you are determined not to relinquish. The question is not, of what metal your instruments are made, but whether they are adapted to the work you have in hand? The honours of the city, in these times, are improperly, because exclusively, called a reward. You mean not merely to pay, but to employ. Are Mr. Crofby and Mr. Sawbridge likely to execute the extraordinary as well as the ordinary duties of Lord Mayor? Will they grant you common halls when it shall be necessary? Will they go up with remonstrances to the King? Have they firmness enough to meet the fury of a venal House of Commons? Have they fortitude enough not to shrink at imprisonment? Have they spirit enough to hazard their lives and fortunes in a contest, if it should be necessary, with a prostituted legislature? If these questions can fairly be answered in the affirmative, your choice is made. Forgive this passionate language. I am unable to correct it. The subject comes home to us all. It is the language of my heart.

JUNIUS.



#### LETTER LIX.

TO

#### THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

5 October 1771.

No man laments more fincerely than I do the unhappy differences which have arifen among the friends of the people, and divided them from each other. The cause undoubtedly suffers, as well by the diminution of that strength which union carries with it, as by the separate loss of perfonal reputation which every man fuftains when his character and conduct are frequently held forth in odious or contemptible colours. These differences are only advantageous to the common enemy of the country. The hearty friends of the cause are provoked and difgusted. The lukewarm advocate avails himfelf of any pretence to relapfe into that indolent indifference about every thing that ought to interest an Englishman, so unjustly dignified with the title of moderation. The false, insidious partizan, who creates or foments the diforder, fees the

fruit of his dishonest industry ripen beyond his hopes, and rejoices in the promife of a banquet, only delicious to fuch an appetite as his own. is time for those who really mean the cause and the people, who have no view to private advantage, and who have virtue enough to prefer the general good of the community to the gratification of perfonal animolities, it is time for fuch men to interpose. Let us try whether these fatal diffensions may not yet be reconciled; or, if that be impracticable, let us guard at least again the worst effects of division, and endeavour to persuade these furious partizans, if they will not confent to draw together, to be feparately useful to that cause which they all pretend to be attached to. Honour and honefly must not be renounced, although a thousand modes of right and wrong were to occupy the degrees of morality between Zeno and Epicurus. The fundamental principles of Christianity may still be preferved, though every zealous fectary adheres to his own exclusive doctrine, and pious ecclesiastics make it part of their religion to perfecute one another. The civil conftitution too, that legal liberty, that general creed, which every Englishman professes, may still be supported, though Wilkes, and Horne, and Townshend, and Sawbridge, should obstinately refuse to communicate, and even if the fathers of the church, if Savil, Richmond, Camden, Rockingham, and Chatham, should disagree in the ceremonies of their political worship, and even in the interpretation of twenty texts in Magna Charta. I fpeak to the people as one of the people. Let us employ these men in whatever departments their various abilities are best fuited to, and as much to the advantage of the common cause as their different inclinations will permit. They cannot serve us without essentially serving themselves.

If Mr. Nash be elected, he will hardly venture, after so recent a mark of the personal esteem of his fellow-citizens, to declare himself immediately a courtier. The spirit and activity of the Sheriss will, I hope, be sufficient to counteract any simisfer intentions of the Lord Mayor. In collison with their virtue, perhaps he may take sire.

It is not necessary to exact from Mr. Wilkes the virtues of a stoic. They were inconsistent with themselves who, almost at the same moment, represented him as the basest of mankind, yet seemed to expect from him such instances of fortitude and self-denial as would do honour to an apostle. It is not however flattery to say, that he is obstinate, intrepid, and sertile in expedients. That he has no possible resource, but in the public savour, is, in my judgment, a considerable recommendation of him. I wish that every man who pretended to popularity were in the same predicament. I wish that a retreat to St. James's were not so easy and open as a patriots have found it. To Mr. Wilkes there is no

access. However he may be missed by passion or imprudence, I think he cannot be guilty of a deliberate treachery to the public. The favour of his country constitutes the shield which defends him against a thousand daggers. Desertion would disarm him.

I can more readily admire the liberal spirit and integrity, than the found judgment of any man, who prefers a republican form of government, in this or any other empire of equal extent, to a monarchy fo qualified and limited as ours. I am convinced, that neither is it in theory the wifest system of government, nor practicable in this country. Yet, though I hope the English constitution will for ever preferve its original monarchical form, I would have the manners of the people purely and ftrictly republican. I do not mean the licentious spirit of anarchy and riot. I mean a general attachment to the common weal, distinct from any partial attachment to persons or families; an implicit submission to the laws only, and an affection to the magistrate, proportioned to the integrity and wifdom with which he distributes justice to his people, and administers their affairs. The present habit of our political body appears to me the very reverse of what it ought to be. The form of the conflitution leans rather more than enough to the popular branch; while, in effect, the manners of the people (of those at least who are likely to take a lead in the country)

incline too generally to a dependence upon the Crown. The real friends of arbitrary power combine the facts, and are not inconfistent with their principles, when they firenuously support the unwarrantable privileges affumed by the House of Commons. In these circumstances, it were much to be defired, that we had many fuch men as Mr. Sawbridge to reprefent us in parliament. I fpeak from common report and opinion only, when I impute to him a speculative predilection in favour of a republic. In the perfonal conduct and manners of the man I cannot be mistaken. He has shewn himself possessed of that republican firmness which the times require, and by which an English gentleman may be as ufefully and as honourably diffinguished as any citizen of ancient Rome, of Athens, or Lacedamon.

Mr. Townfend complains, that the public gratitude has not been answerable to his deserts. It is not difficult to trace the artifices which have suggested to him a language so unworthy of his understanding. A great man commands the affections of the people. A prudent man does not complain when he has lost them. Yet they are far from being lost to Mr. Townsend. He has treated our opinion a little too cavalierly. A young man is apt to rely too considertly upon himself, to be as attentive to his mistress as a polite and passionate lover ought to be. Perhaps he found her at first too easy a con-

quest. Yet, I fancy, she will be ready to receive him whenever he thinks proper to renew his addresses. With all his youth, his spirit, and his appearance, it would be indecent in the lady to solicit his return.

I have too much respect for the abilities of Mr. Horne, to flatter myself that these gentlemen will ever be cordially re-united. It is not, however, unreasonable to expect, that each of them should act his feparate part with honour and integrity to the public. As for differences of opinion upon speculative questions, if we wait until they are reconciled, the action of human affairs must be suspended for ever. But neither are we to look for perfection in any one man, nor for agreement among many. When Lord Chatham affirms, that the authority of the British legislature is not supreme over the colonies in the fame fense in which it is supreme over Great Britain; when Lord Camden supposes a neceffity (which the King is to judge of), and, founded upon that necessity, attributes to the Crown a legal power (not given by the act itself) to suspend the operation of an act of the legislature. I listen to them both with diffidence and respect, but without the smallest degree of conviction or affent. Yet, I doubt not, they delivered their real fentiments, nor ought they to be haftily condemued. I too have a claim to the candid interpretation of my country, when I acknowledge an involuntary compulfive affent to one very unpopular opinion. I lament the unhappy necessity, whenever it arises, of providing for the fafety of the state by a temporary invasion of the personal liberty of the subject. Would to God it were practicable to reconcile these important objects in every possible fituation of public affairs! I regard the legal liberty of the meanest man in Britain as much as my own, and would defend it with the fame zeal. I know we must stand or fall together. But I never can doubt, that the community has a right to command, as well as to purchase, the fervice of its members. I fee that right founded originally upon a necessity which superfedes all argument. I fee it established by usage immemorial, and admitted by more than a tacit affent of the legislature. I conclude there is no remedy, in the nature of things, for the grievance complained of; for, if there were, it must long fince have been redreffed. Though numberless opportunities have prefented themselves highly favourable to public liberty, no fuccefsful attempt has ever been made for the relief of the fubject in this article. Yet it has been felt, and complained of, ever fince England had a navy. The conditions which conflitute this right must be taken together. Separately, they have little weight. It is not fair to argue from any abuse in the execution, to the illegality of the power; much less is a conclusion to be drawn from the navy to the land fervice. A feaman can never be employed but against the enemies of his country. The only case in which the King can have a right to arm his subjects in general, is that of a foreign force being actually landed upon our coast. Whenever that case happens, no true Englishman will inquire, whether the King's right to compel him to desend his country be the custom of England, or a grant of the legislature. With regard to the press for seamen, it does not follow that the symptoms may not be softened, although the distemper cannot be cured. Let bounties be increased as far as the public purse can support them. Still they have a limit; and when every reasonable expence is incurred, it will be be found, in fact, that the spur of the press is wanted to give operation to the bounty.

Upon the whole, I never had a doubt about the first right of pressing, until I heard that Lord Manssield had applauded Lord Chatham for delivering something like this doctrine in the House of Lords. That consideration staggered me not a little. But, upon reflection, his conduct accounts naturally for itself. He knew the doctrine was unpopular, and was eager to fix it upon the man who is the first object of his fear and detestation. The cunning Scotchman never speaks truth without a fraudulent design. In council he generally affects to take a moderate part. Besides his natural timidity, it makes part of his political plan, never to be known to recommend violent measures. When

the guards are called forth to murder their fellowfubjects, it is not by the oftenfible advice of Lord Mansfield. That odious office, his prudence tells him, is better left to fuch men as Gower and Weymouth, as Barrington and Grafton. Lord Hillfborough wifely confines his firmness to the distant Americans. The defigns of Mansfield are more fubtle, more effectual, and fecure. Who attacks the liberty of the press? Lord Mansfield. Who invades the conflitutional power of juries? Lord Mansfield. What judge ever challenged a juryman but Lord Mansfield? Who was that judge, who, to fave the King's brother, affirmed that a man of the first rank and quality, who obtains a verdict in a fuit for criminal conversation, is entitled to no greater damages than the meanest mechanic? Lord Mansfield. Who is it makes Commissioners of the Great Seal? Lord Mansfield. Who is it forms a decree for those commissioners, deciding against Lord Chatham, and afterwards (finding himfelf opposed by the judges) declares in parliament, that he never had a doubt that the law was in direct opposition to that decree? Lord Mansfield. Who is he that has made it the fludy and practice of his life to undermine and alter the whole fystem of jurisprudence in the Court of King's Bench? Lord Mansfield. There never existed a man but himfelf who answered exactly to so complicated a description. Compared to these enormities, his original attachment to the Pretender

(to whom his dearest brother was confidential secretary) is a virtue of the first magnitude. But the hour of impeachment will come, and neither he nor Grafton shall escape me. Now let them make common cause against England and the House of Hanover. A Stuart and a Murray should sympathise with each other.

When I refer to fignal inflances of unpopular opinions delivered and maintained by men who may well be supposed to have no view but the public good, I do not mean to renew the discussion of fuch opinions. I should be forry to revive the dormant questions of Stamp-act, Corn-bill, or Prefswarrant. I mean only to illustrate one useful proposition, which it is the intention of this paper to inculcate; 'That we should not generally reject the ' friendship or services of any man; because he differs ' from us in a particular opinion.' This will not appear a fuperfluous caution, if we observe the ordinary conduct of mankind. In public affairs there is the leaft chance of a perfect concurrence of fentiment or inclination. Yet every man is able to contribute fomething to the common stock, and no man's contribution should be rejected. If individuals have no virtues, their vices may be of use to us. I care not with what principle the new-born patriot is animated, if the measures he supports are beneficial to the community. The nation is interested in his conduct. His motives are his own. The

properties of a patriot are perishable in the individual, but there is a quick fuccession of subjects, and the breed is worth preferving. The fpirit of the Americans may be an ufeful example to us. Our dogs and horses are only English upon English ground; but patriotifm, it feems, may be improved by transplanting. I will not reject a bill which tends to confine parliamentary privilege within reafonable bounds, though it should be stolen from the house of Cavendish, and introduced by Mr. Onslow. The features of the infant are a proof of the defcent, and vindicate the noble birth from the bafeness of the adoption. I willingly accept of a farcasm from Colonel Barré, or a simile from Mr. Burke. Even the filent vote of Mr. Calcraft is worth reckoning in a division. What though he riots in the plunder of the army, and has only determined to be a patriot, when he could not be a peer? Let us profit by the affiftance of fuch men while they are with us, and place them, if it be possible, in the post of danger, to prevent defertion. The wary Wedderburne, the pompous Suffolk, never threw away the icabbard, nor ever went upon a forlorn hope. They always treated the King's fervants as men with whom, some time or other, they might possibly be in friendship. When a man who stands forth for the public, has gone that length from which there is no practicable retreat; when he has given that kind of perfonal offence which a pious monarch never pardons, I then begin to think him

in earnest, and that he will never have occasion to solicit the forgiveness of his country. But instances of a determination so entire and unreserved are rarely met with. Let us take mankind as they are. Let us distribute the virtues and abilities of individuals according to the offices they affect, and when they quit the service, let us endeavour to supply their places with better men than we have lost. In this country there are always candidates enough for popular favour. The temple of same is the shortest passage to riches and preferment.

Above all things, let me guard my countrymen against the meanness and folly of accepting of a trifling or moderate compensation for extraordinary and effential injuries. Our enemies treat us as the cunning trader does the unfkilful Indian. They magnify their generofity when they give us baubles of little proportionate value for ivory and gold. The fame House of Commons who robbed the conftituent body of their right of free election; who prefumed to make a law under pretence of declaring it; who paid our good King's debts, without once inquiring how they were incurred; who gave thanks for repeated murders committed at home, and for national infamy incurred abroad; who fcreened Lord Mansfield; who imprisoned the magistrates of the metropolis for afferting the subject's right to the protection of the laws; who erafed a judicial record, and ordered all proceedings in a

criminal fuit to be fuspended; this very House of Commons have graciously confented, that their own members may be compelled to pay their debts, and that contested elections shall for the future be determined with fome decent regard to the merits of the cafe. The event of the fuit is of no confequence to the Crown. While parliaments are feptennial, the purchase of the fitting member or of the petitioner makes but the difference of a day. Concessions such as these are of little moment to the fum of things, unless it be to prove that the worst of men are sensible of the injuries they have done us, and perhaps to demonstrate to us the imminent danger of our fituation. In the shipwreck of the flate trifles float and are preserved; while every thing folid and valuable finks to the bottom, and is loft for ever.

JUNIUS.

## LETTER LX.

TO

## THE PRINTER OF THE PUBLIC ADVERTISER.

SIR,

15 October 1771.

I AM convinced that Junius is incapable of wilfully mifreprefenting any man's opinion, and that his inclination leads him to treat Lord Camden with particular candour and respect. The doctrine attributed to him by Junius, as far as it goes, corresponds with that stated by your correspondent Scævola, who feems to make a diffinction without a difference. Lord Camden, it is agreed, did certainly maintain that, in the recess of parliament, the King (by which we all mean the King in council, or the executive power) might fuspend the operation of an act of the legislature; and he founded his doctrine upon a supposed necessity, of which the King, in the first instance, must be judge. The Lords and Commons cannot be judges of it in the first instance, for they do not exist. Thus far Junius.

But, fays Scævola, Lord Camden made parliament, and not the King, judges of the necessity. That parliament may review the acts of ministers, is unquestionable: but there is a wide difference between faying that the Crown has a legal power; and that ministers may act at their peril. When we fay an act is illegal, we mean that it is forbidden by a joint refolution of the three estates. How a subfequent resolution of two of those branches can make it legal ab initio, will require explanation. If it could, the confequence would be truly dreadful, especially in these times. There is no act of arbitrary power which the King might not attribute to necessity, and for which he would not be secure of obtaining the approbation of his proftituted Lords and Commons. If Lord Camden admits that the fubfequent fanction of parliament was necessary to make the proclamation legal, why did he fo obstinately oppose the bill which was soon after brought in for indemnifying all those persons who had acted under it? If that bill had not been paffed, I am ready to maintain, in direct contradiction to Lord Camden's doctrine (taken as Scævola ftates it), that a litigious exporter of corn, who had fuffered in his property in confequence of the proclamation, might have laid his action against the Cuftom-house officers, and would infallibly have recovered damages. No jury could refuse them; and if I, who am by no means litigious, had been fo injured, I would affuredly have inftituted a fuit in

Westminster Hall, on purpose to try the question of right. I would have done it upon a principle of desiance of the pretended power of either or both houses to make declarations inconsistent with law, and I have no doubt that, with an act of parliament on my side, I should have been too strong for them all. This is the way in which an Englishman should speak and act, and not suffer dangerous precedents to be established because the circumstances are favourable or palliating.

With regard to Lord Camden, the truth is, that he inadvertently over-shot himself, as appears plainly by that unguarded mention of a tyranny of forty days, which I myself heard. Instead of afferting that the proclamation was legal, he should have said, 'My Lords, I know the proclamation was il- 'legal, but I advised it because it was indispensed ably necessary to save the kingdom from samine, and I submit myself to the justice and mercy of 'my country.'

Such language as this would have been manly, rational, and confiftent: not unfit for a lawyer, and every way worthy of a great man.

## PHILO JUNIUS.

P. S. If Scævola should think proper to write again upon this subject, I beg of him to give me a

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direct answer, that is, a plain affirmative or negative, to the following questions:—In the interval between the publishing such a proclamation (or order of council) as that in question, and its receiving the sanction of the two houses, of what nature is it—is it legal or illegal; or is it neither one nor the other? I mean to be candid, and will point out to him the consequence of his answer either way. If it be legal, it wants no farther sanction. If it be illegal, the subject is not bound to obey it, consequently it is a useless, nugatory act, even as to its declared purpose. Before the meeting of parliament the whole mischief which it means to prevent will have been completed.

#### LETTER LXI.

TO

ZE NO.

SIR,

17 October 1771.

The fophiftry of your letter in defence of Lord Mansfield is adapted to the character you defend. But Lord Mansfield is a man of form, and feldom in his behaviour transgresses the rules of decorum. I shall imitate his Lordship's good manners, and leave you in the full possession of his principles. I will not call you liar, jesuit, or villain; but, with all the politeness imaginable, perhaps I may prove you so.

Like other fair pleaders in Lord Mansfield's fchool of justice, you answer Junius by misquoting his words, and mistating his propositions. If I am candid enough to admit that this is the very logic taught at St. Omer's, you will readily allow that it is the constant practice in the Court of King's Bench. Junius does not say, that he never had a

doubt about the strict right of pressing, till he knew Lord Manssield was of the same opinion. His words are, 'until he heard that Lord Manssield had 'applauded Lord Chatham for maintaining that doctrine in the House of Lords.' It was not the accidental concurrence of Lord Manssield's opinion, but the suspicious applause given by a cunning Scotchman to the man he detests, that raised and justified a doubt in the mind of Junius. The question is not, whether Lord Manssield be a man of learning and abilities (which Junius has never disputed), but whether or no he abuses and misapplies his talents.

Junius did not fay that Lord Mansfield had advifed the calling out the guards. On the contrary, his plain meaning is, that he left that odious office to men less cunning than himself. Whether Lord Mansfield's doctrine concerning libels be or be not an attack upon the liberty of the press, is a question which the public in general are very well able to determine. I shall not enter into it at present. Nor do I think it necessary to fay much to a man who had the daring confidence to fay to a jury, Gentlemen, you are to bring in a verdict guilty or not guilty, but whether the defendant be guilty or innocent is not matter for your confideration.' Clothe it in what language you will, this is the fum total of Lord Mansfield's doctrine. If not, let Zeno shew us the difference.

But it feems the liberty of the press may be abused, and the abuse of a valuable privilege is the certain means to lofe it. The first I admit, but let the abuse be submitted to a jury-a sufficient, and indeed the only legal and conftitutional, check upon the licence of the press. The second I flatly deny. In direct contradiction to Lord Mansfield, I affirm that 'the abuse of a valuable privilege is not the certain means to lose it.' If it were, the English nation would have few privileges left; for where is the privilege that has not, at one time or other, been abused by individuals? But it is false in reason and equity, that particular abuses should produce a general forfeiture. Shall the community be deprived of the protection of the laws because there are robbers and murderers? Shall the community be punished because individuals have offended? Lord Mansfield fays fo, confiftently enough with his principles, but I wonder to find him fo explicit. Yet, for one concession, however extorted, I confess myfelf obliged to him. The liberty of the press is, after all, a valuable privilege. I agree with him most heartily, and will defend it against him.

You ask me, What juryman was challenged by Lord Mansfield? I tell you his name was Benson. When his name was called, Lord Mansfield ordered the clerk to pass him by. As for his reasons, you may ask himself, for he assigned none. But I can tell you what all men thought of it. This Benson

had been refractory upon a former jury, and would not accept of the law as delivered by Lord Manffield; but had the impudence to pretend to think for himfelf. But you, it feems, honest Zeno, know nothing of the matter! You never read Junius's letter to your patron! You never heard of the intended instructions from the city to impeach Lord Mansfield! You never heard by what dexterity of Mr. Paterson that measure was prevented! How wonderfully ill some people are informed!

Junius did never affirm that the crime of feducing the wife of a mechanic or a peer is not the fame, taken in a moral or religious view. What he affirmed in contradiction to the levelling principle fo lately adopted by Lord Mansfield was, 'that the ' damages should be proportioned to the rank and ' fortune of the parties:' and for this plain reason (admitted by every other judge that ever fat in Westminster Hall), because, what is a compensation or penalty to one man is none to another. The fophistical distinction you attempt to draw between the person injured and the person injuring is Mansfield all over. If you can once establish the propofition, that the injured party is not entitled to receive large damages, it follows pretty plainly that the party injuring should not be compelled to pay them; confequently the King's brother is effectually fcreened by Lord Mansfield's doctrine. Your reference to Nathan and David comes naturally in

aid of your patron's professed system of jurisprudence. He is fond of introducing into the Court of King's Bench any law that contradicts or excludes the common law of England; whether it be canon, civil, jus gentium, or levitical. But, Sir, the Bible is the code of our religious faith, not of our municipal jurifprudence: and though it was the pleafure of God to inflict a particular punishment upon David's crime (taken as a breach of his divine commands), and to fend his prophet to denounce it, an English jury have nothing to do either with David or the prophet. They confider the crime only as it is a breach of order, an injury to an individual, and an offence to fociety, and they judge of it by certain positive rules of law, or by the practice of their ancestors. Upon the whole, the man after God's own heart is much indebted to you for comparing him to the Duke of Cumberland. That his Royal Highness may be the man after Lord Mansfield's own heart, feems much more probable, and you I think, Mr. Zeno, might fucceed tolerably well in the character of Nathan. The evil deity, the prophet, and the royal finner, would be very proper company for one another.

You fay Lord Mansfield did not make the Commissioners of the Great Seal, and that he only advised the King to appoint. I believe Junius meant no more, and the distinction is hardly worth disputing.

You fay he did not deliver an opinion upon Lord Chatham's appeal. I affirm that he did, directly in favour of the appeal. This is a point of fact, to be determined by evidence only. But you affign no reason for his supposed silence, nor for his desiring a conference with the judges the day before. Was not all Westminster Hall convinced that he did it with a view to puzzle them with some perplexing question, and in hopes of bringing some of them over to him? You say the commissioners were very capable of framing a decree for themselves. By the sact it only appears, that they were capable of framing an illegal one, which, I apprehend, is not much to the credit either of their learning or integrity.

We are both agreed that Lord Mansfield has inceffantly laboured to introduce new modes of proceeding in the court where he prefides; but you attribute it to an honest zeal in behalf of innocence oppressed by quibble and chicane. I say that he has introduced new law too, and removed the landmarks established by former decisions. I say that his view is to change a court of common law into a court of equity, and to bring every thing within the arbitrium of a prætorian court. The public must determine between us. But now for his merits. First, then, the establishment of the judges in their places for life (which you tell us was advised by Lord Mansfield), was a concession merely to catch

the people. It bore the appearance of a royal bounty, but had nothing real in it. The judges were already for life, excepting in the case of a demife. Your boafted bill only provides that it shall not be in the power of the King's successor to remove them. At the best, therefore, it is only a legacy, not a gift, on the part of his present Majesty, fince for himfelf he gives up nothing. That he did oppose Lord Camden and Lord Northington upon the proclamation against the exportation of corn, is most true, and with great ability. With his talents, and taking the right fide of fo clear a queftion, it was impossible to speak ill. 'His motives are not fo eafily penetrated. They who are acquainted with the flate of politics at that period, will judge of them fomewhat differently from Zeno. Of the popular bills which you fay he fupported in the House of Lords, the most material is unquestionably that of Mr. Grenville for deciding contested elections. But I should be glad to know upon what possible pretence any member of the Upper House could oppose such a bill after it had passed the House of Commons? I do not pretend to know what share he had in promoting the other two bills, but I am ready to give him all the credit you defire. Still you will find that a whole life of deliberate iniquity is ill atoned for by doing now and then a laudable action upon a mixed or doubtful principle. If it be unworthy of him, thus ungratefully treated, to labour any longer for the public, in God's name let him retire. His brother's patron (whose health he once was anxious for) is dead, but the son of that unfortunate prince survives, and, I dare say, will be ready to receive him.

PHILO JUNIUS.



#### LETTER LXII.

TO

AN ADVOCATE IN THE CAUSE OF THE PEOPLE.

SIR,

18 October 1771.

You do not treat Junius fairly. You would not have condemned him so hastily if you had ever read Judge Foster's argument upon the legality of pressing seamen. A man who has not read that argument is not qualified to speak accurately upon the subject. In answer to strong facts and fair reasoning, you produce nothing but a vague comparison between two things which have little or no resemblance to each other. General Warrants, it is true, had been often issued, but they had never been regularly questioned or resisted until the case of Mr. Wilkes. He brought them to trial, and the moment they were tried they were declared illegal. This is not the case of Press Warrants. They have been complained of, questioned,

and refifted in a thousand inftances; but still the legislature have never interposed, nor has there ever been a formal decision against them in any of the fuperior courts. On the contrary, they have been frequently recognized and admitted by Parliament, and there are judicial opinions given in their favour by judges of the first character. Under the various circumftances flated by Junius, he has a right to conclude, for himfelf, that there is no remedy. If you have a good one to propose, you may depend upon the affiftance and applause of Junius. The magistrate who guards the liberty of the individual, deferves to be commended. But let him remember that it is also his duty to provide for, or at least not to hazard, the fafety of the community. If in the case of a foreign war and the expectation of an invasion, you would rather keep your fleet in harbour than man it by pressing seamen who refuse the bounty, I have done.

You talk of difbanding the army with wonderful ease and indifference. If a wifer man held fuch language, I should be apt to suspect his sincerity.

As for keeping up a much greater number of feamen in time of peace, it is not to be done. You will oppress the merchant, you will distress

trade, and defroy the nursery of your seamen. He must be a miserable statesman who voluntarily by the same act increases the public expence, and lessens the means of supporting it.

PHILO JUNIUS.



# LETTER LXIII.

22 October, 1771.

A FRIEND of Junius defires it may be observed (in answer to A Barrister at Law),

- 1. That the fact of Lord Mansfield's having ordered a juryman to be passed by (which poor Zeno never heard of) is now formally admitted. When Mr. Benson's name was called, Lord Mansfield was observed to flush in the face (a signal of guilt not uncommon with him), and cried out, Pass him by. This I take to be something more than a peremptory challenge. It is an unlawful command, without any reason assigned. That the counsel did not resist is true; but this might happen either from inadvertence, or a criminal complaisance to Lord Mansfield. You Barristers are too apt to be civil to my Lord Chief Justice, at the expence of your clients.
- 2. Junius did never fay that Lord Mansfield had destroyed the liberty of the press. 'That his Lord-

- " ship has laboured to destroy; that his doctrine is an attack upon the liberty of the press; that it is an invasion of the right of juries, are the propositions maintained by Junius. His opponents never answer him in point, for they never meet him fairly upon his own ground.
- 3. Lord Mansfield's policy, in endeavouring to fcreen his unconflitutional doctrines behind an act of the legislature, is easily understood. Let every Englishman stand upon his guard; the right of juries to return a general verdict, in all cases what-soever, is a part of our constitution. It stands in no need of a bill either enacting or declaratory to confirm it.
- 4. With regard to the Grofvenor caufe, it is pleafant to observe that the doctrine attributed by Junius to Lord Mansfield is admitted by Zeno, and directly defended. The Barrister has not the affurance to deny it flatly, but he evades the charge and fostens the doctrine by such poor, contemptible quibbles, as cannot impose upon the meanest understanding.
- 5. The quantity of business in the Court of King's Bench proves nothing but the litigious spirit of the people, arising from the great increase of wealth and commerce. These however are now upon the decline, and will soon leave nothing but

law fuits behind them. When Junius affirms that Lord Mansfield has laboured to alter the fyftem of jurisprudence in the court where his Lordship prefides, he fpeaks to those who are able to look a little farther than the vulgar. Befides that the multitude are eafily deceived by the imposing names of equity and fubstantial justice, it does not follow that a judge who introduces into his court new modes of proceeding, and new principles of law, intends, in every inftance, to decide unjustly. Why should he where he has no interest? We say that Lord Mansfield is a bad man, and a worse judge; but we do not fay that he is a mere devil. Our adversaries would fain reduce us to the difficulty of proving too much. This artifice however shall not avail him. The truth of the matter is plainly this. When Lord Mansfield has fucceeded in his scheme of changing a court of common law to a court of equity, he will have it in his power to do injustice whenever he thinks proper. This, though a wicked purpose, is neither abfurd nor unattainable.

6. The last paragraph, relative to Lord Chatham's cause, cannot be answered. It partly refers to facts, of too secret a nature to be ascertained, and partly is unintelligible. 'Upon one point the cause is decided against Lord Chatham. Upon another point it is decided for him.' Both the law and the language are well suited to a Barrister! If I have any guess at this honest gentleman's mean-

ing, it is, that, 'whereas the Commissioners of the 'Great Seal saw the question in a point of view 'unfavourable to Lord Chatham, and decreed accordingly; Lord Mansfield, out of sheer love and 'kindness to Lord Chatham, took the pains to place 'it in a point of view more favourable to the appellant.' Credat Judæus Apella. So curious an affertion would stagger the faith of Mr. Sylva.



#### LETTER LXIV.

2 November 1771.

WE are defired to make the following declaration, in behalf of Junius, upon three material points, on which his opinion has been miftaken, or mifreprefented.

- 1. Junius confiders the right of taxing the colonies, by an act of the British Legislature, as a speculative right merely, never to be exerted, nor ever to be renounced. To his judgment it appears plain, 'That the general reasonings, which were em-'ployed against that power, went directly to our 'whole legislative right, and that one part of it 'could not be yielded to such arguments, without 'a virtual surrender of all the rest.'
  - 2. That, with regard to prefs-warrants, his argument should be taken in his own words, and answered strictly; that comparisons may sometimes illustrate, but prove nothing; and that, in this case, an appeal to the passions is unfair and unnecessary.

Junius feels and acknowledges the evil in the most express terms, and will shew himself ready to concur in any rational plan that may provide for the liberty of the individual, without hazarding the fafety of the community. At the fame time he expects that the evil, fuch as it is, be not exaggerated or misrepresented. In general, it is not unjust that, when the rich man contributes his wealth, the poor man should serve the state in person; otherwife the latter contributes nothing to the defence of that law and constitution from which he demands fafety and protection. But the question does not lie between rich and poor. The laws of England make no fuch diffinctions. Neither is it true that the poor man is torn from the care and support of a wife and family, helpless without him. The fingle question is, whether the feaman,q in times of public danger, shall ferve the merchant or the flate, in that profession to which he was bred, and by the exercise of which alone he can honestly support himself and his family. General arguments against the doctrine of necessity, and the dangerous use that may be made of it, are of no weight in this particular cafe. Necessity includes the idea of inevitable. Whenever it is fo, it creates a law, to which all positive laws and all positive rights must give way. In this sense the levy of ship-money by the King's warrant was not necesfary, because the business might have been as well or better done by Parliament. If the doctrine,

maintained by Junius, be confined within this limitation, it will go but very little way in support of arbitrary power. That the King is to judge of the occasion, is no objection, unless we are told how it can possibly be otherwise. There are other instances not less important in the exercise, nor less dangerous in the abuse, in which the constitution relies entirely upon the King's judgment. The executive power proclaims war and peace, binds the nation by treaties, orders general embargoes, and imposes quarantines, not to mention a multitude of prerogative writs, which, though liable to the greatest abuses, were never disputed.

3. It has been urged, as a reproach to Junius, that he has not delivered an opinion upon the Game Laws, and particularly the late Dog Act. But Junius thinks he has much greater reason to complain, that he is never affifted by those who are able to affift him, and that almost the whole labour of the press is thrown upon a fingle hand, from which a discussion of every public question whatsoever is unreasonably expected. He is not paid for his labour, and certainly has a right to choose his employment. As to the Game Laws, he never fcrupled to declare his opinion, that they are a species of the Forest Laws, that they are oppressive to the subject, and that the spirit of them is incompatible with legal liberty: that the penalties imposed by these laws bear no proportion to the nature of the offence, that the mode of trial and the degree and kind of evidence necessary to convict, not only deprive the fubject of all the benefits of a trial by jury, but are in themselves too summary, and to the last degree arbitrary and oppressive. That, in particular, the late acts to prevent dog-stealing, or killing game between fun and fun, are diftinguished by their abfurdity, extravagance, and pernicious tendency. If thefe terms are weak, or ambiguous, in what language can Junius express himself? It is no excuse for Lord Mansfield to say that he happened to be abfent when these bills passed the House of Lords. It was his duty to be present. Such bills could never have paffed the House of Commons without his knowledge. But we very well know by what rule he regulates his attendance. When that order was made in the House of Lords in the case of Lord Pomfret, at which every Englishman shudders, my honest Lord Mansfield found himfelf, by mere accident, in the Court of King's Bench. Otherwise he would have done wonders in defence of law and property! The pitiful evafion is adapted to the character. But Junius will never justify himself by the example of this bad man. The diffinction between doing wrong, and avoiding to do right, belongs to Lord Mansfield. Junius difclaims it.

## LETTER LXV.

TO

# LORD CHIEF JUSTICE MANSFIELD.

## 2 November 1771.

AT the intercession of three of your countrymen, you have bailed a man who, I prefume, is also a Scotchman, and whom the Lord Mayor of London had refused to bail. I do not mean to enter into an examination of the partial, finister motives of your conduct; but confining myfelf strictly to the fact, I affirm that you have done that which by law you were not warranted to do. The thief was taken in the theft, the ftolen goods were found upon him, and he made no defence. In these circumstances (the truth of which you dare not deny, because it is of public notoriety) it could not fland indifferent whether he was guilty or not, much less could there be any prefumption of his innocence; and in these circumstances I affirm, in contradiction to you, Lord Chief Justice Mansfield, that by the laws of England he was not

bailable. If ever Mr. Eyre should be brought to trial, we shall hear what you have to fay for your-felf; and I pledge myself, before God and my country, in proper time and place to make good my charge against you.

JUNIUS.



## LETTER LXVI.

TO

#### THE PRINTER OF THE PUBLIC ADVERTISER.

9 November 1771.

Junius engages to make good his charge against Lord Chief Justice Mansfield some time before the meeting of Parliament, in order that the House of Commons may, if they think proper, make it one article in the impeachment of the said Lord Chief Justice.



#### LETTER LXVII.

TO

## HIS GRACE THE DUKE OF GRAFTON.

27 November 1771.

WHAT is the reason, my Lord, that, when almost every man in the kingdom, without diffinction of principles or party, exults in the ridiculous defeat of Sir James Lowther, when good and bad men unite in one common opinion of that baronet, and triumph in his diffrefs, as if the event (without any reference to vice or virtue) were interesting to human nature, your Grace alone fhould appear fo miferably depressed and afflicted? In fuch univerfal joy, I know not where you will look for a compliment of condolence, unless you appeal to the tender, fympathetic forrows of Mr. Bradshaw. That cream-coloured gentleman's tears, affecting as they are, carry confolation along with them. He never weeps but like an April shower, with a lambent ray of funshine upon his counte-

From the feelings of honest men, upon this joyful occasion, I do not mean to draw any conclufion to your Grace. They naturally rejoice when they fee a fignal inftance of tyranny refifted with fuccess; of treachery exposed to the derision of the world: an infamous informer defeated, and an impudent robber dragged to the public gibbet. But in the other class of mankind, I own, I expected to meet the Duke of Grafton. Men who have no regard for justice, nor any sense of honour, seem as heartily pleafed with Sir James Lowther's well deferved punishment, as if it did not constitute an example against themselves. The unhappy Baronet has no friends, even among those who resemble him. You, my Lord, are not reduced to fo deplorable a state of dereliction. Every villain in the kingdom is your friend; and, in compliment to fuch amity, I think you should fuffer your dismal countenance to clear up. Befides, my Lord, I am a little anxious for the confiftency of your character. You violate your own rules of decorum when you do not infult the man whom you have betrayed.

The divine justice of retribution feems now to have begun its progrefs. Deliberate treachery entails punishment upon the traitor. There is no possibility of escaping it, even in the highest rank to which the consent of society can exalt the meanest and worst of men. The forced, unnatural union of Luttrell and Middlesex was an omen of another

unnatural union, by which indefeafible infamy is attached to the House of Brunswick. If one of those acts was virtuous and honourable, the best of princes, I thank God, is happily rewarded for it by the other. Your Grace, it has been said, had some share in recommending Colonel Luttrell to the King; or was it only the gentle Bradshaw who made himself answerable for the good behaviour of his friend? An intimate connexion has long subsisted between him and the worthy Lord Irnham. It arose from a fortunate similarity of principles, cemented by the constant mediation of their common friend Miss Davis."

Yet I confess I should be forry that the opprobrious infamy of this match should reach beyond the family. We have now a better reason than ever to pray for the long life of the best of princes, and the welfare of his royal issue. I will not mix any thing ominous with my prayers; but let Parliament look to it. A Luttrell shall never succeed to the crown of England. If the hereditary virtues of the family deserve a kingdom, Scotland will be a proper retreat for them.

The next is a most remarkable instance of the goodness of Providence. The just law of retaliation has at last overtaken the little, contemptible tyrant of the North. To this fon-in-law of your dearest friend the Earl of Bute, you meant to transfer the

Duke of Portland's property; and you hastened the grant, with an expedition unknown, to the Treafury, that he might have it time enough to give a decifive turn to the election for the county. The immediate consequence of this flagitious robbery was, that he loft the election, which you meant to infure to him, and with fuch fignal circumstances of fcorn, reproach, and infult (to fay nothing of the general exultation of all parties), as (excepting the King's brother-in-law, Col. Luttrell, and old Simon, his father-in-law) hardly ever fell upon a gentleman in this country. In the event he lofes the very property of which he thought he had gotten possession, and after an expence which would have paid the value of the land in question twenty times over. The forms of villainy, you fee, are necessary to its fuccefs. Hereafter you will act with greater circumfpection, and not drive fo directly to your object. To fnatch a grace, beyond the reach of common treachery, is an exception, not a rule.

And now, my good Lord, does not your confeious heart inform you, that the justice of retribution begins to operate, and that it may soon approach your person? Do you think that Junius has renounced the Middlesex election? Or that the King's timber shall be refused to the Royal Navy with impunity? Or that you shall hear no more of the sale of that patent to Mr. Hine which you endeavoured to skreen by suddenly dropping your prosecution of

Samuel Vaughan, when the rule against him was made absolute? I believe indeed there never was such an instance in all the history of negative impudence. But it shall not save you. The very sunshine you live in is a prelude to your dissolution. When you are ripe you shall be plucked.

# JUNIUS.

P. S. I beg you will convey to our gracious Master my humble congratulations upon the glorious success of peerages and pensions, so lavishly distributed as the rewards of Irish virtue.



## LETTER LXVIII.

TO

# LORD CHIEF JUSTICE MANSFIELD.

21 January 1772.

I HAVE undertaken to prove that when, at the intercession of three of your countrymen, you bailed John Eyre, you did that which by law you were not warranted to do, and that a felon, under the circumstances of being taken in the fact, with the stolen goods upon him, and making no defence, is not bailable by the laws of England. Your learned advocates have interpreted this charge into a denial that the Court of King's Bench, or the Judges of that Court during the vacation, have any greater authority to bail for criminal offences than a Justice of Peace. With the instance before me, I am supposed to question your power of doing wrong, and to deny the existence of a power at the same moment that I arraign the illegal exercise of it. But the opinions of fuch men, whether wilful in their malignity, or fincere in their ignorance, are unworthy of my notice. You, Lord Mansfield, did not understand me so, and, I promise you, your cause requires an abler defence. I am now to make good my charge against you. However dull my argument, the fubject of it is interesting. I shall be honoured with the attention of the public, and have a right to demand the attention of the legislature. Supported, as I am, by the whole body of the criminal law of England, I have no doubt of establishing my charge. If, on your part, you should have no plain, fubstantial defence, but should endeavour to shelter yourself under the quirk and evasion of a practifing lawyer, or under the mere infulting affertion of power without right, the reputation you pretend to is gone for ever; you ftand degraded from the respect and authority of your office, and are no longer de jure, Lord Chief Justice of England. This letter, my Lord, is addressed, not so much to you, as to the public. Learned as you are, and quick in apprehension, few arguments are necessary to fatisfy you, that you have done that which by law you were not warranted to do. Your conscience already tells you, that you have finned against knowledge, and that whatever defence you make contradicts your own internal conviction. But other men are willing enough to take the law upon truft. They rely upon your authority, because they are too indolent to fearch for information; or, conceiving that there is some mystery in the laws of their country, which lawyers are only qualified to explain,

they diftrust their judgment, and voluntarily renounce the right of thinking for themselves. With all the evidence of history before them, from Trefillian to Jefferies, from Jefferies to Manssield, they will not believe it possible that a learned judge can act in direct contradiction to those laws which he is supposed to have made the study of his life, and which he has sworn to administer faithfully. Superstition is certainly not the characteristic of this age. Yet some men are bigoted in politics who are insidels in religion. I do not despair of making them as a familiar them as a suppose of their credulity.

The charge I brought against you is expressed in terms guarded and well considered. They do not deny the strict power of the Judges of the Court of King's Bench to bail in cases, not bailable by a Justice of Peace, nor replevisable by the common writ, or ex officio by the Sherist. I well knew the practice of the Court, and by what legal rules it ought to be directed. But, far from meaning to soften or diminish the force of those terms I have made use of, I now go beyond them, and affirm,

1. That the superior power of bailing for felony, claimed by the Court of King's Bench, is founded upon the opinion of lawyers, and the practice of the Court; that the affent of the Legislature to this power is merely negative; and that it is not supported

by any positive provision in any statute whatsoever. If it be, produce the statute.

2. Admitting that the Judges of the Court of King's Bench are vefted with a difcretionary power to examine and judge of circumstances and allegations, which a justice of peace is not permitted to confider, I affirm that the judges, in the use and application of that difcretionary power, are as strictly bound by the spirit, intent, and meaning, as the justice of peace is by the words of the Legislature. Favourable circumftances, alledged before the judge, may justify a doubt whether the prisoner be guilty or not; and where the guilt is doubtful, a prefumption of innocence should, in general, be admitted. But, when any fuch probable circumstances are alledged, they alter the state and condition of the prifoner. He is no longer that all-but-convicted felon, whom the law intends, and who by law is not bailable at all. If no circumstances whatsoever are alledged in his favour; if no allegation whatfoever be made to leffen the force of that evidence which the law annexes to a positive charge of felony, and particularly to the fact of being taken with the ' maner,' I then fay that the Lord Chief Justice of England has no more right to bail him than a juftice of peace. The difcretion of an English judge is not of mere will and pleafure; it is not arbitrary; it is not capricious; but, as that great lawyer (whose authority I wish you respected half as much as I do) truly fays, 'Difcretion, taken as it ought to be, is, discernere per legem quid sit justum. If it be not directed by the right line of ' the law, it is a crooked cord, and appeareth to be ' unlawful.' If difcretion were arbitrary in the judge, he might introduce whatever novelties he thought proper; but, fays Lord Coke, ' Novelties, ' without warrant of precedents, are not to be al-' lowed; fome certain rules are to be followed; ' Quicquid judicis authoritati jubjicitur, novitati ' non fubjicitur;' and this found doctrine is applied to the Star-chamber, a court confessedly arbitrary. If you will abide by the authority of this great man, you shall have all the advantage of his opinion, wherever it appears to favour you. Excepting the plain express meaning of the Legislature, to which all private opinions must give way, I defire no better judge between us than Lord Coke.

3. I affirm that, according to the obvious, indifputable meaning of the Legislature, repeatedly expressed, a person positively charged with feloniously stealing and taken in flagrante delicto, with the stolen goods upon him, is not baliable. The law considers him as differing in nothing from a convict but in the form of conviction, and (whatever a corrupt judge may do) will accept of no security but the consinement of his body within four walls. I know it has been alledged in your favour, that you have often bailed for murders, rapes, and other ma-

nifest crimes. Without questioning the fact, I shall not admit that you are to be justified by your own example. If that were a protection to you, where is the crime that, as a judge, you might not now fecurely commit? But neither shall I suffer myself to be drawn afide from my prefent argument, nor you to profit by your own wrong. To prove the meaning and intent of the Legislature will require a minute and tedious deduction. To inveftigate a queftion of law demands fome labour and attention, though very little genius or fagacity. As a practical profession, the study of the law requires but a moderate portion of abilities. The learning of a pleader is usually upon a level with his integrity, The indifcriminate defence of right and wrong contracts the understanding, while it corrupts the heart. Subtlety is foon mistaken for wisdom, and impunity for virtue. If there be any inftances upon record, as fome there are undoubtedly, of genius and morality united in a lawyer, they are diftinguished by their fingularity, and operate as exceptions.

I must folicit the patience of my readers. This is no light matter, nor is it any more susceptible of ornament than the conduct of Lord Mansfield is capable of aggravation.

As the law of bail, in charges of felony, has been exactly afcertained by acts of the Legislature, it is at prefent of little confequence to inquire how it flood at common law before the flatute of Westminster. And yet it is worth the reader's attention to observe how nearly, in the ideas of our ancestors, the circumftance of 'being taken with the maner' approached to the conviction of the felon.8 It 'fix-' ed the authoritative stamp of verisimilitude upon ' the accufation, and by the common law, when a ' thief was taken with the maner (that is, with the ' thing stolen upon him, in manu) he might, so de-' tected flagrante delicto, be brought into court, ' arraigned, and tried, without indictment; as, by ' the Danish law, he might be taken and hanged ' upon the fpot, without accufation or trial.' It will foon appear that our ftatute in law, in this behalf, though less fummary in point of proceeding, is directed by the fame spirit. In one instance, the very form is adhered to. In offences relating to the forest, if a man was taken with vert, or t venison, it was declared to be equivalent to indictment. To enable the reader to judge for himfelf, I shall state, in due order, the feveral flatutes relative to bail in criminal cases, or as much of them as may be material to the point in question, omitting superfluous words. If I mifreprefent or do not quote with fidelity, it will not be difficult to detect me.

The "flatute of Westminster the first, in 1725, sets forth that, 'Forasmuch as Sheriffs and others, 'who have taken and kept in prison persons de'tected of felony, and incontinent, have left out by

replevin fuch as were not replevifable because they would gain of the one party and grieve the other; and, forafmuch as, before this time, it was onot determined which persons were replevisable ' and which not, it is provided and by the King ' commanded that fuch prisoners, &c. as be taken with the maner, &c. or for manifest offences, ' shall be in no wife replevisable by the common ' writ, nor without writ.'x Lord Coke, in his exposition of the last part of this quotation, accurately diffinguishes between replevy by the common writ or ex officio, and bail by the King's Bench. The words of the ftatute certainly do not extend to the judges of that court. But, befides that the reader will foon find reason to think that the Legislature, in their intention, made no difference between bailable and replevifable, Lord Coke himfelf (if he be understood to mean nothing but an exposition of the flatute of Westminster, and not to state the law generally) does not adhere to his own diffinction. In expounding the other offences which, by this statute, are declared 'not replevisable,' he constantly uses the words 'not bailable.' 'That outlaws, for ' inftance, are not bailable at all; that perfons, who ' have abjured the realm, are attainted upon their ' own confession, and therefore not bailable at all ' by law; that provers are not bailable; that noto-' rious felons are not bailable.' The reason why the fuperior courts were not named in the flatute of Westminster, was plainly this, ' because anci' ently most of the business touching bailment of ' prisoners for felony or misdemeanors was per-' formed by the Sheriffs, or special bailiffs of liberties, either by writ, or virtute officii; y confequently the fuperior courts had little or no opportunity to commit those abuses which the statute imputes to the Sheriffs. With fubmission to Doctor Blackstone, I think he has fallen into a contradiction which, in terms at least, appears irreconcileable. After enumerating feveral offences not bailable, he afferts, without any condition or limitation whatfoever, z 'all these are clearly not admissible to ' bail.' Yet in a few lines after he fays, 'it is agreed ' that the Court of King's Bench may bail for any ' crime whatfoever, according to circumflances of ' the case.' To his first proposition he should have added. 'by Sheriffs or Justices;' otherwise the two propositions contradict each other; with this difference however, that the first is absolute, the second limited by a confideration of circumstances. I say this without the least intended disrespect to the learned author. His work is of public utility, and should not hastily be condemned.

The flatute of 17 Richard II. cap. 10. 1393, fets forth, that 'forafmuch as thieves notoriously' defamed, and others taken with the maner, by their long abiding in prison, were delivered by charters, and savourable inquests procured, to the great hindrance of the people, two men of law

'fhall be affigned, in every commission of the 'peace, to proceed to the deliverance of such fe-'lons, &c.' It seems by this act, that there was a constant struggle between the Legislature and the officers of justice. Not daring to admit selons taken with the maner to bail or mainprize, they evaded the law by keeping the party in prison a long time, and then delivering him without due trial.

The statute of 1 Richard III. in 1483, sets forth, that 'forasmuch as divers persons have been daily arrested and imprisoned for suspicion of selony, fometime of malice, and sometime of a light suspicion, and so kept in prison without bail or maintrie, be it ordained that every justice of peace shall have authority, by his discretion, to let such prisoners and persons so arrested to bail or maintries. By this act it appears that there had been abuses in matter of imprisonment, and that the Legislature meant to provide for the immediate enlargement of persons arrested on light suspicion of felony.

The ftatute of 3 Henry VII. in 1486, declares, that 'under colour of the preceding act of Richard 'the Third, perfons, fuch as were not mainper'nable, were oftentimes let to bail or mainprife, by 
'justices of the peace, whereby many murderers and 
'felons escaped, the King, &c. hath ordained, that 
'the justices of the peace, or two of them at least

' (whereof one to be of the quorum), have authority to let any fuch prifoners or perfons, mainpernable by the law, to bail or mainprize.'

The flatute of 1st and 2d of Philip and Mary, in 1554, fets forth, that 'notwithstanding the pre-' ceding statute of Henry the Seventh, one justice of peace hath oftentimes, by finister labour and ' means, fet at large the greatest and notablest of-' fenders, fuch as be not replevifable by the laws of ' this realm, and yet, the rather to hide their affec-' tions in that behalf, have affigned the cause of ' their apprehension to be but only for suspicion of ' felony, whereby the faid offenders have escaped ' unpunished, and do daily, to the high displeasure of Almighty God, the great peril of the King and ' Queen's true fubjects, and encouragement of all ' thieves and evil-doers; for reformation whereof ' be it enacted, that no justices of peace shall let to ' bail or mainprize any fuch perfons which, for any ' offence by them committed, be declared not to be ' replevifed, or bailed, or be forbidden to be reple-' vised or bailed by the statute of Westminster the ' first; and furthermore that any persons arrested ' for manflaughter or felony, being bailable by the ' law, shall not be let to bail or mainprife, by any ' juffices of peace, but in the form therein after ' prefcribed.' In the two preceding statutes, the words bailable, replevifable, and mainpernable, are used synonymously, a or promiscuously, to express

the same single intention of the Legislature, viz. ' not to accept of any fecurity but the body of ' the offender;' and when the latter statute prefcribes the form in which perfons arrested on fuspicion of felony (being bailable by the law) may be let to bail, it evidently supposes that there are fome cases not bailable by the law. It may be thought, perhaps, that I attribute to the Legiflature an appearance of inaccuracy in the use of terms, merely to ferve my prefent purpofe. But, in truth, it would make more forcibly for my argument to prefume that the Legislature were conftantly aware of the first legal diffinction between bail and replevy, and that they always meant to adhere to it. b For if it be true that replevy is by the Sheriffs, and bail by the higher courts at Westminster (which I think no lawyer will deny), it follows that, when the Legislature expressly fay, that any particular offence is by law not bailable, the fuperior courts are comprehended in the prohibition, and bound by it. Otherwise, unless there was a positive exception of the fuperior courts (which I affirm there never was in any flatute relative to bail), the Legislature would grossly contradict themselves, and the manifest intention of the law be evaded. It is an established rule that, when the law is special, and reason of it general, it is to be generally understood; and though, by custom, a latitude be allowed to the Court of King's Bench (to confider circumstances inductive of a doubt whether the prifoner be guilty or innocent), if this latitude be taken as an arbitrary power to bail, when no circumftances whatfoever are alledged in favour of the prifoner, it is a power without right, and a daring violation of the whole English law of bail.

The act of the 31ft of Charles the Second (commonly called the Habeas Corpus act) particularly declares, that it is not meant to extend to treason or felony plainly and specially expressed in the warrant of commitment. The prifoner is therefore left to feek his Habeas Corpus at common law; and fo far was the Legislature from supposing that persons (committed for treason or felony plainly and specially expressed in the warrant of commitment) could be let to bail by a fingle judge or by the whole court, that this very act provides a remedy for fuch persons in case they are not indicted in the course of the term or fession subsequent to their commitment. The law neither fuffers them to be enlarged before trial, nor to be imprisoned after the time, in which they ought regularly to be tried. In this cafe the law fays, 'It shall and may be lawful to and for ' the judges of the Court of King's Bench and juf-' tices of over and terminer, or general gaol delivery, ' and they are hereby required, upon motion to them ' made in open court, the last day of the term, ' fession, or gaol delivery, either by the prisoner or ' any one in his behalf, to fet at liberty the prisoner ' upon bail; unless it appear to the judges and jus-

' tices, upon oath made, that the witnesses for the King could not be produced the fame term, fef-' fions, or gaol delivery.' Upon the whole of this article I observe, 1. That the provision made in the first part of it, would be in a great measure useless and nugatory, if any fingle judge might have bailed the prisoner ex arbitrio during the vacation; or if the court might have bailed him immediately after the commencement of the term or fessions. 2. When the law fays, It shall and may be lawful to bail for felony under particular circumstances, we must prefume that, before the passing of that act, it was not lawful to bail under those circumstances. The terms used by the Legislature are enacting, not declaratory. 3. Notwithstanding the party may have been imprisoned during the greatest part of the vacation, and during the whole fession, the court are exprefsly forbidden to bail him from that fession to the next, if oath be made that the witnesses for the King could not be produced that fame term or fessions.

Having faithfully flated the feveral acts of Parliament relative to bail in criminal cafes, it may be useful to the reader to take a fhort historical review of the law of bail, through its various gradations and improvements.

By the ancient common law, before and fince the conqueft, all felonies were bailable, till murder was excepted by ftatute, fo that perfons might be be admitted to bail, before conviction, almost in every case. The statute of Westminster says that, before that time, it had not been determined which offences were replevifable, and which were not, whether by the common writ de homine replegiando, or ex officio by the Sheriff. It is very remarkable that the abuses arising from this unlimited power of replevy, dreadful as they were, and deftructive to the peace of fociety, were not corrected or taken notice of by the Legislature until the commons of the kingdom had obtained a share in it by their representatives; but the House of Commons had fcarce begun to exist, when these formidable abuses were corrected by the statute of Westminster. It is highly probable that the mischief had-been severely felt by the people, although no remedy had been provided for it by the Norman Kings or Barons. 'The c iniquity of the times was fo great, ' as it even forced the fubjects to forego that which ' was in account a great liberty, to stop the course "of a growing mischief." The preamble to the flatutes made by the first parliament of Edward the First, assigns the reason of calling it, 'because d the ' people had been otherwise entreated than they ought to be, the peace less kept, the laws less ' used, and offenders less punished, than they ought ' to be, by reason whereof the people feared less to offend; and the first attempt to reform these various abuses was by contracting the power of replevying felons.

For above two centuries following it does not appear that any alteration was made in the law of bail, except that being taken with vert or venifon was declared to be equivalent to indictment. The Legislature adhered firmly to the spirit of the statute of Westminster. The statute of 27th of Edward the First directs the justices of affize to inquire and punish officers bailing fuch as were not bailable. As for the judges of the fuperior courts, it is probable that, in those days, they thought themselves bound by the obvious intent and meaning of the Legislature. They confidered not fo much to what particular perfons the prohibition was addressed, as what the thing was which the Legislature meant to prohibit, well knowing that in law, quando aliquid prohibetur, prohibetur et omne, per quod devenitur, ad illud. 'When any thing is forbidden, all ' the means by which the fame thing may be com-' paffed or done, are equally forbidden.'

By the flatute of Richard the Third the power of bailing was a little enlarged. Every juffice of peace was authorifed to bail for felony; but they were expressly confined to persons arrested on light suspicion; and even this power, so limited, was found to produce such inconveniences that, in three years after, the Legislature sound it necessary to re-

peal it. Inflead of trufting any longer to a fingle juffice of peace, the act of 3 Henry VII. repeals the preceding act, and directs ' that no prisoner ' (of those who are mainpernable by the law) shall be let to bail or mainprife, by lefs than two ' justices, whereof one to be of the quorum.' And fo indifpenfably necessary was this provision thought for the administration of justice, and for the security and peace of fociety, that, at this time, an oath was proposed by the King to be taken by the knights and efquires of his household, by the members of the House of Commons, and by the peers spiritual and temporal, and accepted and fworn to quafi una voce by them all, which, among other engagements, bind them ' not to let any man to bail or mainprife, knowing and deeming him to be a felon, upon ' your honour and worship. So help you God and all faints.

In about half a century however even these provisions were found insufficient. The act of Henry the Seventh was evaded, and the Legislature once more obliged to interpose. The act of 1st and 2d of Philip and Mary takes away entirely from the justices all power of bailing for offences declared not bailable by the statute of Westminster.

The illegal imprisonment of several persons who had refused to contribute to a loan exacted by Charles the First, and the delay of the Habeas Cor-

pus and fubfequent refufal to bail them, conftituted one of the first and most important grievances of that reign. Yet when the House of Commons, which met in the year 1628, refolved upon meafures of the most firm and strenuous resistance to the power of imprisonment assumed by the King or Privy Council, and to the refufal to bail the party on the return of the Habeas Corpus, they did exprefsly, in all their refolutions, make an exception of commitments where the cause of the restraint was expressed, and did by law justify the commitment. The reason of the distinction is, that, whereas when the cause of commitment is expressed, the · crime is then known, and the offender must be brought to the ordinary trial; if, on the contrary, no cause of commitment be expressed, and the prifoner be thereupon remanded, it may operate to perpetual imprisonment. This contest with Charles the First produced the act of the 16th of that King, by which the Court of King's Bench are directed, within three days after the return to the Habeas Corpus, to examine and determine the legality of any commitment by the King or Privy Council, and to do what to justice shall appertain in delivering, bailing, or remanding the prisoner. Now, it seems, it is unneceffary for the Judge to do what appertains to justice. The fame fcandalous traffic, in which we have feen the privilege of parliament exerted or relaxed, to gratify the prefent humour, or to ferve the immediate purpose of the Crown, is introduced

into the administration of justice. The magistrate, it seems, has now no rule to follow but the dictates of personal enmity, national partiality, or perhaps the most profituted corruption.

To complete this historical inquiry, it only remains to be observed, that the Habeas Corpus act of the 31st of Charles the Second, so justly considered as another Magna Charta f of the kingdom, ' extends only to the case of commitments for such ' criminal charge as can produce no inconvenience ' to public justice by a temporary enlargement of ' the prisoner.' So careful were the Legislature, at the very moment when they were providing for the liberty of the fubject, not to furnish any colour or pretence for violating or evading the established law of bail in the higher criminal offences. But the exception stated in the body of the act puts the matter out of all doubt. After directing the judges how they are to proceed to the discharge of the prisoner upon recognisance and surety, having regard to the quality of the prisoner and nature of the offence, it is expressly added, 'unless it shall appear ' to the faid Lord Chancellor, &c. that the party ' fo committed is detained for fuch matters, or of-' fences, for the which, by the law, the prisoner is " not bailable."

When the laws, plain of themselves, are thus illustrated by facts, and their uniform meaning es-

tablished by history, we do not want the authority of opinions, however respectable, to inform our judgment, or to confirm our belief. But I am determined that you shall have no escape. Authority of every fort shall be produced against you, from Jacob to Lord Coke, from the dictionary to the classic. In vain shall you appeal from those upright judges whom you disdain to imitate, to those whom you have made your example. With one voice they all condemn you.

'To be taken with the maner is where a thief, having flolen any thing, is taken with the fame about him, as it were in his hands, which is called flagrante delicto. Such a criminal is not bailable by law.'—Jacob under the word Maner.

'Those who are taken with the maner are ex-'cluded by the statute of Westminster from the 'benefit of a replevin.'—Hawkins, P. C. 2. 98.

' Of fuch heinous offences no one who is noto-'rioufly guilty feems to be bailable by the intent' of this flatute.'—Ditto, 2. 99.

'The common practice and allowed general rule is, that bail is only then proper where it flands indifferent whether the party were guilty or innocent.'—Ditto, ditto.

P

'There is no doubt but that the bailing of a person who is not bailable by law, is punishable either at common law as a negligent escape, or as an offence against the several statutes relative to bail.' Ditto, 89.

'It cannot be doubted but that neither the judges of this, nor of any other fuperior court of juffice, are strictly within the purview of that ftatute, yet they will always, in their discretion, pay a due regard to it, and not admit a person to bail who is expressly declared by it irreplevisable, without some particular circumstance in his favour; and therefore it seems difficult to find an instance where persons attainted of selony, or notoriously guilty of treason or manslaughter, &c. by their own confession, or otherwise, have been admitted to the benefit of bail, without some special motive to the court to grant it.'—Ditto 114.

' If it appears that any man hath injury or wrong by his imprisonment, we have power to deliver and discharge him; if otherwise, he is to be remanded by us to prison again.—Lord Ch. J. Hyde: State Trials. 7. 115.

' The statute of Westminster was especially for direction to the Sheriffs and others; but to say courts of justice are excluded from this statute, I

\* conceive it cannot be.'—Attorney General Heath. Ditto, 132.

'The court, upon view of the return, judgeth of the fufficiency or infufficiency of it. If they think the prisoner in law to be bailable, he is committed to the Marshal, and bailed; if not, he is remanded.—Through the whole debate the objection, on the part of the prisoners, was, that no cause of commitment was expressed in the warrant; but it was uniformly admitted by their counsel, that if the cause of commitment had been expressed for treason or felony, the court would then have done right in remanding them.

The Attorney General having urged, before a committee of both Houses, that, in Beckwith's case and others, the Lords of the Council sent a letter to the Court of King's Bench to bail, it was replied by the managers of the House of Commons, that this was of no moment, 'for that either the 'prisoner was bailable by the law, or not bailable; 'if bailable by the law, then he was to be bailed 'without any such letter; if not bailable by the law, then plainly the judges could not have bailed him upon the letter, without breach of their oath, 'which is, that they are to do justice according to the law, &c.'—State Trials. 7. 175.

<sup>&#</sup>x27; So that, in bailing upon fuch offences of the

' highest nature, a kind of discretion, rather than a ' constant law, hath been exercised, when it stands ' wholly indifferent in the eye of the court, whether the prisoner be guilty or not.'—Selden. St. Tr. 7, 230, 1.

'I deny that a man is always bailable when imprisonment is imposed upon him for custody.' Attorney General Heath. ditto 238.—By these quotations from the State Trials, though otherwise not of authority, it appears plainly, that, in regard to bailable or not bailable, all parties agreed in admiting one proposition as incontrovertible.

'In relation to capital offences there are espe-'cially these acts of Parliament that are the com-'mon landmarks touching offences bailable or not bailable.' Hale 2. P. C. 127.—The enumeration includes the several acts cited in this paper.

'Persons taken with the manouvre are not bailable, because it is furtum manifestum.'—Hale 2. P. C. 133.

'The writ of Habeas Corpus is of a high nature; for if persons be wrongfully committed, they are to be discharged upon this writ returned; or, if bailable, they are to be bailed; if not bailable, they are to be committed. Hale 2. P. C. 143.—This doctrine of Lord Chief Justice Hale refers immediately to the superior courts from whence the writ issues. 'After the return is filed, the court ' is either to discharge, or bail, or commit him, as ' the nature of the case requires.'—Hale 2. P. C. 146.

- ' If bail be granted otherwise than the law al' loweth, the party that alloweth the same shall be
  ' fined, imprisoned, render damages, or forfeit his
  ' place, as the case shall require.'—Selden by N.
  Bacon. 182.
- 'This induces an abfolute necessity of expressing, upon every commitment, the reasons for which it is made; that the court, upon a Habeas Corpus, may examine into its validity, and, according to the circumstances of the case, may discharge, admit to bail, or remand the prisoner.' Blackstone. 3. 133.
- 'Marriot was committed for forging indorfe'ments upon bank bills, and upon a Habeas Cor'pus was bailed, because the crime was only a great
  'misdemeanor; for though the forging the bills be
  'felony, yet forging the indorsement is not.'—Salkeld. 1. 104.
- ' Appell de Mahem, &c. ideo ne fuit lesse a baille, nient plus que in appell de robbery ou mur-

- ' der; quod nota, et que in robry et murder le par-' tie n'est baillable.'—Bro. Mainprise. 67.
  - 'The intendment of the law in bails is, quod
  - fat indifferenter whether he be guilty or no; but
- when he is convicted by verdict or confession, then
- ' he must be deemed in law to be guilty of the fe-
- ' lony, and therefore not bailable at all.'—Coke 2: Inft. 188.—4. 178.
- 'Bail is quando flat indifferenter, and not when the offence is open and manifest.'—2. Inst. 189.
- ' In this case non stat indifferenter whether he be guilty or no, being taken with the maner, that is, with the thing stolen, as it were in his hand.' Ditto, ditto.
- 'If it appeareth that this imprisonment be just and lawful, he shall be remanded to the former gaoler; but if it shall appear to the court that he was imprisoned against the law of the land, they ought, by force of this statute, to deliver him; if it be doubtful, and under consideration, he may be bailed.—2 Inst. 55.

It is unneceffary to load the reader with any farther quotations. If these authorities are not deemed sufficient to establish the doctrine maintained in this paper, it will be in vain to appeal to the evidence of law books, or to the opinions of judges. They are not the authorities by which Lord Mansfield will abide. He affumes an arbitrary power of doing right; and if he does wrong, it lies only between God and his confcience.

Now, my Lord, although I have great faith in the preceding argument, I will not fay that every minute part of it is abfolutely invulnerable. I am too well acquainted with the practice of a certain court, directed by your example, as it is governed by your authority, to think there ever yet was an argument, however conformable to law and reason, in which a cunning quibbling attorney might not difcover a flaw. But, taking the whole of it together, I affirm that it constitutes a mass of demonstration, than which nothing more complete or fatisfactory can be offered to the human mind. How an evafive, indirect reply will ftand with your reputation, or how far it will answer in point of defence at the bar of the House of Lords, is worth your consideration. If, after all that has been faid, it should still be maintained, that the Court of King's Bench in bailing felons, are exempted from all legal rules whatfoever, and that the judge has no direction to purfue but his private affections, or more unqueftionable will and pleafure, it will follow plainly, that the diffinction between bailable and not bailable, uniformly expressed by the Legislature, current through all our law books, and admitted by all our great lawyers without exception, is in one fense a nugatory, in another a pernicious distinction. It is nugatory, as it supposes a difference in the bailable quality of offences, when, in effect, the distinction refers only to the rank of the magistrate. It is pernicious, as it implies a rule of law which yet the judge is not bound to pay the least regard to, and impresses an idea upon the minds of the people, that the judge is wifer and greater than the law.

It remains only to apply the law, thus stated, to the fact in question. By an authentic copy of the mittimus, it appears that John Eyre was committed for felony, plainly and specially expressed in the warrant of commitment. He was charged before Alderman Halifax by the oath of Thomas Fielding, William Holder, William Payne, and William Nash, for feloniously stealing eleven quires of writingpaper, value fix shillings, the property of Thomas Beach, &c. By the examinations, upon oath, of the four persons mentioned in the mittimus, it was proved, that large quantities of paper had been miffed, and that eleven quires (previously marked from a fuspicion that Eyre was the thief) were found upon him. Many other quires of paper, marked in the fame manner, were found at his lodgings; and after he had been fome time in Wood-ftreet Compter, a key was found in his room there, which appeared to be a key to the closet at Guildhall, from whence the paper was ftolen. When asked what he

had to fay in his defence, his only answer was, 'I ' hope you will bail me.' Mr. Holder, the clerk, replied, 'That is impossible. There never was an infrance of it when the stolen goods were found upon ' the thief.' The Lord Mayor was then applied to. and refused to bail him. Of all these circumstances it was your duty to have informed yourfelf minutely. The fact was remarkable, and the chief magistrate of the city of London was known to have refused to bail the offender. To justify your compliance with the folicitations of your three countrymen, it should be proved that such allegations were offered to you, in behalf of their affociate, as honeftly and bona fide reduced it to a matter of doubt and indifference whether the prisoner was innocent or guilty. Was any thing offered by the Scotch triumvirate that tended to invalidate the positive charge made against him by four credible witnesses upon oath? Was it even infinuated to you, either by himself or his bail, that no felony was committed; or that he was not the felon; that the stolen goods were not found upon him; or that he was only the receiver, not knowing them to be stolen? Or, in fhort, did they attempt to produce any evidence of his infanity? To all these questious I answer for you, without the least fear of contradiction, positively No. From the moment he was arrested he never entertained any hope of acquittal, therefore thought of nothing but obtaining bail, that he might have time to fettle his affairs, convey his for-

tune into another country, and fpend the remainder of his life in comfort and affluence abroad. In this prudential scheme of future happiness the Lord Chief Justice of England most readily and heartily concurred. At fight of fo much virtue in diffress, your natural benevolence took the alarm. Such a man as Mr. Eyre, struggling with adversity, must always be an interesting scene to Lord Mansfield. Or was it that liberal auxiety by which your whole life has been distinguished, to enlarge the liberty of the fubject? My Lord, we did not want this new instance of the liberality of your principles. We already knew what kind of fubjects they were for whose liberty you were anxious. At all events, the public are much indebted to you for fixing a price at which felony may be committed with impunity, You bound a felon, notoriously worth thirty thoufand pounds, in the fum of three hundred. With your natural turn to equity, and knowing, as you are, in the doctrine of precedents, you undoubtedly meant to fettle the proportion between the fortune of the felon and the fine by which he may compound for his felony. The ratio now upon record, and transmitted to posterity under the auspices of Lord Mansfield, is exactly one to a hundred. My Lord, without intending it, you have laid a cruel reftraint upon the genius of your countrymen. In the warmest indulgence of their passions they have an eye to the expence, and if their other virtues fail us, we have a refource in their economy.

By taking fo trifling a fecurity from John Eyre, you invited and manifeftly exhorted him to escape. Although, in bailable cases, it be usual to take four fecurities, you left him in the custody of three Scotchmen, whom he might have eafily fatisfied for conniving at his retreat. That he did not make use of the opportunity you industriously gave him, neither justifies your conduct, nor can it be any way accounted for but by his excessive and monstrous avarice. Any other man but this bosom friend of three Scotchmen, would gladly have facrificed a few hundred pounds, rather than to fubmit to the infamy of pleading guilty in open court. It is possible indeed that he might have flattered himfelf, and not unreasonably, with the hopes of a pardon. That he would have been pardoned feems more than probable, if I had not directed the public attention to the leading step you took in favour of him. In the prefent gentle reign we well know what use has been made of the lenity of the court and of the mercy of the Crown. The Lord Chief Justice of England accepts of the hundredth part of the property of a felon taken in the fact, as a recognizance for his appearance. Your brother Smythe brow-beats a jury, and forces them to alter their verdict, by which they had found a Scotch ferjeant guilty of murder; and though the Kennedies were convicted of a most deliberate and atrocious murder, they still had a claim to the royal mercy. They were faved by the chaftity of their connexions. They had a fifter;

yet it was not her beauty, but the pliancy of her virtue, that recommended her to the King. The holy Author of our religion was feen in the company of finners; but it was his gracious purpose to convert them from their fins. Another man, who in the ceremonies of our faith might give lessons to the great enemy of it, upon different principles keeps much the same company. He advertises for patients, collects all the diseases of the heart, and turns a royal palace into an hospital for incurables. A man of honour has no ticket of admission at St. James's. They receive him like a virgin at the Magdalen's; 'Go thou and do likewise.'

My charge against you is now made good. I shall however be ready to answer or to submit to fair objections. If, whenever this matter shall be agitated, you fuffer the doors of the House of Lords to be flut, I now protest, that I shall consider you as having made no reply. From that moment, in the opinion of the world, you will fland felf-convicted. Whether your reply be quibbling and evafive, or liberal and in point, will be matter for the judgment of your Peers; but if, when every possible idea of difrespect to that noble House (in whose honour and justice the nation implicitly confides) is here most folemnly disclaimed, you should endeavour to represent this charge as a contempt of their authority, and move their Lordships to censure the publisher of this paper, I then affirm that you support injustice by violence, that you are guilty of a heinous aggravation of your offence, and that you contribute your utmost influence to promote, on the part of the highest court of judicature, a positive denial of justice to the nation.

JUNIUS.



## LETTER LXIX

TO

## THE RIGHT HONOURABLE LORD CAMDEN.

MY LORD,

I TURN with pleasure from that barren waste in which no falutary plant takes root, no verdure quickens, to a character fertile, as I willingly believe, in every great and good qualification. I call you, in the name of the English nation, to fland forth in defence of the laws of your country, and to exert, in the cause of truth and justice, those great abilities with which you were intrusted for the benefit of mankind. To afcertain the facts fet forth in the preceding paper, it may be necessary to call the persons mentioned in the mittimus to the bar of the House of Lords. If a motion for that purpose should be rejected, we shall know what to think of Lord Mansfield's innocence. The legal argument is fubmitted to your Lordship's judgment. After the noble stand you made against Lord Mansfield upon the question of libel, we did expect that you would not have fuffered that matter to have remained undetermined. But it was faid that Lord Chief Justice Wilmot had been prevailed upon to vouch for an opinion of the late Judge Yates, which was supposed to make against you; and we admit of the excuse. When such detestable arts are employed to prejudge a question of right, it might have been imprudent, at that time, to have brought it to a decision. In the prefent instance you will have no fuch opposition to contend with. If there be a judge, or a lawyer of any note in Westminster Hall, who shall be daring enough to affirm that, according to the true intendment of the laws of England, a felon, taken with the maner, in flagranti delicto, is bailable; or that the difcretion of an English judge is merely arbitrary, and not governed by rules of law, I should be glad to be acquainted with him. Whoever he be, I will take care that he shall not give you much trouble. Your Lordship's character affures me that you will affume that principal part which belongs to you, in supporting the laws of England against a wicked judge, who makes it the occupation of his life to mifinterpret and pervert them. If you decline this honourable office, I fear it will be faid that, for fome months past, you have kept too much company with the Duke of Grafton. When the contest turns upon the interpretation of the laws, you cannot, without a formal furrender of all your reputation, yield the post of honour even to Lord Chatham. Confidering the fituation and abilities of Lord Mansfield, I do not feruple to affirm, with the most solemn appeal to God for my sincerity, that, in my judgment, he is the very worst and most dangerous man in the kingdom. Thus far I have done my duty in endeavouring to bring him to punishment. But mine is an inferior, ministerial office in the temple of justice. I have bound the victim, and dragged him to the altar.

JUNIUS.



The Reverend Mr. John Horne having, with his ufual veracity and honest industry, circulated a report that Junius, in a letter to the Supporters of the Bill of Rights, had warmly declared himself in favour of long parliaments and rotten boroughs, it is thought necessary to submit to the public the following extract from his letter to John Wilkes, Esq. dated the 7th of September 1771, and laid before the society on the 24th of the same month.

With regard to the feveral articles, taken feparately, I own I am concerned to fee that the
great condition, which ought to be the fine qua
non of parliamentary qualification, which ought
to be the basis (as it affuredly will be the only
support) of every barrier raised in defence of the
constitution, I mean a declaration upon oath to
shorten the duration of parliaments, is reduced to
the fourth rank in the esteem of the society; and,
even in that place, far from being insisted on with
simmes and vehemence, seems to have been par-

' ticularly flighted in the expression-" You shall " endeavour to restore annual parliaments!" Are these the terms which men who are in earnest ' make use of when the salus reipublicæ is at stake! ' I expected other language from Mr. Wilkes. Be-' fides my objection in point of form, I disapprove ' highly of the meaning of the fourth article as it flands. Whenever the question shall be feriously ' agitated, I will endeavour (and if I live will ' affuredly attempt it) to convince the English ' nation, by arguments to my understanding un-' answerable, that they ought to insift upon a tri-' ennial, and banish the idea of an annual parliament..... I am convinced that, if ' shortening the duration of parliaments (which in ' effect is keeping the representative under the rod of ' the constituent) be not made the basis of our new ' parliamentary jurisprudence, other checks or im-' provements fignify nothing. On the contrary, if ' this be made the foundation, other measures may ' come in aid, and, as auxiliaries, be of confiderable ' advantage: Lord Chatham's project, for inftance, of increasing the number of knights of shires, ap-' pears to me admirable. . . . . As to cutting ' away the rotten boroughs, I am as much offended ' as any man at feeing fo many of them under the ' direct influence of the Crown, or at the disposal of private persons Yet, I own, I have both doubts and apprehensions in regard to the remedy

vou propose. I shall be charged perhaps with an ' unufual want of political intrepidity when I ho-' neftly confess to you, that I am startled at the ' idea of fo extensive an amputation. In the first ' place, I question the power, de jure, of the Legis-' lature to disfranchife a number of boroughs, upon ' the general ground of improving the constitution. 'There cannot be a doctrine more fatal to the li-' berty and property we are contending for, than ' that which confounds the idea of a fupreme and ' an arbitrary Legislature. I need not point out to ' you the fatal purposes to which it has been, and ' may be applied. If we are fincere in the political ' creed we profess, there are many things which we ought to affirm cannot be done by King, ' Lords, and Commons. Among these I reckon the ' disfranchifing of boroughs with a general view of ' improvement. I confider it as equivalent to rob-' bing the parties concerned of their freehold, of ' their birth-right. I fay that, although this birthright may be forfeited, or the exercise of it suf-' pended in particular cases, it cannot be taken ' away, by a general law, for any real or pretended ' purpose of improving the constitution. Suppos-' ing the attempt made, I am perfuaded you canonot mean that either King, or Lords, should take an active part in it. A bill, which only touches ' the reprefentation of the people, must originate in ' the House of Commons. In the formation and

mode of passing it, the exclusive right of the ' Commons must be afferted as scrupulously as in ' the cafe of a money-bill. Now, Sir, I should be ' glad to know by what kind of reasoning it can ' be proved that there is a power vefted in the re-' presentative to destroy his immediate constituent. ' From whence could he possibly derive it? A cour-' tier, I know, will be ready to maintain the affirm-' ative. The doctrine fuits him exactly, because it ' gives an unlimited operation to the influence of ' the Crown. But we, Mr. Wilkes, ought to hold ' a different language. It is no answer to me to ' fay, that the bill, when it paffes the House of ' Commons, is the act of the majority, and not the ' reprefentatives of the particular boroughs con-' cerned. If the majority can disfranchise ten bo-' roughs, why not twenty, why not the whole king-' dom? Why should not they make their own feats ' in parliament for life? When the feptennial act ' paffed, the Legislature did what apparently and ' palpably they had no power to do; but they did ' more than people in general were aware of: they, ' in effect, disfranchifed the whole kingdom for ' four years.

'For argument's fake, I will now suppose that the expediency of the measure, and the power of parliament, are unquestionable. Still you will find an infurmountable difficulty in the execution. When all your inftruments of amputation are ' prepared, when the unhappy patient lies bound at your feet, without the possibility of resistance, by what infallible rule will you direct the opera-' tion? When you propose to cut away the rotten parts, can you tell us what parts are perfectly ' found? Are there any certain limits, in fact or ' theory, to inform you at what point you must flop, at what point the mortification ends? To a ' man fo capable of observation and reflection as ' you are, it is unnecessary to fay all that might be ' faid upon the fubject. Befides that I approve highly of Lord Chatham's idea of infufing a portion of ' new health into the constitution to enable it to ' bear its infirmities (a brilliant expression, and full of intrinsic wisdom), other reasons occur in per-' fuading me to adopt it. I have no objection,' &c.

The man who fairly and completely answers this argument, shall have my thanks and my applause. My heart is already with him. I am ready to be converted. I admire his morality, and would gladly subscribe to the articles of his faith. Grateful as I am to the GOOD BEING whose bounty has imparted to me this reasoning intellect, whatever it is, I hold myself proportionably indebted to him from whose enlightened understanding another ray of knowledge communicates to mine. But neither should I think the most exalted faculties of the human mind a gift

worthy of the divinity, nor any affiftance in the improvement of them, a fubject of gratitude to my fellow creature, if I were not fatisfied, that really to inform the understanding corrects and enlarges the heart.

JUNIUS.



## NOTES

TO THE

## SECOND VOLUME.

a (p. 9.) WHEN his Majesty had done reading his speech, the Lord Mayor, &c. had the honour of kissing his Majesty's hand; after which, as they were withdrawing, his Majesty instantly turned round to his courtiers, and burst out a laughing.

Nero fiddled, while Rome was burning. JOHN HORNE.

- b This graceful minister is oddly constructed. His tongue is a little too big for his mouth, and his eyes a great deal too big for their sockets. Every part of his person sets natural proportion at defiance. At this present writing his head is supposed to be much too heavy for his shoulders.
- About this time the courtiers talked of nothing but a bill of pains and penalties against the Lord Mayor and Sheriffs, or impeachment at the least. Little Mannikin Ellis told the King that, if the business were left to his management, he would engage to do wonders. It was thought very odd that a motion of so much importance should be entrusted to the most contemptible little piece of machinery in the whole kingdom. His honest zeal however was disappointed. The minister took fright, and at the very instant that little Ellis was going to open, sent him an order to fit down. All

their magnanimous threats ended in a ridiculous vote of cenfure, and a ftill more ridiculous addrefs to the King.

- <sup>1</sup> d Every true friend of the House of Brunswick sees, with affliction, how rapidly some of the principal branches of the family have dropped off.
- This extravagant refolution appears in the votes of the Houfe; but, in the minutes of the committees, the infrances of refolutions contrary to law and truth, or of refufals to acknowledge law and truth when proposed to them, are innumerable.
- f When it was a measure of government to destroy Mr. Wilkes, and when for this purpose it was necessary to run down privilege, Sir Fletcher Norton, with his usual profittuted effrontery, assured the House of Commons, that he should regard one of their votes no more than a resolution of so many drunken porters. This is the very lawyer whom Ben Jonson describes in the following lines:
  - Gives forked counfel; takes provoking gold,
  - On either hand, and puts it up.
  - ' So wife, fo grave, of fo perplex'd a tongue,
  - And loud withal, that would not wag, nor scarce
  - ' Lie still without a fee.'
- <sup>2</sup> The man who refifts and overcomes this iniquitous power affumed by the Lords, must be supported by the whole people. We have the laws of our fide, and want nothing but an intrepid leader. When such a man stands forth, let the nation look to it. It is not his cause, but our own.
- The examination of this firm, honeft man, is printed for Alamon. The reader will find it a most curious, and a most interesting tract. Doctor Musgrave, with no other support but truth, and his own firmness, resisted and overcame the whole House of Commons.

- 4 An ignorant, mercenary, and fervile crew; unanimous in evil, diligent in mischief, variable in principles, constant to slattery, talkers for liberty, but slaves to power; styling themselves the court party, and the prince's only friends.'—Davenant.
- k Miss Kennedy; her brothers were condemned for the murder of a watchman. The interest of her paramours procured them a pardon.
- <sup>1</sup> He now fays that his great object is the rank of Colonel, and that he will have it.
- m This infamous transaction ought to be explained to the public. Colonel Gisborne was Quarter-Mafter-General in Ireland. Lord Townshend persuades him to resign to a Scotch officer, one Fraser, and gives him the government of Kinsale. Colonel Cuninghame was Adjutant-General in Ireland. Lord Townshend offers him a pension, to induce him to resign to Luttrell. Cuninghame treats the offer with contempt. What's to be done? poor Gisborne must move once more. He accepts of a pension of 500l. a year, until a government of greater value shall become vacant. Colonel Cuninghame is made Governor of Kinsale; and Luttrell, at last, for whom the whole machinery is put in motion, becomes Adjutant-general, and in effect takes the command of the army in Ireland.
- n This man was always a rank Jacobite. Lord Ravensworth produced the most satisfactory evidence of his having frequently drank the Pretender's health upon his knees.
- Confidential Secretary to the late Pretender. This circumfrance confirmed the friend/hip between the brothers.
  - P The oppression of an obscure individual gave birth to the fa-

mous Habeas Corpus Act of 31 Car. 2. which is frequently confidered as another Magna Charta of the kingdom.

Blackstone, iii. 135.

- 1 Bingley was committed for contempt in not submitting to be examined. He lay in prison two years, until the Crown thought the matter might occasion some serious complaint, and therefore he was let out, in the same contumelious state he had been put in, with all his sins about him, unanointed and unannealed. There was much coquetry between the Court and the Attorney General about who should undergo the ridicule of letting him escape.—Vide another Letter to Almon, p. 189.
- <sup>2</sup> The philosophical poet doth notably describe the damnable and damned proceedings of the Judge of Hell,
  - Gnossius hæc Rhadamanthus habet durissima regna,
  - · Caffigatque, auditque dolos, fubigitque fateri.'

First he punisheth, and then he heareth; and lastly compelleth to confess, and makes and mars laws at his pleasure; like as the Centurion, in the hely history, did to St. Paul; for the text faith, 'Cen-turio apprehendi Paulum jussit, et se catenis eligari, et tune inter-rogabat, quis fuisset, et quid secisset;' but good Judges and Justices abhor these courses.—Coke ii. Inst. 55.

- 5 Directly the reverse of the doctrine he constantly maintained in the House of Lords, and elsewhere, upon the decision of the Middlesex election. He invariably afferted that the decision must be legal, because the court was competent; and never could be prevailed on to enter farther into the question.
- These iniquitous prosecutions cost the best of princes six thousand pounds, and ended in the total defeat and disgrace of the prosecutors. In the course of one of them Judge Aston had the unpa-

ralleled impudence to tell Mr. Morris (a gentleman of unquestionable honour and integrity, and who was then giving his evidence on oath) that he should pay very little regard to any affidavit he should make.

- u He faid in the House of Lords, that he believed he should carry his opinion with him to the grave. It was afterwards reported that he had intrusted it, in special confidence, to the ingenious Duke of Cumberland.
- \* This paragraph gagged poor Leigh. I really am concerned for the man, and with it were possible to open his mouth. He is a very pretty orator.
- The King's acceptance of the Spanish Ambassador's declaration is drawn up in barbarous French, and figned by the Earl of Rochford. This diplomatic Lord had spent his life in the study and practice of etiquettes, and is supposed to be a prosound Master of the Ceremonies. I will not infult him by any reference to grammar or common sense. If he were even acquainted with the common forms of his office, I should think him as well qualified for it as any man in his Majessy's service. The reader is requested to observe Lord Rochford's method of authenticating a public instrument. En so foi de quoi, moi soussigné, un des principaux Secretaires d'Etat S.M. B. ai signé la presente de ma signature ordinaire, et icelle fait apposer le cachet de nos Armes. In three lines there are no less than seven salse concords. But the man does not even know the style of his office; if he had known it, he would have said, 'nous,' soussigné, Secretaire d'Etat de S. M. B. avons signé, &c.'
- 2 'The necessity of fecuring the House of Commons against the
- King's power, so that no interruption might be given either to the
- attendance of the members in parliament, or to the freedom of
- debate, was the foundation of parliamentary privilege; and we
- ' may observe, in all the addresses of new appointed Speakers to the

- 6 Sovereign, the utmost privilege they demand is liberty of speech
- and freedom from arrests. The very word privilege, means no more
- than immunity, or a fafeguard to the party who poffeffes it, and can-
- never be construed into an active power of invading the rights of
- others.'
  - 2 (p. 75.) In the years 1593, 1597, and 1601.
- b Upon their own principles, they should have committed Mr. Wilkes, who had been guilty of a greater offence than even the Lord Mayor or Alderman Oliver. But after repeatedly ordering him to attend, they at last adjourned beyond the day appointed for his attendance, and by this mean, pitiful evasion, gave up the point.
- . If it be demanded, in case a subject should be committed by
- either House for a matter manifestly out of their jurisdiction,
- what remedy can he have? I answer, that it cannot well be ima-
- ' gined that the law, which favours nothing more than the liberty of
- the fubject, should give us a remedy against commitments by the
- King himself, appearing to be illegal, and yet give us no manner of
- redrefs against a commitment by our fellow subjects, equally ap-
- s pearing to be unwarranted. But as this is a cafe which, I am
- ' perfuaded, will never happen, it feems needlefs over nicely to exa-
- mine it.—Hawkins 2. 110.'—N. B. He was a good lawyer, but no prophet.
- d That their practice might be every way conformable to their principles, the House proceeded to advise the crown to publish a proclamation universally acknowledged to be illegal. Mr. Moreton publicly protested against it before it was issued; and Lord Mansfield, though not scrupulous to an extreme, speaks of it with horror. It is remarkable enough that the very men who advised the proclamation, and who hear it arraigned every day both within doors and without, are not daring enough to utter one word in its defence, nor

have they ventured to take the least notice of Mr. Wilkes for discharging the persons apprehended under it.

- Lord Chatham very properly called this the act of a mob, not
  of a fenate.
- f When Mr. Wilkes was to be punished, they made no scruple about the privileges of parliament; and although it was as well known as any matter of public record and uninterrupted custom could be, that the Members of either House are privileged except in case of treason, felony, or breach of peace, they declared, without hefitation, that privilege of parliament did not extend to the case of a seditious libel;' and undoubtedly they would have done the same if Mr. Wilkes had been prosecuted for any other misdemeanor whatfoever. The ministry are of a fudden grown wonderfully careful of privileges, which their predeceffors were as ready to invade. The known laws of the land, the rights of the subject, the fanctity of charters, and the reverence due to our magistrates, must all give way, without question or resistance, to a privilege of which no man knows either the origin or the extent. The House of Commons judge of their own privileges without appeal: they may take offence at the most innocent action, and imprison the person who offends them during their arbitrary will and pleafure. The party has no remedy; he cannot appeal from their jurisdiction: and if he questions the privilege which he is supposed to have violated, it becomes an aggravation of his offence. Surely this doctrine is not to be found in Magna Charta. If it be admitted without limitation, I affirm that there is neither law nor liberty in this kingdom. We are the flaves of the House of Commons, and, through them, we are the flaves of the King and his ministers. ANONYMOUS.
- 5 If there be in reality any fuch law in England as the law of parliament, which (under the exceptions stated in my letter on privilege), I confess, after long deliberation, I very much doubt, it certainly is not constituted by, nor can it be collected from, the resolu-

tions of either House, whether enacting or declaratory. I defire the reader will compare the above resolution of the year 1794, with the following of the 3d of April, 1628.— Resolved, That the writ of Habeas Corpus cannot be denied, but ought to be granted to every man that is committed or detained in prison, or otherwise refrained, by the command of the King, the Privy Council, or any other, he praying the same.

- h The Duke was lately appointed Lord Privy Seal.
- A fuperb villa of Col. Burgoyne, about this time advertised for
- k It will appear by a fubsequent letter, that the Duke's precipitation proved fatal to the grant. It looks like the hurry and confusion of a young highwayman, who take a few shillings, but leaves the purse and watch behind him. And yet the Duke was an old offender!
- <sup>1</sup> By an intercepted letter from the Secretary of the Treasury it appeared that the friends of government were to be very active in supporting the ministerial nomination of sheriffs.
- m This letter was transmitted privately by the Printer to Mr. Horne, by Junius's request. Mr. Horne returned it to the Printer, with directions to publish it.
- n I beg leave to introduce Mr. Horne to the character of the Double Dealer. I thought they had been better acquainted. Another very wrong objection has been made by fome who have not taken leifure to diffinguish the characters. The hero of the play (meaning Mellefont) is a gull, and made a fool, and cheated. Is every mana gull and a fool that is deceived? At that rate, I am afraid the two classes of men will be reduced to one, and the knaves
- themselves be at a loss to justify their title. But if an open, honest

- hearted man, who has an entire confidence in one whom he takes
- s to be his friend, and who (to confirm him in his opinion) in all
- ' appearance and upon feveral trials has been fo; if this man be de-
- ceived by the treachery of the other, must be of necessity com-
- mence fool immediately, only because the other has proved a
- ' villain?'-Yes, fays parfon Horne. No, fays Congreve; and he,
- I think, is allowed to have known fomething of human nature.
- The very foliloquy of Lord Suffolk before he paffed the Rubicon.
- P The epitaph would not be ill fuited to the character: at the beft, it is but equivocal.
- 9 I confine myfelf strictly to seamen; if any others are pressed, it is a gross abuse, which the magistrate can and should correct.
- There is a certain family in this country on which nature feems to have entailed an hereditary baseness of disposition. As far as their history has been known, the son has regularly improved upon the vices of his father, and has taken care to transmit them pure and undiminished into the bosom of his successor. In the senate their abilities have confined them to those humble, fordid fervices, in which the scavengers of the ministry are usually employed. But in the memoirs of private treachery they stand first and unrivalled. The following story will serve to illustrate the character of this respectable family, and to convince the world that the present possession has as clear a title to the infamy of his ancestors, as he has to their estate. It deserves to be recorded for the curiosity of the fact, and should be given to the public as a warning to every honest member of society.

The present Lord, who is now in the decline of life, lately cultivated the acquaintance of a younger brother of a family with which he had lived in some degree of intimacy and friendship. The young

man had long been the dupe of a most unhappy attachment to a common profitute. His friends and relations forefaw the confequence of this connexion, and did every thing that depended upon them to fave him from ruin. But he had a friend in his Lordship, whose advice rendered all their endeavours ineffectual. This hoary letcher, not contented with the enjoyments of his friend's mistress, was base enough to take advantage of the passions and folly of a young man, and perfuaded him to marry her. He descended even to perform the office of father to the profitute. He gave her to his friend, who was on the point of leaving the kingdom, and the next night lay with her himfelf.

Whether the depravity of the human heart can produce any thing more base and detestable than this fact, must be left undetermined until the fon shall arrive at his father's age and experience.

- Blackstone, iv. 303.
- t 1 Ed. III. cap. 8 .- and 7 Rich. II. cap. 4.
- u 'Videtur que le flatute de mainprise nest que reherfall del co-' men ley.' - Bro. Mainp. 61.
- x 'There are three points to be confidered in the construction of
- all remedial statutes; the old law, the mischief, and the remedy;
- that is, how the common law flood at the making of the act,
- what the mischief was for which the common law did not provide,
- and what remedy the parliament hath provided to cure this mif-
- chief. It is the business of the judges so to construe the act, as to
- fuppress the mischief and advance the remedy.'

Blackstone, i. 87.

- y 2 Hale, P. C. 128. 136.
- Blackstone, iv. 296.

- 2 (p. 216) 2 Hale, P. C. 2. 124.
- b Vide 2 Inft. 150. 186- The word 'replevifable' never fig-
- ' nifies 'bailable.' Bailable is, in a court of record, by the King's
- justices; but replevisable is by the Sheriff.'

SELDEN, State Tr. vii. 149.

- c Selden, by N. Bacon, 182.
- d Parliamentary History, i. 82.
- · Parliamentary History ii. 419.
- f Blackstone, iv. 137.
- g It has been the fludy of Lord Mansfield to remove landmarks.



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