375

THE WHOLE PROCEEDINGS

ON THE

TRIAL

OF

AN INFORMATION

Exhibited *ex Officio* by the KING'S ATTORNEY-GENERAL

AGAINST

THOMAS PAINE

For a LIBEL upon the REVOLUTION and SETTLEMENT of the CROWN and REGAL GOVERNMENT as by Law eſtabliſhed; and alſo upon the BILL of RIGHTS, the LEGISLATURE, GOVERNMENT, LAWS, and PARLIAMENT of this KINGDOM, and upon the KING.

Tried by a Special Jury in the *Court* of *King's Bench*, GUILDHALL, on *Tueſday*, the 18th of *December*, 1792.

BEFORE THE

RIGHT HONOURABLE LORD KENYON.

Taken in Short-Hand

By JOSEPH GURNEY.

LONDON:

Sold by MARTHA GURNEY, No. 128, HOLBORN-HILL.

M,DCC,XCIII.

(Price Three Shillings and Sixpence.)

[*Entered at Stationers' Hall.*]

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INFORMATION.

Of Eaſter Term, in the 32d Year of King George tht Third.

London,
(to wit) } BE it remembered, that Sir Archibald Macdonald, Knight, Attorney General of our preſent Sovereign Lord King George the Third, who, for our preſent Sovereign Lord the King, proſecutes in this behalf in his own proper perſon, comes into the court of our ſaid preſent Sovereign Lord the King, before the King himſelf at Weſtminſter, in the county of Middleſex, on Friday next, after one month from the feaſt day of Eaſter in this ſame term; and for our ſaid Lord the King giveth the court here to underſtand and be informed, that THOMAS PAINE, late of London, gentleman, being a wicked, malicious, ſeditious, and ill-diſpoſed perſon, and being greatly diſaffected to our ſaid Sovereign Lord the now King, and to the happy conſtitution and government of this kingdom, and moſt unlawfully, wickedly, ſeditiouſly, and maliciouſly deviſing, contriving, and intending to ſcandalize, traduce, and vilify, the late happy Revolution, providentially brought about and effected under the wiſe and prudent conduct of his Highneſs William, heretofore Prince of Orange, and afterwards King of England, France, and Ireland, and the dominions thereunto belonging; and the acceptance of the Crown and royal dignity of King and Queen of England, France, and Ireland, and the dominions thereunto belonging, by his ſaid Highneſs William, and her Highneſs Mary,

heretofore Prince and Princeſs of Orange; and the means by which the ſame Revolution was accompliſhed to the happineſs and welfare of this realm; and to ſcandalize, traduce, and vilify the convention of the Lords Spiritual and Temporal, and Commons, at whoſe requeſt, and by whoſe advice, their ſaid Majeſties did accept the ſaid crown and royal dignity; and to ſcandalize, traduce, and vilify, the act of the Parliament holden at Weſtminſter in the firſt year of the reign of their ſaid Majeſties, King William and Queen Mary, intituled, "an "act, declaring the rights and liberties of the ſubject, and ſettling the ſucceſſion of the crown," and the declaration of rights and liberties in the ſaid act contained; and alſo the limitations and ſettlements of the crown and regal government of the ſaid kingdoms and dominions as by law eſtabliſhed; and alſo by moſt wicked, cunning, and artful inſinuations to repreſent, ſuggeſt, and cauſe it to be believed, that the ſaid Revolution, and the ſaid ſettlements and limitations of the crown and regal government of the ſaid kingdoms and dominions, and the ſaid declaration of the rights and liberties of the ſubject, were contrary to the rights and intereſt of the ſubjects of this kingdom in general; and that the hereditary regal government of this kingdom was a tyranny. And alſo by moſt wicked, cunning, and artful inſinuations, to repreſent, ſuggeſt, and cauſe it to be believed, that the Parliament of this kingdom was a wicked, corrupt, uſeleſs, and unneceſſary eſtabliſhment; and that the King and the Lords Spiritual and Temporal, and Commons, in Parliament aſ-

ſembled,

ſembled, wickedly tyrannized over and oppreſſed the ſubjects of this kingdom in general, and to infuſe into the minds of the ſubjects of this kingdom groundleſs and unreaſonable diſcontents and prejudices againſt our preſent Sovereign Lord the King and the Parliament of this kingdom, and the conſtitution, laws, and government thereof; and to bring them into hatred and contempt, on the ſixteenth day of February, in the thirty-ſecond year of the reign of our ſaid preſent Sovereign Lord the King, with force and arms at London aforeſaid, to wit, in the pariſh of Saint Mary le Bow, in the Ward of Cheap, he, the ſaid Thomas, wickedly, maliciouſly, and ſeditiouſly, did write and publiſh, and cauſe to be written and publiſhed, a certain falſe, ſcandalous, malicious, and ſeditious libel, of and concerning the ſaid late happy Revolution, and the ſaid ſettlements and limitations of the crown and regal government of the ſaid kingdoms and dominions; and the ſaid act, declaring the rights and liberties of the ſubject; and the ſaid declaration of the rights and liberties of the ſubject therein contained, and the hereditary regal government of the ſaid kingdoms and dominions; and alſo of and concerning the Legiſlature, Conſtitution, Government, and Laws, of this kingdom; of and concerning our preſent Sovereign Lord the King that now is; and of and concerning the Parliament of this kingdom, intituled, "Rights "of Man, Part the Second, Combining prin-"ciple and practice, by Thomas Paine, Se-"cretary for Foreign Affairs to Congreſs, in "the American War, and Author of the

" Work, entitled Common Senſe, and the Firſt
" Part of the Rights of Man, the Second Edi-
" tion, London, printed for J. S. Jordan, No.
" 166, Fleet Street, 1792;" in which ſaid libel are contained, amongſt other things, divers falſe, ſcandalous, malicious, and ſeditious, matters. In one part thereof, according to the tenor and effect following, that is to ſay, " All
" hereditary government is in its nature ty-
" ranny. An heritable crown" (meaning, amongſt others, the crown of this kingdom) " or an heritable throne," (meaning, amongſt others, the throne of this kingdom) " or by
" what other fanciful name ſuch things may
" be called, have no other ſignificant explana-
" tion than that mankind are heritable pro-
" perty. To inherit a government, is to in-
" herit the people, as if they were flocks and
" herds." And in another part thereof, according to the tenor and effect following, (that is to ſay) " This Convention met at Philadel-
" phia, in May, 1787, of which General
" Waſhington was elected preſident. He was
" not at that time connected with any of the
" State Governments, or with Congreſs. He
" delivered up his commiſſion when the war
" ended, and ſince then had lived a private ci-
" tizen. The Convention went deeply into
" all the ſubjects, and having, after a variety
" of debate and inveſtigation, agreed among
" themſelves upon the ſeveral parts of a Fe-
" deral Conſtitution, the next queſtion was
" the manner of giving it authority and prac-
" tice. For this purpoſe, they did not, like a
" cabal of courtiers, ſend for a Dutch Stadt-

" holder

" holder or a German Elector, but they refer-
" red the whole matter to the ſenſe and inte-
" reſt of the country," (thereby meaning and intending that it ſhould be believed that a cabal of courtiers had ſent for the ſaid Prince of Orange and King George the Firſt, heretofore Elector of Hanover, to take upon themſelves reſpectively the regal government of the ſaid kingdom and dominions, without referring to the ſenſe and intereſt of the ſubjects of the ſaid kingdoms.) And in another part thereof, according to the tenor and effect following, that is to ſay, " The hiſ-
" tory of the Edwards and the Henries," (meaning Edwards and Henries, heretofore Kings of England) " and up to the commencement of the
" Stuarts," (meaning Stuarts, heretofore Kings of England) " exhibits as many inſtances of ty-
" ranny as could be acted within the limits to
" which the nation had reſtricted it. The
" Stuarts" (meaning Stuarts, heretofore Kings of England) " endeavoured to paſs theſe limits,
" and their fate is well known. In all thoſe
" inſtances, we ſee nothing of a conſtitution,
" but only of reſtrictions on aſſumed power.
" After this, another William," (meaning the ſaid William Prince of Orange, afterwards King of England) " deſcended from the ſame
" ſtock, and claiming from the ſame origin,
" gained poſſeſſion" (meaning poſſeſſion of the crown of England) " and of the two evils, *James*
" and *William*," (meaning James the Second, heretofore King of England, and the ſaid William Prince of Orange, afterwards King of England) " the nation preferred what it

 thought

" thought the leaſt; ſince from circumſtances " it muſt take one. The act called the Bill of " Rights" (meaning the ſaid act of Parliament intituled, " an act declaring the rights and liberties of the ſubject, and ſettling the ſucceſſion of the crown) " comes here into view; " what is it" (meaning the ſaid act of Parliament laſt mentioned) " but a bargain which the parts " of the government made with each other to " divide powers, profits and privileges? (meaning that the ſaid laſt-mentioned act of Parliament was a bargain which the parts of the government in England made with each other to divide powers, profits, and privileges. " You " ſhall have ſo much, and I will have the reſt; " and with reſpect to the nation it ſaid, *for your* " *ſhare* YOU *ſhall have the right of petitioning.* " This being the caſe, the Bill of Rights" (meaning the ſaid laſt-mentioned act of Parliament) " is more properly a Bill of Wrongs and of in- " ſult; as to what is called the Convention Par- " liament, it" (meaning the ſaid Convention of Lords Spiritual and Temporal, and Commons herein before mentioned) " was a thing that " made itſelf, and then made the authority by " which it acted. A few perſons got together, " and called themſelves by that name; ſeveral " of them had never been elected, and none of " them for the purpoſe. From the time of " William," (meaning the ſaid King William the Third) " a ſpecies of government aroſe, if- " ſuing out of this coalition Bill of Rights; (meaning the ſaid act, intituled, " an act, declaring the rights and liberties of the ſubject, and ſettling the ſucceſſion of the crown) " and

" more

" more ſo ſince the corruption introduced at the " Hanover ſucceſſion" (meaning the ſucceſſion of the Heirs of the Princeſs Sophia, Electreſs and Dutcheſs Dowager of Hanover to the crown and dignity of this kingdom) " by the agency " of Walpole, that" (meaning the ſaid ſpecies of government) " can be deſcribed by no " other name than a deſpotic legiſlation. " Though the parts may embarraſs each other, " the whole has no bounds; and the only right it " acknowledges out of itſelf is the right of petitioning. Where then is the conſtitution either " that gives or that reſtrains power? It is not " becauſe a part of the government" (meaning the government of this kingdom) " is elective, " that makes it leſs a deſpotiſm, if the perſons " ſo elected poſſeſs afterwards, as a parliament, " unlimited powers; election in this caſe " becomes ſeparated from repreſentation, and " the candidates are candidates for deſpotiſm. And in another part thereof, according to the tenor and effect following, (that is to ſay) " The " attention of the government of England (for I " rather chuſe to call it by this name than the " Engliſh government) appears, ſince its political " connection with Germany, to have been ſo com- " pletely engroſſed and abſorbed by foreign af- " fairs, and the means of raiſing taxes, that it ſeems " to exiſt for no other purpoſes. Domeſtic con- " cerns are neglected; and with reſpect to regular " laws, there is ſcarcely ſuch a thing;" And in another part thereof, according to the tenor and effect following, (that is to ſay) " With reſpect " to the two houſes of which the Engliſh Par-

" liament" (meaning the Parliament of this king-
dom) " is compoſed, they appear to be effectually
" influenced into one, and, as a Legiſlature, to
" have no temper of its own. The miniſter,"
(meaning the miniſter employed by the King of
this realm in the adminiſtration of the govern-
ment thereof) " whoever he at any time may be,
" touches it" (meaning the two Houſes of Par-
liament of this kingdom) " as with an opium
" wand; and it" (meaning the two Houſes of
Parliament of this kingdom) " ſleeps obedience.
" But if we look at the diſtinct abilities of the
" two Houſes (meaning the two Houſes of Par-
" liament of this kingdom) the difference will
" appear ſo great, as to ſhew the inconſiſtency of
" placing power where there can be no cer-
" tainty of the judgement to uſe it. Wretched
" as the ſtate of repreſentation is in England,"
(meaning the ſtate of repreſentation of the
Commons of this kingdom) " it is manhood
" compared with what is called the Houſe of
" Lords;" (meaning the Lords Spiritual and
Temporal in Parliament aſſembled) " and ſo lit-
" tle is this nick-named Houſe" (meaning the
Houſe of Lords) " regarded, that the people
" ſcarcely inquire at any time what it is doing. It"
(meaning the ſaid Houſe of Lords) " appears alſo
" to be moſt under influence, and the furtheſt re-
" moved from the general intereſt of the nation."
And in another part thereof, according to the
tenor and effect following, viz. " Having thus
" glanced at ſome of the defects of the two
" Houſes of Parliament," (meaning the Par-
liament of this kingdom) " I proceed to what
" is called the crown," (meaning the crown

of

of this kingdom) " upon which I ſhall be very " conciſe. It" (meaning the crown of this kingdom) " ſignifies a nominal office of a mil- " lion ſterling a year, the buſineſs of which con- " ſiſts in receiving the money, whether the " perſon" (meaning the King of this realm) " be wiſe or fooliſh, ſane or inſane, a native " or a foreigner, matters not, every miniſtry" (meaning the miniſtry employed by the King of this realm in the adminiſtration of the government thereof) " acts upon the ſame idea " that Mr. Burke writes, namely, that the peo- " ple" (meaning the ſubjects of this kingdom) " muſt be hoodwinked and held in ſuperſtitious " ignorance by ſome bugbear or other; and " what is called the crown" (meaning the crown of this kingdom) " anſwers this purpoſe, and " therefore it anſwers all the purpoſes to be ex- " pected from it. This is more than can be " ſaid of the other two branches. The hazard " to which this office" (meaning amongſt others the office of King of this realm) " is expoſed " in all countries," (meaning amongſt others this kingdom) " is not from any thing that can " happen to the man," (meaning the King) " but " from what may happen to the nation," (mean- ing amongſt others this kingdom) " the danger " of its coming to its ſenſes." And in another part thereof, according to the tenor and effect following, (that is to ſay) " I happened to be " in England at the celebration of the centenary " of the revolution of 1688. The characters " of William and Mary" (meaning the ſaid late King William and Queen Mary) " have always " appeared to me deteſtable; the one" (meaning

the

the ſaid King William) " ſeeking to deſtroy " his uncle, and the other" (meaning the ſaid Queen Mary) " her father, to get poſſeſſion " of power themſelves; yet as the nation was " diſpoſed to think ſomething of that event, I " felt hurt at ſeeing it aſcribe the whole reputa- " tion of it to a man" (meaning the ſaid late King William the Third) " who had under- " taken it as a jobb, and who, beſides what he " otherwiſe got, charged ſix hundred thouſand " pounds for the expence of the little fleet that " brought him from Holland. George the Firſt" (meaning George the Firſt, late King of Great Britain, &c.) " acted the ſame cloſe-fiſted part " as William the Third had done, and bought " the Dutchy of Bremin with the money he " got from England, two hundred and fifty " thouſand pounds over and above his pay as " King; and having thus purchaſed it at the " expence of England, added it to his Hanove- " rian Dominions for his own private profit.— " In fact, every nation that does not govern it- " ſelf is governed as a jobb: England has been " the prey of jobbs ever ſince the revolution." And in another part thereof, according to the tenor and effect following, (that is to ſay)— " The fraud, hypocriſy, and impoſition of go- " vernments," (meaning, amongſt others, the government of this kingdom) " are now begin- " ning to be too well underſtood to promiſe them " any long career. The farce of monarchy and " ariſtocracy in all countries is following that of " chivalry, and Mr. Burke is dreſſing for the " funeral. Let it then paſs quietly to the tomb " of all other follies, and the mourners be com- " forted.

" forted. The time is not very diſtant when " England will laugh at itſelf for ſending to " Holland, Hanover, Zell, or Brunſwick, for " men," (meaning the Kings of theſe realms, born out of the ſame, who have acceded to the crown thereof at and ſince the revolution) " at " the expence of a million a year, who under- " ſtood neither her laws, her language, nor her " intereſt; and whoſe capacities would ſcarcely " have fitted them for the office of a pariſh con- " ſtable. If Government could be truſted to " ſuch hands, it muſt be ſome eaſy and ſimple " thing indeed; and materials fit for all the pur- " poſes may be found in every town and village " in England." In contempt of our ſaid Lord the King and his laws, to the evil example of all others in the like caſe offending, and againſt the peace of our ſaid Lord the King, his crown and dignity. And the ſaid attorney general of our ſaid Lord the King, for our ſaid Lord the King, further gives the court here to underſtand and be informed, that the ſaid Thomas Paine, being a wicked, malicious, ſeditious, and ill-diſpoſed perſon, and being greatly diſaffected to our ſaid Sovereign Lord the now King, and to the happy conſtitution and government of this kingdom, and moſt unlawfully, wickedly, ſeditiouſly, and maliciouſly deviſing, contriving, and intending to ſcandalize, traduce, and vilify the late happy revolution, providentially brought about and effected under the wiſe and prudent conduct of his Highneſs William, heretofore Prince of Orange, and afterwards King of England, France, and Ireland, and the Dominions thereunto belonging; and the

accep-

acceptance of the Crown and Royal Dignity of King and Queen of England, France, and Ireland, and the Dominions thereunto belonging, by his ſaid Highneſs William, and her Highneſs Mary, heretofore Prince and Princeſs of Orange, and the means by which the ſame revolution was accompliſhed, to the happineſs and welfare of this realm; and to ſcandalize, traduce, and vilify the convention of the Lords Spiritual and Temporal, and Commons, at whoſe requeſt, and by whoſe advice, their ſaid Majeſties did accept the ſaid Crown and Royal Dignity; and to ſcandalize, traduce, and vilify the act of the Parliament holden at Weſtminſter, in the firſt year of the reign of their ſaid Majeſties, King William and Queen Mary, intituled, "an act, declaring the rights "and liberties of the ſubject, and ſettling the "ſucceſſion of the crown," and the declaration of rights and liberties in the ſaid act contained; and alſo the limitations and ſettlements of the crown and regal government of the ſaid kingdoms and dominions, as by law eſtabliſhed, and alſo by moſt wicked, cunning, and artful inſinuations, to repreſent, ſuggeſt, and cauſe it to be believed, that the ſaid revolution, and the ſaid ſettlements and limitations of the crown and regal government of the ſaid kingdoms and dominions, and the ſaid declaration of the rights and liberties of the ſubject, were contrary to the rights and intereſt of the ſubjects of this kingdom in general; and that the regal government of this kingdom was a tyranny; and alſo by moſt wicked, cunning, and artful inſinuations, to repreſent, ſuggeſt, and cauſe it to be believed,

th

that the Parliament of this kingdom was a wicked, corrupt, uſeleſs, and unneceſſary eſtabliſhment; and that the King and Lords Spiritual and Temporal, and Commons, in Parliament aſſembled, wickedly tyrannized over and oppreſſed the ſubjects of this kingdom in general; and to infuſe into the minds of the ſubjects of this kingdom groundleſs and unreaſonable diſcontents and prejudices againſt our preſent Sovereign Lord the King, and the Parliament of this kingdom; and the conſtitution, laws, and government, thereof and to bring them into hatred and contempt, on the ſixteenth day of February, in the thirty-ſecond year of the reign of our ſaid preſent Sovereign Lord the King, with force and arms at London aforeſaid, to wit, in the pariſh of Saint Mary le Bone, in the ward of Cheap, he, the ſaid Thomas, wickedly, maliciouſly, and ſeditiouſly did print and publiſh, and cauſe to be printed and publiſhed, a certain falſe, ſcandalous, malicious, and ſeditious libel, of and concerning the ſaid late happy revolution, and the ſaid ſettlements and limitations of the crown and regal government of the ſaid kingdoms and dominions; and the ſaid act declaring the rights and liberties of the ſubject, and the ſaid declaration of the rights and liberties of the ſubject therein contained, and the hereditary Regal government of the ſaid kingdoms and dominions, and alſo of and concerning the Legiſlature, Conſtitution, Government, and Laws of this Kingdom, and of and concerning our preſent Sovereign Lord the King that now is, and of and concerning the Parliament of this kingdom, intituled, "Rights

" of Man, part the ſecond, combining prin-
" ciple and practice, by Thomas Paine, ſecre-
" tary for foreign affairs to Congreſs in the
" American War, and author of the work,
" entitled Common Senſe, and the firſt part of
" the Rights of Man, the Second Edition,
" London, Printed for J. S. Jordan,
" No. 166, Fleet Street." In which ſaid libel are contained, amongſt other things, divers falſe, ſcandalous, malicious, and ſeditious matters. In one part thereof, according to the tenor and effect following, (that is to ſay) " All he-
" reditary government is in its nature tyranny.
" An heritable crown" (meaning, amongſt others, the crown of this kingdom) " or an
" heritable throne," (meaning, amongſt others, the throne of this kingdom) " or by what
" other fanciful name ſuch things may be cal-
" led, have no other ſignificant explanation
" than than that mankind are heritable pro-
" perty. To inherit a government is to inherit
" the people, as if they were flocks and herds." And in another part thereof, according to the tenor and effect following, (that is to ſay) " This Convention met at Philadelphia in
" May, 1787, of which General Waſhington
" was elected preſident. He was not at that
" time connected with any of the ſtate govern-
" ments, or with Congreſs; he delivered up
" his commiſſion when the war ended, and
" ſince then had lived a private citizen. The
" Convention went deeply into all the ſub-
" jects, and having, after a variety of debate
" and inveſtigation, agreed among themſelves
" upon the ſeveral parts of a Federal Conſti-

" tution,

" tution, the next queſtion was the manner of
" giving it authority and practice. For this
" purpoſe they did not, like a cabal of cour-
" tiers, ſend for a Dutch Stadtholder or a Ger-
" man Elector; but they referred the whole
" matter to the ſenſe and intereſt of the coun-
" try." (thereby meaning and intending that it ſhould be believed that a cabal of courtiers had ſent for the ſaid Prince of Orange and King George the Firſt, heretofore Elector of Hanover, to take upon themſelves reſpectively the regal government of the ſaid kingdoms and dominions, without referring to the ſenſe and intereſt of the ſubects of the ſaid kingdoms) And in another part thereof, according to the tenor and effect following, (that is to ſay) " The hiſtory of the Edwards and Henries," (meaning Edwards and Henries, heretofore Kings of England) " and up to the commence-
" ment of the Stuarts," (meaning Stuarts, heretofore Kings of England) " exhibits as many
" inſtances of tyranny as could be acted with-
" in the limits to which the nation had re-
" ſtricted it. The Stuarts" (meaning Stuarts, heretofore Kings of England) " endeavoured
" to paſs thoſe limits, and their fate is well
" known. In all thoſe inſtances, we ſee no-
" thing of a conſtitution, but only of reſtric-
" tions on aſſumed power. After this, ano-
" ther William," (meaning the ſaid William Prince of Orange, afterwards King of England) " deſcended from the ſame ſtock, and
" claiming from the ſame origin, gained poſ-
" ſeſſion;" (meaning poſſeſſion of the crown of England) " and of the two evils, James and

" William," (meaning James the Second, heretofore King of England; and the ſaid William Prince of Orange, afterwards King of England) " the nation preferred what it " thought the leaſt; ſince from circumſtances " it muſt take one. The act, called the Bill " of Rights," (meaning the ſaid act of Parliament, intituled, " an act declaring the rights " and liberties of the ſubject, and ſettling the " ſucceſſion of the crown") " comes here into " view. What is it" (meaning the ſaid act of Parliament laſt mentioned) " but a bargain " which the parts of the government made " with each other to divide powers, profits, " and privileges," (meaning that the ſaid laſt-mentioned act of Parliament was a bargain which the parts of the government in England made with each other to divide powers, profits, and privileges) " *You* ſhall have ſo " much, and I will have the reſt. And with " reſpect to the nation, it ſaid, for your ſhare " you ſhall have the right of petitioning. " This being the caſe, the Bill of Rights" (meaning the ſaid laſt-mentioned act of Parliament) " is more properly a bill of wrongs " and of inſult. As to what is called the " Convention Parliament, it" (meaning the ſaid convention of Lords Spiritual and Temporal, and Commons, herein-before mentioned) " was a thing that made itſelf, and then " made the authority by which it acted. A " few perſons got together, and called themſelves by that name; ſeveral of them had " never been elected, and none of them for " the purpoſe. From the time of William,"

(mean-

(meaning the ſaid King William the Third) " a ſpecies of government aroſe iſſuing out of " this coalition Bill of Rights;" (meaning the ſaid act, intituled, an act declaring the rights and liberties of the ſubject, and ſettling the ſucceſſion of the crown) " and more " ſo ſince the corruption introduced at the " Hanover ſucceſſion," (meaning the ſucceſſion of the heirs of the Princeſs Sophia, Electreſs and Ducheſs Dowager of Hanover, to the crown and dignity of this kingdom) " by " the agency of Walpole, that" (meaning the ſaid ſpecies of government) " can be deſcribed " by no other name than a deſpotic legiſlation. " Though the parts may embarraſs each other, " the whole has no bounds; and the only " right it acknowledges out of itſelf, is the " right of petitioning. Where then is the " conſtitution either that gives or that reſtrains " power. It is not becauſe a part of the go- " vernment" (meaning the government of this kingdom) " is elective, that makes it leſs a " deſpotiſm. If the perſons ſo elected poſſeſs " afterwards, as a Parliament, unlimited pow- " ers, election, in this caſe, becomes ſeparated " from repreſentation, and the candidates are " candidates for deſpotiſm." And in another part thereof, according to the tenor and effect following, (that is to ſay) " The attention of " the government of England (for I rather " chuſe to call it by this name than the Eng- " liſh government) appears, ſince its political " connection with Germany, to have been ſo " completely engroſſed and abſorbed by foreign " affairs, and the means of raiſing taxes, that

" it ſeems to exiſt for no other purpoſes. Do-
" meſtic concerns are neglected; and with re-
" ſpect to regular law, there is ſcarcely ſuch
" a thing." And in another part thereof, according to the tenor and effect following, (that is to ſay) " With reſpect to the two Houſes of " which the Engliſh Parliament" (meaning the Parliament of this kingdom) " is compoſed, " they appear to be effectually influenced into " one, and, as a Legiſlature, to have no tem-" per of its own. The miniſter," (meaning the miniſter employed by the King of this realm, in the adminiſtration of the government thereof) " whoever he at any time may be, touches " it" (meaning the two Houſes of Parliament of this kingdom) " as with an opium wand, " and it" (meaning the two Houſes of Parliament of this kindom) " ſleeps obedience. But " if we look at the diſtinct abilities of the " two Houſes," (meaning the two Houſes of Parliament of this kingdom) " the difference " will appear ſo great, as to ſhew the incon-" ſiſtency of placing power where there can " be no certainty of the judgement to uſe it. " Wretched as the ſtate of repreſentation is in " England," (meaning the ſtate of repreſentation of the Commons of this kingdom) " it " is manhood, compared with what is called the " Houſe of Lords;" (meaning the Lords Spiritual and Temporal, in Parliament aſſembled) " and ſo little is this nicknamed Houſe" (meaning the Houſe of Lords) " regarded, that " the people ſcarcely inquire at any time " what it is doing. It" (meaning the ſaid Houſe of Lords) " appears alſo to be moſt un-

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" der influence, and the fartheſt removed from " the general intereſt of the nation." And in another part thereof, according to the tenor and effect following, viz. " Having thus " glanced at ſome of the defects of the two " Houſes of Parliament," (meaning the Parliament of this kingdom) " I proceed to what " is called the crown," (meaning the crown of this kingdom) " upon which I ſhall be very " conciſe. It" (meaning the crown of this kingdom) " ſignifies a nominal office of a mil- " lion ſterling a year, the buſineſs of which " conſiſts in receiving the money. Whether " the perſon" (meaning the King of this realm) " be wiſe or fooliſh, ſane or inſane, a native " or a foreigner, matters not; every miniſtry" (meaning the miniſtry employed by the King of this realm in the adminiſtration of the government thereof) " acts upon the ſame idea " that Mr. Burke writes, namely, that the " people" (meaning the ſubjects of this kingdom) " muſt be hoodwinked and held in ſu- " perſtitious ignorance by ſome bugbear or " other; and what is called the crown" (meaning the crown of this kingdom) " anſwers " this purpoſe, and therefore it anſwers all " the purpoſes to be expected from it. This " is more than can be ſaid of the other two " branches. The hazard to which this office" (meaning, amongſt others, the office of King of this realm) " is expoſed in all countries," (meaning, amongſt others, this kingdom) " is " not from any thing that can happen to the " man," (meaning the King) " but from " what may happen to the nation," (meaning,

amongſt this kingdom` " the danger of coming " to its ſenſes." And in another part thereof, according to the tenor and effect following, (that is to ſay) " I happened to be in England at " the celebration of the centenary of the Re- " volution of 1688. The characters of Wil- " liam and Mary" (meaning the ſaid late King William and Queen Mary) " have always ap- " peared to me deteſtable; the one" (meaning the ſaid late King William) " ſeeking to de- " ſtroy his uncle, and the other" (meaning the ſaid Queen Mary) " her father, to get " poſſeſſion of power themſelves. Yet as the " nation was diſpoſed to think ſomething of " that event, I felt hurt at ſeeing it aſcribe " the whole reputation of it to a man" (meaning the ſaid late King William the Third) " who had undertaken it as a job, and who, " beſides what he otherwiſe got, charged ſix " hundred thouſand pounds for the expence of " the little fleet that brought him from Hol- " land. George the Firſt" (meaning George the Firſt, late King of Great Britain, &c.) " acted the ſame cloſe-fiſted part as William" (meaning the ſaid King William the Third) " had done, and bought the Duchy of " Bremin with the money he got from " England, two hundred and fifty thouſand " pounds over and above his pay as King; " and having thus purchaſed it at the expence " of England, added it to his Hanoverian " dominions for his own private profit. In " fact, every nation that does not govern it- " ſelf is governed as a jobb. England has been " the prey of jobbs ever ſince the Revolution."

And

And in another part thereof, according to the tenor and effect following (that is to ſay) "The "fraud, hypocriſy, and impoſition of govern- "ments" (meaning amongſt others, the government of this kingdom) "are now beginning "to be too well underſtood to promiſe them "any long career. The farce of monarchy and "ariſtocracy in all countries is following that of "chivalry, and Mr. Burke is dreſſing for the "funeral. Let it then paſs quietly to the tomb "of all other follies, and the mourners be com- "forted. The time is not very diſtant when "England will laugh at itſelf for ſending to "Holland, Hanover, Zell, or Brunſwick, "for Men" (meaning the Kings of theſe realms, born out of the ſame, who have acceded to the crown thereof at and ſince the Revolution) "at the expence of a million "a year, who underſtood neither her laws, "her language, nor her intereſt, and whoſe "capacities would ſcarcely have fitted them "for the office of a Pariſh Conſtable. If go- "vernment could be truſted to ſuch hands, it "muſt be ſome eaſy and ſimple thing indeed, "and materials fit for all the purpoſes may be "found in every town and village in England." In contempt of our ſaid Lord the King and his laws, to the evil example of all others in the like caſe offending, and againſt the peace of our ſaid Lord the King, his crown and dignity, and the ſaid Attorney General of our ſaid Lord the King, for our ſaid Lord the King, further gives the Court here to underſtand and be informed, that the ſaid Thomas Paine being a wicked, ſeditious, and ill-diſpoſed, perſon, and wickedly,

ſeditiouſly, and maliciouſly, intending to ſcandalize, traduce, and vilify, the character of the ſaid late Sovereign Lord, King William the Third, and the ſaid late happy Revolution, and the Parliament of England, by whoſe means the ſame was eſtabliſhed, commonly called the Convention Parliament; and the laws and ſtatutes of this realm limiting and eſtabliſhing the ſucceſſion to the crown of this kingdom, and the ſtatute declaring the rights and liberties of the ſubject, commonly called the Bill of Rights, and the happy conſtitution and government of this kingdom, as by law eſtabliſhed, and to bring the conſtitution, legiſlation, and government, of this kingdom into hatred and contempt with his Majeſtys ſubjects; and to ſtir up and excite diſcontents and ſeditions among his Majeſtys ſubjects. And to fulfil, perfect, and bring to effect his ſaid wicked, malicious, and ſeditious intentions, on the ſaid Sixteenth Day of February, in the Thirty Second Year aforeſaid, at London aforeſaid, in the Pariſh and Ward aforeſaid, he, the ſaid Thomas Paine, wickedly, maliciouſly, and ſeditiouſly, did write and publiſh, and cauſe and procure to be written and publiſhed, a certain other falſe ſcandalous, malicious, and ſeditious libel, in which, amongſt other things, are contained certain falſe, ſcandalous, malicious, and ſeditious matters, of and concerning the character of the ſaid late Sovereign Lord King William the Third, and the ſaid Revolution and the ſaid Parliament, and the laws and ſtatutes of this realm, and the happy conſtitution and government thereof, as by law eſtabliſhed, according to the tenor and effect following,

lowing, (that is to say) "The history of the "Edwards and the Henries," (meaning Edwards and Henries, heretofore Kings of England) "and up to the commencement of the Stuarts," (meaning Stuarts, heretofore Kings of England) "exhibits as many instances of tyranny as could "be acted within the limits to which the na-"tion" (meaning England) "had restricted "it. The Stuarts" (meaning Stuarts, heretofore King of England) "endeavoured to pass "those limits, and their fate is well known. "In all those instances we see nothing of a con-"stitution, but only of restrictions on assumed "power. After this, another William," (meaning the said late King William the Third) "descended from the same stock, and claiming "from the same origin, gained possession;" (meaning possession of the crown of England) "and of the two evils, James and William," (meaning James the Second, heretofore King of England, and the said King William the Third) "the nation" (meaning England) "preferred "what it thought the least, since from circum-"stances it must take one. The act called the "Bill of Rights" (meaning the said statute, declaring the rights and liberties of the subject, commonly called the Bill of Rights) "comes "here into view. What is it" (meaning the said last mentioned statute) "but a bargain which "the parts of the government made with each "other to divide powers, profits, and privile-"ges?" (Meaning that the said last-mentioned statute was a bargain which the parts of government in England made with each other to divide powers, profits, and privileges) "You shall have

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" ſo much, and I will have the reſt. And with
" reſpect to the nation" (meaning England)
" it ſaid, for your ſhare you ſhall have the right
" of petitioning. This being the caſe, the Bill
" of Rights" (meaning the ſaid laſt-mentioned
" ſtatute) " is more properly a Bill of Wrongs
" and of inſult. As to what is called the Con-
" vention Parliament," (meaning the aforeſaid
Parliament of England, commonly called the
Convention Parliament) " It" (meaning the
aforeſaid Parliament of England, commonly
called the Convention Parliament) " was a thing
" that made itſelf, and then made the authority
" by which it acted. A few perſons got to-
" gether, and called themſelves by that name.
" Several of them had never been elected, and
" none of them for the purpoſe. From the
" time of William," (meaning the ſaid King
William the Third) " a ſpecies of government"
(meaning government of England) " aroſe, iſ-
" ſuing out of this coalition Bill of Rights;"
(meaning the ſaid ſtatute, declaring the rights
and liberties of the ſubject) " and more ſo ſince
" the corruption introduced at the Hanover Suc-
" ceſſion," (meaning the ſucceſſion of the heirs
of the Princeſs Sophia, Electreſs and Dutcheſs
Dowager of Hanover, to the crown and dignity
of this kingdom) " by the agency of Walpole,
" that " (meaning the ſaid ſpecies of govern-
ment) " can be deſcribed by no other name than
" a deſpotic legiſlation. Though the parts may
" embarraſs each other, the whole has no
" bounds; and the only right it acknowledges
" out of itſelf, is the right of petitioning.
" Where then is the conſtitution either that gives

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" or tnat reſtrains power? It is not becauſe a " part of the government" (meaning the government of this kingdom) " is elective, that " makes it leſs a deſpotiſm. If the perſons ſo " elected poſſeſs afterwards, as a Parliament, un- " limited powers, election, in this caſe, be- " comes ſeparated from repreſentation, and the " candidates are candidates for deſpotiſm." In contempt of our ſaid Lord the King and his laws, to the evil example of all others in the like caſe offending, and againſt the peace of our ſaid Lord the King, his crown and dignity. And the ſaid Attorney General of our ſaid Lord the King, for our ſaid Lord the King, further gives the court here to underſtand and be informed, that the ſaid Thomas Paine being a wicked, ſeditious, and ill-diſpoſed perſon, and wickedly, ſeditiouſly, and maliciouſly intending to ſcandalize, traduce, and vilify the character of the ſaid late Sovereign Lord King William the Third, and the ſaid late happy revolution, and the Parliament of England, by whoſe means the ſame was eſtabliſhed, commonly called the Convention Parliament; and the laws and ſtatutes of this realm, limiting and eſtabliſhing the ſucceſſion to the crown of this kingdom; and the ſtatute declaring the rights and liberties of the ſubject, commonly called the Bill of Rights; and the happy conſtitution and government of this kingdom as by law eſtabliſhed; and to bring the Conſtitution, Legiſlation, and Government of this Kingdom into hatred and contempt with his Majeſty's ſubjects;— and to ſtir up and excite diſcontents and ſeditions among his Majeſty's ſubjects; and to fulfil, perfect, and bring to effect his ſaid wicked,

wicked, malicious, and ſeditious intentions, on the ſaid ſixteenth day of February, in the thirty ſecond year aforeſaid, at London aforeſaid, in the pariſh and ward aforeſaid, he, the ſaid Thomas Paine, wickedly, maliciouſly, and ſeditiouſly, did print and publiſh, and cauſe and procure to be printed and publiſhed, a certain other falſe, ſcandalous, malicious, and ſeditious libel, in which, amongſt other things, are contained certain falſe, ſcandalous, malicious, and ſeditious, matters, of and concerning the character of the ſaid late Sovereign Lord King William the Third, and the ſaid revolution, and the ſaid Parliament, and the laws and ſtatutes of this realm, and the happy conſtitution and government thereof, as by law eſtabliſhed, according to the tenor and effect following, — (that is to ſay) "The hiſtory of the Edwards "and the Henries," (meaning Edwards and Henries heretofore Kings of England) "and "up to the commencement of the Stuarts," (meaning Stuarts, heretofore Kings of England) "exhibits as many inſtances of tyranny as "could be acted within the limits to which the "nation" (meaning England) "had reſtricted "it. The Stuarts" (meaning Stuarts, heretofore Kings of England) "endeavoured to "paſs thoſe limits, and their fate is well known. "In all thoſe inſtances we ſee nothing of a "conſtitution, but only of reſtrictions on aſ-"ſumed power. After this, another William," (meaning the ſaid late King William the Third) "deſcended from the ſame ſtock, and claiming "from the ſame origin, gained poſſeſſion;" —

(meaning poſſeſſion of the crown of England) " and of the two evils, James and William," (meaning James the Second, heretofore King of England, and the ſaid King William the Third) " the nation" (meaning England) " preferred what it thought leaſt, ſince from " circumſtances it muſt take one. The act " called the Bill of Rights" (meaning the ſaid ſtatute, declaring the rights and liberties of the ſubject, commonly called the Bill of Rights) " comes here into view. What is it" (meaning the ſaid late-mentioned ſtatute) " but a bar- " gain which the parts of the government made " with each other to divide powers, profits, " and privileges?" (meaning that the ſaid laſt-mentioned ſtatute was a bargain which the parts of the government in England made with each other to divide powers, profits, and privileges) " You ſhall have ſo much, and I will have the " reſt. And with reſpect to the nation," (meaning England) " it ſaid, for your ſhare you " ſhall have the right of petitioning.—This " being the caſe, the Bill of Rights" (meaning the ſaid laſt-mentioned ſtatute) " is more " properly a Bill of Wrongs and of inſult. " As to what is called the Convention Parliament," (meaning the aforeſaid Parliament of England) " it" (meaning the aforeſaid Parliament of England, commonly called the Convention Parliament) " was a thing that made itſelf, and " then made the authority by which it acted; " a few perſons got together and called them- " ſelves by that name; ſeveral of them had " never been elected, and none of them for the

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" purpoſe. From the time of William" (meaning the ſaid King William the Third) " a ſpecies of government" (meaning the government of England) " aroſe, iſſuing out of " this coalition Bill of Rights;" (meaning the ſaid ſtatute declaring the rights and liberties of the ſubject) " and more ſo ſince the corrup- " tion introduced at the Hanover ſucceſſion" (meaning the ſucceſſion of the heirs of the Princeſs Sophia, Electreſs, and Ducheſs Dowger of Hanover to the Crown and Dignity of this kingdom) " by the agency of Walpole: " that" (meaning the ſaid ſpecies of government) " can be deſcribed by no other name " than a deſpotic Legiſlation, though the " parts may embarraſs each other, the whole " has no bounds; and the only right it ac- " knowledges, out of itſelf, is the right of " petitioning.—Where then is the conſtitution " either that gives, or that reſtrains power? It " is not becauſe a part of the government" (meaning the government of this kingdom) " is elective that makes it leſs a deſpotiſm, if " the perſons ſo elected poſſeſs afterwards, as a " Parliament, unlimited powers. Election in " this caſe becomes ſeparated from repreſenta- " tion, and the canditates are canditates for deſpo- " tiſm." In contempt of our ſaid Lord the King and his laws, to the evil example of all others in the like caſe offending, and againſt the peace of our ſaid Lord the King, his crown, and dignity. And the ſaid Attorney General of our ſaid Lord the King, for our ſaid Lord the King, further gives the Court here to underſtand and

be informed, that the ſaid Thomas Paine, being a wicked, malicious, ſeditious, and ill-diſpoſed perſon, and being greatly diſaffected to our ſaid preſent Sovereign Lord the King, and wickedly, maliciouſly, and ſeditiouſly intending, deviſing, and contriving to traduce and vilify our Sovereign Lord the King, and the two Houſes of Parliament of this kingdom, and the Conſtitution and Government of this kingdom, and the adminiſtration of the government thereof, and to ſtir up and excite diſcontents and ſeditions amongſt his Majeſty's ſubjects, and to alienate and withdraw the affection, fidelity, and allegiance of his ſaid Majeſty's ſubjects from his ſaid Majeſty; and to fulfil, perfect, and bring to effect, his ſaid wicked, malicious, and ſeditious intentions, on the ſaid ſixteenth day of February, in the thirty-ſecond year aforeſaid, at London aforeſaid, in the pariſh and ward aforeſaid, he, the ſaid Thomas Paine, wickedly, ſedicioufly, and maliciouſly did write and publiſh, and cauſe to be written and publiſhed, a certain other falſe, ſcandalous, malicious, and ſeditious libel; in which libel, amongſt other things, are contained certain falſe, ſcandalous, malicious, and ſeditious matters, of and concerning the Crown of this kingdom, and the King's adminiſtration of the government thereof, and of and concerning the King and the two Houſes of Parliament of this kingdom, according to the tenor and effect following, viz. "Having thus glanced at ſome "of the defects of the two Houſes of Parlia-"ment," (meaning the Parliament of this kingdom,)

dom,) " I proceed to what is called the Crown," (meaning the Crown of this kingdom,) " up- " on which I ſhall be very conciſe. It" (meaning the Crown of this kingdom) " ſignifies a " nominal office of a million ſterling a year, " the buſineſs of which conſiſts in receiving " the money: whether the perſon" (meaning the King of this realm) " be wiſe or fooliſh, " ſane or inſane, a native or a foreigner, matters not, every Miniſtry" (meaning the Miniſtry employed by the King of this realm in the adminiſtration of the government thereof) " acts upon the ſame idea that Mr. Burke " writes, namely, that the people" (meaning the ſubjects of this kingdom) " muſt be hood- " winked and held in ſuperſtitious ignorance " by ſome bugbear or other; and what is called " the Crown" (meaning the Crown of this kingdom) " anſwers this purpoſe, and therefore " it anſwers all the purpoſes to be expected " from it: this is more than can be ſaid of " the other two branches. The hazard to " which this office" (meaning, amongſt others, the office of King of this realm) " is expoſed " in all countries" (meaning, amongſt others, this kingdom) " is not from any thing that can " happen to the man," (meaning the King) " but from what may happen to the nation," (meaning, amongſt others, this kingdom) " the " danger of its coming to its ſenſes." In contempt of our ſaid Lord the King and his laws, to the evil example of all others in the like caſe offending, and againſt the peace of our ſaid Lord the King, his crown, and dignity. And

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the ſaid Attorney General of our ſaid Lord the King, for our Lord the King, further gives the Court here to underſtand and be informed, that the ſaid Thomas Paine, being a wicked, malicious, ſeditious and ill-diſpoſed perſon, and being greatly diſaffected to our ſaid preſent Sovereign Lord the King, and wickedly, maliciouſly, and ſeditiouſly intending, deviſing, and contriving to traduce and vilify our Sovereign Lord the King, and the two Houſes of Parliament of this kingdom, and the Conſtitution and Government of this kingdom, and the adminiſtration of the government thereof, and to ſtir up and excite diſcontents and ſeditions amongſt his Majeſty's ſubjects, and to alienate and withdraw the affection, fidelity, and allegiance of his ſaid Majeſty's ſubjects from his ſaid Majeſty; and to fulfil, perfect, and bring to effect his ſaid wicked, malicious, and ſeditious intentions, on the ſaid ſixteenth day of February, in the thirty-ſecond year aforeſaid, at London aforeſaid, in the pariſh and ward aforeſaid, he, the ſaid Thomas Paine, wickedly, ſeditiouſly, and maliciouſly did print and publiſh, and cauſe to be printed and publiſhed, a certain other falſe, ſcandalous, malicious, and ſeditious libel; in which libel, amongſt other things, are contained certain falſe, ſcandalous, malicious, and ſeditious matters, of and concerning the Crown of this kingdom, and the King's adminiſtration of the government thereof, and of and concerning the King and the two Houſes of Parliament of this kingdom, according to the tenor and effect following, viz. "Having thus

" glanced at ſome of the defects of the two " Houſes of Parliament," (meaning of the Parliament of this kingdom) " I proceed to " what is called the Crown," (meaning the Crown of this kingdom) " upon which I ſhall " be very conciſe. It" (meaning the Crown of this kingdom) " ſignifies a nominal office of a " million ſterling a year, the buſineſs of which " conſiſts in receiving the money: whether " the perſon" (meaning the King of this realm) " be wiſe or fooliſh, ſane or inſane, a native " or a foreigner, matters not, every Miniſtry" (meaning the Miniſtry employed by the King of this realm in the adminiſtration of the government thereof) " acts upon the ſame idea " that Mr. Burke writes, namely, that the " people" (meaning the ſubjects of this kingdom) " muſt be hoodwinked and held in ſu- " perſtitious ignorance by ſome bugbear or " other, and what is called the Crown" (meaning the Crown of this kingdom) " anſwers " this purpoſe, and therefore it anſwers all the " purpoſes to be expected from it: this is " more than can be ſaid of the other two " branches. The hazard to which this office" (meaning, amongſt others, the office of King of this realm) " is expoſed in all countries" (meaning, amongſt others, this kingdom) " is " not from any thing that can happen to the " man," (meaning the King) " but from what " may happen to the nation," (meaning, amongſt others, this kingdom) " the danger of " its coming to its ſenſes." In contempt of our ſaid Lord the King and his laws, to the evil

evil example of all others in the like cafe offending, and againſt the peace of our ſaid Lord the King, his crown, and dignity. And the ſaid Attorney General of our ſaid Lord the King, for our ſaid Lord the King, further giveth the Court here to underſtand and be informed, that the ſaid Thomas Paine, being a wicked, malicious, ſeditious, and ill-diſpoſed perſon, and being greatly diſaffected to our ſaid Lord the King, and the Conſtitution and Government of this kingdom, and wickedly, maliciouſly, and ſeditiouſly intending, deviſing, and contriving to aſperſe, defame, and vilify the characters of the late Sovereign Lord and Lady William and Mary, heretofore King and Queen of England, and of George the Firſt, heretofore King of Great Britain, &c.; and to aſperſe, defame, and vilify, the happy Revolution, providentially effected under the wiſe and prudent conduct of the ſaid King William and Queen Mary, and to bring the ſaid Revolution, and the characters of the ſaid King William and Queen Mary, and King George the Firſt, into hatred and contempt with the ſubjects of this realm, and to ſtir up and excite diſcontents and ſeditions among his Majeſty's ſubjects, and to alienate and withdraw the affection, fidelity, and allegiance of his Majeſty's ſubjects from his ſaid preſent Majeſty; and to fulfil, perfect, and bring to effect his ſaid wicked, malicious, and ſeditious intentions, on the ſaid ſixteenth day of February, in the thirty-ſecond year of the reign of our Lord the now King, at London aforeſaid, in the pariſh and ward aforeſaid,

 wickedly,

wickedly, maliciouſly, and ſeditiouſly, did write and publiſh, and cauſe to be written and publiſhed, a certain other falſe, wicked, malicious, ſcandalous, and ſeditious libel; in which ſame libel, amongſt other things, are contained certain falſe, wicked, malicious, ſcandalous, and ſeditious matters, of and concerning the ſaid King William and Queen Mary, and the ſaid King George the Firſt, and the ſaid Revolution, according to the tenor and effect following, (that is to ſay) " I " happened to be in England at the celebration " of the centenary of the Revolution of 1688." (meaning the ſaid Revolution) " The charac- " ters of William and Mary" (meaning the ſaid late King William and Queen Mary) " have always appeared to me deteſtable; the " one" (meaning the ſaid King William) " ſeeking to deſtroy his uncle, and the other" (meaning the ſaid Queen Mary) " her father, " to get poſſeſſion of power themſelves; yet, " as the nation was diſpoſed to think ſomething " of that event, I felt hurt at ſeeing it aſcribe " the whole reputation of it to a man" (meaning the ſaid late King William the Third) " who had undertaken it as a jobb; and who, " beſides what he otherwiſe got, charged ſix " hundred thouſand pounds for the expence of " the little fleet that brought him from Hol- " land. George the Firſt" (meaning George the Firſt, late King of Great Britain, &c.) " acted the ſame cloſe-fiſted part as William" (meaning the ſaid King William the Third) " had done, and bought the Duchy of Bre- " min with the money he got from England,

" two hundred and fifty thouſand pounds over
" and above his pay as King; and having thus
" purchaſed it at the expence of England, added
" it to his Hanoverian dominions for his own
" private profit: in fact, every nation that does
" not govern itſelf is governed as a jobb: Eng-
" land has been the prey of jobbs ever ſince
" the Revolution." (meaning the aforeſaid Revolution.) In contempt of our ſaid Lord the King and his laws, to the evil and pernicious example of all others in the like caſe offending, and againſt the peace of our ſaid Lord the King, his crown, and dignity. And the ſaid Attorney General of our ſaid Lord the King, for our ſaid Lord the King, further gives the Court here to underſtand and be informed, that the ſaid Thomas Paine, being a wicked, malicious, ſeditious, and ill-diſpoſed perſon, and being greatly diſaffected to our ſaid Lord the King, and the Conſtitution and Government of this kingdom, and wickedly, maliciouſly, and ſeditiouſly intending, deviſing, and contriving to aſperſe, defame, and vilify the characters of the late Sovereign Lord and Lady William and Mary, heretofore King and Queen of England, and of George the Firſt, heretofore King of Great Britain, &c. and to aſperſe, defame, and vilify the happy Revolution, providentially effected under the wiſe and prudent conduct of the ſaid King William and Queen Mary, and to bring the ſaid Revolution, and the characters of the ſaid King William and Queen Mary, and King George the Firſt, into hatred and contempt with the ſubjects of this realm, and to

ſtir up and excite diſcontents and ſeditions among his Majeſty's ſubjects, and to alienate and withdraw the affection, fidelity, and allegiance of his Majeſty's ſubjects from his ſaid preſent Majeſty; and to fulfil, perfect, and bring to effect, his ſaid wicked, malicious, and ſeditious intentions, on the ſaid ſixteenth day of February, in the thirty-ſecond year of the reign of our Lord the now King, at London aforeſaid, in the pariſh and ward aforeſaid, wickedly, maliciouſly, and ſeditiouſly, did print and publiſh, and cauſe to be printed and publiſhed, a certain other falſe, wicked, malicious, ſcandalous, and ſeditious libel; in which ſame libel, amongſt other things, are contained certain falſe, wicked, malicious, ſcandalous, and ſeditious matters, of and concerning the ſaid King William and Queen Mary, and the ſaid King George the Firſt, and the ſaid Revolution, according to the tenor and effect following, (that is to ſay,) "I happened to be in England "at the celebration of the centenary of the "Revolution of 1688." (meaning the ſaid Revolution) "The characters of William "and Mary" (meaning the ſaid late King William and Queen Mary) "have always appear-"ed to me deteſtable; the one" (meaning the ſaid King William) "ſeeking to deſtroy his "uncle, and the other" (meaning the ſaid Queen Mary) "her father, to get poſſeſſion of "power themſelves; yet, as the nation was "diſpoſed to think ſomething of that event, "I felt hurt at ſeeing it aſcribe the whole re-"putation of it to a man" (meaning the ſaid late

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" been the prey of jobbs ever ſince the Revo-
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Sovereign Lord William, heretofore King o-England, and of George the Firſt, heretofore King of Great Britain, &c. and to aſperſe, defame, and vilify, the happy Revolution, providentially effected under the wiſe and prudent conduct of the ſaid King William; and to bring the ſaid Revolution and the characters of the ſaid King William and King George the Firſt into hatred and contempt with the ſubjects of this realm; and to ſtir up and excite diſcontents and ſeditions among his Majeſty's ſubjects, and to alienate and withdraw the affection, fidelity, and allegiance, of his Majeſty's ſubjects from his ſaid preſent Majeſty; and to fulfil, perfect, and bring to effect, his ſaid wicked, malicious, and ſeditious, intentions, on the ſaid ſixteenth day of February, in the thirty-ſecond year of the reign of our Lord the now King, at London aforeſaid, in the pariſh and ward aforeſaid, wickedly and maliciouſly did write and publiſh, and cauſe to be written and publiſhed, a certain other falſe, wicked, malicious, ſcandalous, and ſeditious, libel; in which ſame libel, amongſt other things, are contained certain falſe, wicked, malicious, ſcandalous, and ſeditious, matters, of and concerning the ſaid King William the Third, and the ſaid King George the Firſt, and the ſaid Revolution, according to the tenor and effect following, (that is to ſay) "The "fraud, hypocriſy, and impoſition, of Govern-"ment" (meaning, amongſt others, the government of this kingdom) "are now begin-"ning to be too well underſtood to promiſe "them any long career. The farce of monar-

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" chy and ariſtocracy in all countries is following
" that of chivalry, and Mr. Burke is dreſſing
" for the funeral. Let it then paſs quietly to
" the tomb of all other follies, and the mour-
" ners be comforted. The time is not very
" diſtant when England will laugh at itſelf for
" ſending to Holland, Hanover, Zell, or
" Brunſwick, for men," (meaning the ſaid King William the Third, and King George the Firſt) " at the expence of a million a year,
" who underſtood neither her laws, her lan-
" guage, nor her intereſt; and whoſe capacities
" would ſcarcely have fitted them for the office
" of a pariſh conſtable. If government could
" be truſted to ſuch hands, it muſt be ſome
" eaſy and ſimple thing indeed; and ma-
" terials fit for all the purpoſes may be found
" in every town and village in England." In contempt of our ſaid Lord the now King and his laws, to the evil example of all others in the like caſe offending, and againſt the peace of our ſaid Lord the King, his crown and dignity. And the ſaid Attorney General of our ſaid Lord the King, for our ſaid Lord the King, further gives the court here to underſtand and be informed, that the ſaid Thomas Paine being a wicked, malicious, ſeditious, and ill-diſpoſed perſon, and being greatly diſaffected to our ſaid Lord the King, and the conſtitution and government of this kingdom, and wickedly, maliciouſly, and ſeditiouſly, intending, deviſing, and contriving, to aſperſe, defame, and vilify, the character of the late Sovereign Lord William heretofore King of England, and of

George

George the Firſt heretofore King of Great Britain, &c. and to aſperſe, defame, and vilify, the happy revolution, providentially effected under the wiſe and prudent conduct of the ſaid King William, and to bring the ſaid Revolution and the characters of the ſaid King William and King George the Firſt into hatred and contempt with the ſubjects of this realm; and to ſtir up and excite diſcontents and ſeditions among his Majeſty's ſubjects, and to alienate and withdraw the affection, fidelity, and allegiance of his Majeſty's ſubjects from his ſaid preſent Majeſty, and to fulfil, perfect, and bring to effect, his ſaid wicked, malicious, and ſeditious, intentions, on the ſaid ſixteenth day of February, in the thirty-ſecond year of the reign of our Lord the now King, at London aforeſaid, in the pariſh and ward aforeſaid, wickedly, maliciouſly, and ſeditiouſly, did print and publiſh, and cauſe to be printed and publiſhed, a certain other falſe, wicked, malicious, ſcandalous, and ſeditious, libel; in which ſame libel, amongſt other things, are contained certain falſe, wicked, malicious, ſcandalous, and ſeditious matters, of and concerning the ſaid King William the Third, and the ſaid King George the Firſt, and the ſaid Revolution, according to the tenor and effect following, (that is to ſay) "The fraud, hypocriſy, and impo-
" ſition, of Governments," (meaning, among others, the government of this kingdom) " are
" now beginning to be too well underſtood to
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" could be truſted to ſuch hands, it muſt be
" ſome eaſy and ſimple thing indeed; and ma-
" terials fit for all the purpoſes may be found
" in every town and village in England." In contempt of our ſaid Lord the now King and his laws, to the evil example of all others in the like caſe offending, and againſt the peace of our ſaid Lord the King, his crown and dignity. Whereupon the ſaid Attorney General of our ſaid Lord the King, who for our ſaid Lord the King in this behalf, proſecuteth for our ſaid Lord the King, prayeth the conſideration of the court here in the premiſes, and that due proceſs of law may be awarded againſt him the ſaid Thomas Paine in this behalf, to make him anſwer to our ſaid Lord the King, touching and concerning the premiſes aforeſaid.

To this information the defendant hath appeared, and pleaded Not Guilty, and thereupon iſſue is joined.

Court

Court of KING'S BENCH, *Guildhall, London,*

DECEMBER 18th, 1792,

Before the RIGHT HON. LORD KENYON.

SPECIAL JURY.

JOHN CAMPBELL,
JOHN LIGHTFOOT,
CHRISTOPHER TADDY,
ROBERT OLIPHANT,
CORNELIUS DONOVAN,
ROBERT ROLLESTON,
JOHN LUBBOCK,
RICHARD TUCKWELL,
WILLIAM PORTER,
THOMAS DRUCE,
ISAAC RAILTON,
HENRY EVANS.

Counsel for the Crown.

The ATTORNEY GENERAL,
The SOLICITOR GENERAL,
Mr. BEARCROFT,
Mr. BALDWIN,
Mr. WOOD,
Mr. PERCIVAL.

Counsel for the Defendant.

The Hon. THO. ERSKINE,
Mr. PIGGOT,
Mr. SHEPHERD,
Mr. FITZGERALD,
Mr. F. VAUGHAN.

Solicitors.

Messrs. CHAMBERLAYNE and WHITE.

Solicitor.

Mr. BONNEY.

(The information was opened by Mr. Percival.*)*

Mr. Attorney General.

Gentlemen of the Jury,

You will permit me to ſolicit, and for no long ſpace of time, in the preſent ſtage of this buſineſs, ſomewhat of your attention to a cauſe which, conſidering it on its own merits only, is, in my humble judgement, a plain, a clear, a ſhort, and indiſputable caſe. Were it not, Gentlemen, that certain circumſtances have rendered it a caſe of more expectation than ordinary, I do aſſure you that I ſhould literally have contented myſelf this day with conducting myſelf in the manner that I did upon the laſt occaſion that I was called upon to addreſs a Jury upon this ſort of ſubject, namely, by ſimply reading to you the paſſages which I have ſelected, and leaving it entirely to your judgment. But, Gentlemen, it ſo happens that the accumulated miſchief which has ariſen from the particular book that is now before you, and the conſequences, which every body is acquainted with, which have followed from this publication, have rendered it neceſſary, perhaps, that I ſhould ſay a few words more in the opening

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than it would have been my intention to have done, had it not been for thoſe circumſtances.

Gentlemen, in the firſt place you will permit me, without the imputation, I think, of ſpeaking of myſelf, (a very trifling ſubject, and always a diſguſting one to others) to obviate a rumour which I have heard, namely, that this proſecution does not correſpond with my private judgment; that has been ſaid, and has reached my ears from various quarters. The refutation that I ſhall give to it is this: That I ſhould think I deſerved to be with diſgrace expelled from the ſituation with which his Majeſty has honoured me in your ſervice, and that of all my fellow ſubjects, had I, as far as my private judgment goes, heſitated for one inſtant to bring this enormous offender, as I conſider him, before a Jury of his country.

Gentlemen, the publication in queſtion was not the firſt of its kind which this defendant ſent forth into the world. This particular publication was preceded by one upon the ſame ſubjects, and handling, in ſome meaſure, the ſame topics. That publication, although extremely reprehenſible, and ſuch as, perhaps, I was not entirely warranted in overlooking, I did overlook, upon this principle, that it may not be fitting and prudent at all times, for a public proſecutor to be ſharp in his proſecutions, or to have it ſaid that he is inſtrumental in preventing any manner of diſcuſſion coming under the public eye, although in his own eſtimation it may be very far indeed from that which is le-

gitimate and proper diſcuſſion. Reprehenſible as that book was, extremely ſo in my opinion, yet it was uſhered into the world under circumſtances that led me to conceive that it would be confined to the judicious reader, and when confined to the judicious reader, it appeared to me that ſuch a man would refute as he went along.

But, gentlemen, when I found that another publication was uſhered into the world ſtill more reprehenſible than the former, that in all ſhapes, in all ſizes, with an induſtry incredible; it was either totally or partially thruſt into the hands of all perſons in this country, of ſubjects of every deſcription; when I found that even children's ſweet-meats were wrapped up with parts of this, and delivered into their hands, in the hope that they would read it, when all induſtry was uſed, ſuch as I deſcribe to you, in order to obtrude and force this upon that part of the public whoſe minds cannot be ſuppoſed to be converſant with ſubjects of this ſort, and who cannot therefore correct as they go along, I thought it behoved me upon the earlieſt occaſion, which was the firſt day of the term ſucceeding this publication, to put a charge upon record againſt its author.

Now, gentlemen, permit me to ſtate to you what it is that I impute to this book, and what is the intention that I impute to the writer of this book. Try it by every teſt that the human mind can poſſibly ſuggeſt, and ſee whether when tried by all the variety of thoſe teſts, you will not be ſatisfied in the long run, that it does deſerve

that

that deſcription which my duty obliges me to give of it.

Gentlemen, in the firſt place I impute to it a wilful, deliberate intention to vilify and degrade, and thereby to bring into abhorrence and contempt, the whole conſtitution of the government of this country; not as *introduced*, that I will never admit, but as *explained* and *reſtored* at the Revolution. That ſyſtem of government under which we this day live, and which if it ſhall be attacked by contemptuous expreſſions, if by dogmatical dicta, if by ready-made propoſitions, offered to the underſtandings of men ſolicitous about the nature of their conſtitution, properly ſo, (God forbid they ever ſhould be otherwiſe) but who, at the ſame time, may be eaſily impoſed upon to their own deſtruction, they may be brought to have diffidence and even abhorrence (for this book goes all that length) of that which is the ſalvation of the public, and every thing which is dear to them.

I impute then to this book a deliberate deſign to eradicate from the minds of the people of this country that enthuſiaſtic love which they have hitherto had for that conſtitution, and thereby to do the utmoſt work of miſchief that any human being can do in this ſociety.

Gentlemen, further I impute to it that, *in terms*, the regal part of the government of this country, bounded and limited as it is, is repreſented as an oppreſſive and an abominable tyranny.

Thirdly

Thirdly. That the whole legiſlature of this country is directly an uſurpation.

Again, with reſpect to the laws of this realm, which hitherto have been our boaſt, indiſcriminately and without one ſingle exception, that they are grounded upon this uſurped authority, and are therefore in themſelves null, or, to uſe his own words—that there is little or no law in this country.

Then, gentlemen, is it to be held out to a community of ten or twelve millions of people, is it to be held out, as well to the lower as to the better informed claſſes of theſe ten or twelve millions, that there is nothing in this ſociety that is binding upon their conduct, excepting ſuch portion of religion or morality as they may individually and reſpectively entertain?

Gentlemen, are we then a lawleſs banditti? Have we neither laws to ſecure our property, our perſons, or our reputations?—Is it ſo that every man's arms are unbound, and that he may do whatever he pleaſes in the ſociety?—Are we reduced back again to that ſavage ſtate of nature? I aſk you the queſtion! You, gentlemen, know well what the anſwer is; but, gentlemen, are we to ſay, that a man who holds this out to thoſe who are not furniſhed with the means of giving the anſwer which I know you, and every gentleman who hears me at this moment, will give, is diſcuſſing a queſtion? Can any thing add to his ſlander upon the conſtitution; and upon the ſeparate parts of the government, ſo conſtituted as ours is, more than that ſweeping imputation upon the whole ſyſtem of law that binds us together—namely,

that it is null and void, and that there is in reality no ſuch thing to be found?

Gentlemen, in the ſeveral paſſages which I ſhall read to you, I impute this to him; alſo, that he uſes an artifice groſs to thoſe who can obſerve it, but dangerous in the extreme to thoſe whoſe minds perhaps are not ſufficiently cultivated and habituated to reading to enable them to diſcover it: the artifice, in order to create diſguſt, is neither more nor leſs than this—it is ſtating all the objections that can poſſibly be urged to monarchy, ſeparately and ſolely conſidered, and to pure and ſimple ariſtocracy; he never chuſes to ſay a ſingle ſyllable with reſpect to thoſe two as combined with a democracy, forbearing alſo to ſtate, and induſtriouſly keeping out of the way, every circumſtance that regards that worſt of all governments, an unbalanced democracy, which is neceſſarily pregnant with a democratical tyranny. This is the groſs artifice; and when you come to diſſect the book in the careful manner that I have done, I believe you and every other reader will eaſily detect that artifice.

Gentlemen, to whom are the poſitions that are contained in this book addreſſed? They are addreſſed, gentlemen, to the ignorant, to the credulous, to the deſperate; to the deſparate all government is irkſome, nothing can be ſo palatable to their ears as the comfortable doctrine that there is neither law nor government amongſt us.

The ignorant and the credulous, we all know, to exiſt in all countries, and perhaps

exactly

exactly in proportion as their hearts are good and ſimple, are they an eaſy prey to the crafty who have the cruelty to deceive them.

Gentlemen in judging of the malignant intention which I muſt impute to this author, you will be pleaſed to take into your conſideration the phraſe and the manner as well as the matter. The phraſe I ſtate to be inſidious and artful, the manner in many inſtances ſcoffing and contemptuous, a ſhort argument, often a prevalent one, with the ignorant or the credulous. With reſpect to the *matter*, in my conſcience I call it treaſon, though technically, according to the laws of the country, it is not. —for, gentlemen, balance the inconvenience to ſociety of that which is technically treaſon, and in this country, we muſt not, thank God, extend it but keep it within its moſt narrow and circumſcribed definitions, but conſider the comparative difference of the miſchief that may happen from ſpreading doctrines of this ſort, and that which may happen from any treaſon whatever.

In the caſe of the utmoſt degree of treaſon, even perpetrating the death of a prince upon the throne, the law has found the means of ſupplying that calamity in a manner that may ſave the country from any permanent injury. In many periods of the hiſtory of this country, which you may eaſily recollect, it is true that the reign of a good prince has been interrupted by violence,—a great evil!—but not ſo great as this: the chaſm is filled up inſtantly by the conſtitution of this country, even if that laſt of treaſons ſhould be committed.

But where is the power upon earth that can fill up the chaſm of a conſtitution that has been growing;—not for ſeven hundred years, as Mr. Paine would have you believe, from the Norman conqueſt but from time almoſt eternal, impoſſible to trace; that has been growing as, from the ſymptoms Julius Cæſar obſerved when he found our anceſtors nearly ſavages in the country, has been growing from that period until it was conſummated at the Revolution, and ſhone forth in all its ſplendour.

In addition to this, this gentleman thinks fit even to impute to the exiſtence of that conſtitution, ſuch as I have deſcribed it the very evils inſeparable from human ſociety, or even from human nature itſelf; all theſe are imputed to that ſcandalous, that wicked, that uſurped conſtitution under which we, the ſubjects of this country, have hitherto miſtakenly conceived that we lived happy and free.

Gentlemen, I apprehend it to be no very difficult operation of the human mind to diſtinguiſh reaſoning and well meant diſcuſſion from a deliberate deſign to calumniate the law and conſtitution under which we live, and to withdraw men's allegiance from that conſtitution; it is the operation of good ſenſe: it is therefore no difficult operation for a jury of the City of London, therefore: you will be pleaſed to obſerve whether the whole of this book, I ſhould rather ſay, ſuch part as I am at preſent at liberty to advert to, is not of this deſcription, that it is by no means calculated to diſcuſs and to convince, but to perform the ſhorter proceſs of inflammation;

not

not to reaſon upon any ſubject, but to dictate; and gentleman, as I ſtated to you before, to dictate in ſuch a manner, and in ſuch phraſe, and with all ſuch circumſtances as cannot, in my humble apprehenſion, leave the moſt remote doubt upon your minds of what was paſſing in the heart of that man who compoſed that book.

Gentlemen, you will permit me now to ſay a word or two upon thoſe paſſages, which I have ſelected to you, firſt deſcribing a little what thoſe paſſages are. I have thought it much more becoming, much more beneficial to the public, than any other courſe that I could take, to ſelect ſix or ſeven, and no more, (not wiſhing to load the record unneceſſarily) of thoſe paſſages that go to the very root of our conſtitution, that is the nature of the paſſages which I have ſelected, and gentlemen, the firſt of them is in page 21, where you will find this doctrine.

" All hereditary government is in its nature
" tyranny, an heritable crown, or an heritable
" throne, or by what other fanciful name ſuch
" things may be called, have no other ſigni-
" ficant explanation than that mankind are
" heritable property. To inherit a govern-
" ment is to inherit the people, as if they were
" flocks and herds."

Now, gentlemen, what is the tendency of this paſſage? " All hereditary government is in its nature tyranny." So that no qualification whatever, not even the ſubordination to the law of the country, which is the only paramount thing that we know of in this

country, can take it out of the deſcription of tyranny; the regal office being neither more nor leſs than a truſt executed for the ſubjects of this country; the perſon who fills the regal office being underſtood, in this country, to be neither more nor leſs than the chief executive magiſtrate heading the whole gradation of magiſtracy.

But without any qualification he ſtates it roundly, that under all circumſtances whatever hereditary government muſt in its nature be tyranny; what is that but to hold out to the people of this country that they are nought but ſlaves; to be ſure, if they are living under a tyranny, it is impoſſible to draw any other conſequence.

This is one of thoſe ſhort propoſitions that are crammed down the throat of every man that is acceſſible to their arts in this country; this is one of thoſe propoſitions, which, if he believes, muſt have the due effect upon his mind, of ſaying, the caſe is come when I underſtand I am opreſſed, I can bear it no longer.

"An heritable crown." Ours is an heritable crown, and therefore it is comprehended in this dogma: "Or by what other fanciful name ſuch things may be called." Is that diſcuſſion? Contemptuous, vilifying, and degrading expreſſions of that ſort are applied to that which we are accuſtomed to look to with reverence, namely, the repreſentation of the whole body of magiſtracy and of the law—"have no other ſignificant explanation than "that mankind are heritable property. To in-

"herit

" herit a government is to inherit the people, as " if they were flocks and herds."

Why, gentlemen, are the people of England to be told, without further ceremony, that they are inherited by a King of this country, and that they are precifely in the cafe of fheep and oxen? I leave you to judge if fuch grofs, contemptible, and abominable falfehood is delivered out in bits and fcraps of this fort, whether that does not call aloud for punifhment?

Gentlemen, only look at the truth; the converfe is directly the cafe. The King of this country inherits an office under the law; he does not inherit perfons; we are not in a ftate of villenage; the direct reverfe to what is here pointed out is the truth of the matter; the King inherits an office, but as to any inheritance of his people, none, you know, belongs to him, and I am afhamed to fay any thing more upon it.

The next is in page 47, in which this man is fpeaking of the Congrefs at Philadelphia in 1787, which was held becaufe the government of that country was found to be extremely defective as at firft eftablifhed.

" This Convention met at Philadelphia, in " May 1787, of which General Wafhington was " elected prefident; he was not at that time con- " nected with any of the State-governments or " with Congrefs. He delivered up his commif- " fion when the war ended, and fince then " had lived a private citizen.

" The Convention went deeply into all the " fubjects, and having, after a variety of de-

" bate and inveſtigation, agreed among them-
" ſelves upon the ſeveral parts of a federal Con-
" ſtitution, the next queſtion was the manner
" of giving it authority and practice."

What is the concluſion of that—they certainly agreed upon an appointment of their federal Conſtitution in 1787. I ſhould have thought that a man, meaning nothing more than hiſtory, would have been very well contented to have ſtated what actually did happen upon that occaſion; but, in order to diſcuſs (as poſſibly it may be called) ſomething that formerly did paſs in this country, he choſe to do it in theſe inflaming and contemptuous terms.

" For this purpoſe they did not, like a cabal
" of courtiers, ſend for a Dutch Stadtholder
" or a German Elector; but they referred the
" whole matter to the ſenſe and intereſt of the
" country."

Here again the revolution and the act of ſettlement ſtare us in the face, as if the intereſt and the ſenſe of the country were in no way conſulted; but, on the contrary, it was nothing more than a mere cabal of courtiers.—Whether that is or is not to be endured in this country, your verdict will ſhew; but, in order to ſhew you how totally unneceſſary this paſſage was, except for the deliberate purpoſe of calumny; if this paſſage had been left out, the narration would have been quite perfect. I will read three or four lines juſt to ſhew how perfect it would have been:—" The next
" queſtion was about the manner of giving
" it authority and practice." The paſſage be-

yond

yond that which I call a libel,—" They firſt " directed that the propoſed Conſtitution " ſhould be publiſhed; ſecondly, that each " State ſhould elect a Convention, for the pur- " poſe of taking it into conſideration, and of " ratifying or rejecting it;" and ſo the ſtory goes on—but, in order to explain what I mean by a dogma thruſt in, I call your attention to this, as one of thoſe which has no earthly connexion with the ſubject he was then ſpeaking of.

Does not this paſſage ſtand inſulated between the two parts of the connected ſtory officiouſly and deſignedly thruſt in for the purpoſes of miſchief? Gentlemen, the artifice of that book conſiſts alſo in this; the different wicked paſſages that are meant to do miſchief in this country, are ſpread throughout it, and ſtuck in here and there, in a manner that in order to ſee the whole malignity of it, it is neceſſary to have a recollection of ſeveral preceding paſſages; but theſe paſſages when brought together manifeſtly ſhew the full deſign of the writer, and therefore extracts of it may be made to contain the whole marrow; and at the ſame time that each paſſage, taken by itſelf, will do miſchief enough, any man reading them together, will ſee that miſchief come out much clearer than by a mere tranſient reading.

The next paſſage I have to obſerve upon is in page 52, and in page 52 he is pleaſed to expreſs himſelf in this manner: he ſays,

" The hiſtory of the Edwards and the " Henrys, and up to the commencement of

" the

" the Stuarts, exhibits as many inſtances of " tyranny as could be acted within the limits " to which the nation had reſtricted it; the " Stuarts endeavoured to paſs thoſe limits, and " their fate is well known. In all theſe in- " ſtances we ſee nothing of a Conſtitution, but " only of reſtrictions on aſſumed power."

Then, gentlemen, from the reign of the Edwards and the Henrys down to the Revolution, it was a regular progreſſion of tyranny, not a progreſſion of liberty but of tyranny, till the Stuarts ſtepped a little beyond the line in the gradation that was going forwards, and that begot a neceſſity for a revolution; but of the Edwards I ſhould have thought, at leaſt, he might have ſpared the great founder of our juriſprudence, King Edward the Firſt, beſide many other Princes, the glory and the boaſt of this country, and many of them regarders of its freedom and Conſtitution; but inſtead of that, this author would have the people of this country believe that up to that time it was a progreſſive tyranny, and that there was nothing of a Conſtitution, only reſtrictions on aſſumed power;—ſo that all the power that exiſted at that time was aſſumption and uſurpation.

He thus proceeds " After this another Wil- " liam deſcended from the ſame ſtock, and " claiming from the ſame origin, gained poſ- " ſeſſion, and of the two evils, James and " William, the nation preferred what it " thought the leaſt" So that the deliverance of this country by the Prince of Orange was an evil, but the leaſt of the two, " ſince from " circumſtances it muſt take one. The act

" called

" called the Bill of Rights comes here into
" view: What is it but a bargain which the
" parts of the government made with each
" other to divide powers, profits, and privi-
" leges? You ſhall have ſo much, and I will
" have the reſt; and with reſpect to the na-
" tion, it ſaid, for *your ſhare*, YOU *ſhall have the*
" *right of petitioning*. This being the caſe,
" the Bill of Rights is more properly a BILL
" OF WRONGS AND OF INSULT. As to what is
" called the Convention Parliament, it was a
" thing that made itſelf, and then made the
" authority by which it acted; a few perſons
" got together, and called themſelves by that
" name; ſeveral of them had never been elect-
" ed, and none of them for the purpoſe."

" From the time of William a ſpecies of
" government aroſe, iſſuing out of this coali-
" tion Bill of Rights, and more ſo ſince the
" corruption introduced at the Hanover ſuc-
" ceſſion by the agency of Walpole, that can
" be deſcribed by no other name than a de-
" ſpotic legiſlation.

Now, gentlemen, this is the deſcription that this man holds out of that on which reſts the property, the lives, and liberties, and the privileges of the people of this country. I wonder to God, gentlemen, that any Britiſh man (for ſuch this man certainly was, and ſtill is) to uſe the words of our own Poet, when he ſpoke theſe words, A BILL OF WRONGS, A BILL OF INSULT, they did not " ſtick in his throat." What is that Bill of Rights? It can never be too often read. I will make no comment upon it, becauſe your own heads and hearts will

make

make that comment; you have a poſterity to look to. Are deſperate ruffians, who are to be found in every country, thus to attack the unalienable rights and privileges which are to deſcend undiminiſhed to that poſterity?

Are YOU not to take care that this ſhall be ſacred to your poſterity. Is it not a truſt in YOUR hands? It is a truſt in YOUR hands as much as the execution of the law is a truſt in the hands of the crown; each has its guardians in this community, but you are the guardians of the Bill of Rights.

Gentlemen, it is this, "That the pretended
" power of ſuſpending of laws, or the execu-
" tion of laws, by regal authority, without con-
" ſent of parliament, is illegal.

"That the pretended power of diſpenſing
" with laws, or the execution of laws, by the
" regal authority, as it hath been aſſumed and
" exerciſed of late, is illegal."

That is the law is above all.

"That levying money for, or to the uſe of,
" the Crown, by pretence of prerogative,
" without grant of parliament, for longer
" time, or in other manner than the ſame is
" or ſhall be granted, is illegal."

"That it is the right of the ſubjects to pe-
" tition the king, and all commitments and
" proſecutions for ſuch petitions are illegal."

All that you get by the Bill of Rights, according to this man's doctrine, is, that the Commons of this country have the right of petitioning. We all know this alludes to the caſe of the ſeven biſhops; that was a groſs violation of the rights of thoſe ſubjects of this country;

country ; therefore, he ſtates, falſely and maliciouſly, according to the language of the information, which is perfectly correct in the preſent caſe, that the whole that was obtained by the ſubjects of this country was the right of petitioning ; whereas it is declared to be their unalterable right, and ever to have been ſo, and adverts, as I before ſtated, to a groſs violation of it in a recent caſe.

" That the raiſing or keeping a ſtanding " army within the kingdom in time of peace, " unleſs it be with conſent of parliament, is " againſt law."

" That the ſubjects, which are proteſtants, " may have arms for their defence, ſuitable " to their conditions, and as allowed by " law."

" That elections of members of parliament " ought to be free."

" That the freedom of ſpeech, and debates " or proceedings in parliament, ought not to " be impeached, or queſtioned, in any court " or place out of parliament."

" That exceſſive bail ought not to be re- " quired, nor exceſſive fines impoſed, nor " cruel and unuſual puniſhments inflicted."

" That jurors ought to be duly impannelled " and returned ; and jurors which paſs upon " men in trials for high treaſon ought to be " freeholders."

" That all grants and promiſes of fines " and forfeitures of particular perſons, before " conviction, are illegal and void."

" And that for the redreſs of all griev- " ances, and for the amendig, ſtrengthening,

" and

" and preſerving of the laws, parliaments
" ought to be held frequently."

Further, gentlemen, this bill goes on to ſay,
" For the ratifying, confirming, and eſtabliſh-
" ing the ſaid declaration, and the articles,
" clauſes, matters, and things, therein con-
" tained, by the force of a law made in due
" form, by authority of Parliament, do pray
" it may be declared and enacted, that all and
" ſingular the rights and liberties aſſerted and
" claimed in the ſaid declaration are the true
" ancient and indubitable rights and liberties
" of the people of this kingdom, and ſo ſhall
" be eſteemed, allowed, adjudged, deemed,
" and taken to be; and that all and every
" the particulars aforeſaid ſhall be firmly and
" ſtrictly holden and obſerved, as they are ex-
" preſſed in the ſaid declaration, and all officers
" and miniſters whatſoever ſhall ſerve their
" majeſties and their ſucceſſors, according to
" the ſame in all times to come."

Such, gentlemen, is the Bill of Wrongs and of Inſult. I ſhall not profane it by ſaying one more word upon it.

Now, gentlemen, I would aſk you, whether what is ſaid by this man be reaſoning or diſcuſſion; or whether it is nothing elſe but deception, and that deception conſiſting of a moſt abominable and complete ſuppreſſion? Is there a word of this act quoted? Has the poor mechanic, to whom this paſſage is addreſſed, who is told that he has been wronged and inſulted at the revolution, has he this ſtatute by him to read? Would it not have been fair, at leaſt, to have ſtated what it was? But inſtead of that, unſight, unſeen, (to uſe

a very

a very vulgar expreſſion) this propoſition is tendered to the very loweſt man in this country, namely, that the Bill of Rights is a Bill of Wrongs and of Inſult.

Paſs we then on to another; if you will pleaſe to make a memorandum of page 56, you will find that in the ſame ſpirit, and with the ſame deſign, this man tells you that—"The intention of the government of England," here comes in another contemptuous expreſſion ("for I rather chuſe to call it by "this name than the Engliſh government), "appears ſince its political connexion with "Germany to have been ſo completely en-"groſſed and abſorbed by foreign affairs, "and the means of raiſing taxes, that it ſeems "to exiſt for no other purpoſes."

The government of the country then does not exiſt for the purpoſe of preſerving our lives and properties; but the government, I mean the Conſtitution of the country, Kings, Lords, and Commons, exiſts for no other purpoſe but to be the inſtruments of raiſing taxes. To enter into any diſcuſſion of that, is taking up your time unneceſſarily—I only beg to draw your attention to the dogmatical and cavalier manner in which theſe things are aſſerted; further, he ſays—"Domeſtic concerns are ne-"glected, and with reſpect to regular law, "there is ſcarcely ſuch a thing."

I ſtand in the city of London; I am addreſſing myſelf to gentlemen eminent in that city, whether the legiſlature, ſince the revolution, has, or not, adverted to domeſtic concerns: I think I may appeal to the growing proſ-

perity

perity of this country, from the moment that the night mare has been taken off its ſtomach, which preſſed upon it up to that moment.

We then proceed to page 63, where, after the whole Conſtitution of this country has been thus treated in groſs, he proceeds a little to diſſect and conſider the component parts of that Conſtitution; and in page 63, in a dogma, we have this:

" With reſpect to the two Houſes of " which the Engliſh Parliament is com- " poſed, they appear to be effectually in- " fluenced into one, and, as a legiſlature, to " have no temper of its own. The Miniſter, " whoever he at any time may be, touches it, " as with an opium wand, and it ſleeps obe- " dience."

Now, gentlemen, here is another dogma without a ſingle fact, without a ſingle argument; but it is held out to the ſubjects of this country, that there is no energy or activity in either the ariſtocratical or democratical parts of this Conſtitution, but that they are aſleep, and you might juſt as well have ſtatues there; it is not merely ſaid that it is ſo now, but it is in the nature of things, ſays he, that it ſhould be ſo.

" But if we look at the diſtinct abilities of " the two Houſes, the difference will appear " ſo great as to ſhew the inconſiſtency of " placing power where there can be no " certainty of the judgment to uſe it.— " Wretched as the ſtate of repreſentation is " in England, it is manhood compared with " what is called the Houſe of Lords, and ſo

" little

" little is this nickname, Houſe regarded, that
" the people ſcarcely inquire at any time what
" it is doing. It appears alſo to be moſt under
" influence, and the furtheſt removed from
" the general intereſt of the nation."

Now, gentlemen, this is again ſpeaking in this man's contemptuous manner, at the expence of the ariſtocratical part of our conſtitution of government; an eſſentially beneficial part, whoſe great and permanent intereſt in the country renders them a firm barrier againſt any encroachment. I am not to ſuppoſe that you are ſo ignorant of the hiſtory of your country, as not to know the great and brilliant characters that have ſat in that Houſe. No particular period of time is alluded to in this paſſage. He ſurely cannot mean the preſent time; but I conceive he ſpeaks of all times, and that from the very nature of our government it muſt everlaſtingly be ſo. Slander upon that very great and illuſtrious part of the legiſlature (untrue at any period), written in this ſcurrilous and contemptuous manner, is diſtinguiſhed greatly indeed from any ſober diſcuſſion of, whether an ariſtocratical part of government is a good or bad thing, and is calculated only to miſlead and inflame.

If you look next to page 107, there you will find that two of the component parts of the legiſlature having been thus diſpoſed of, we come up to the throne itſelf, and this man ſays very truly of himſelf:

" Having thus GLANCED at ſome of the de-
" fects of the two Houſes of Parliament, I

" proceed to *what is called the Crown*, upon
" which I ſhall be very conciſe:
" It ſignifies a nominal office of a million a
" year, the buſineſs of which conſiſts in re-
" ceiving the money; whether the perſon be
" wiſe or fooliſh, ſane or inſane, a native or a
" foreigner, matters not. Every miniſter acts
" upon the ſame idea that Mr. Burke writes,
" namely, that the people muſt be hoodwink-
" ed, and held in ſuperſtitious ignorance by
" ſome bugbear or other; and what is called
" the Crown anſwers this purpoſe, and there-
" fore it anſwers all the purpoſes to be ex-
" pected from it.—This is more than can be
" ſaid of the other two branches.
" The hazard to which this office is expoſed
" in all countries, including this among the
" reſt, is not from any thing that can happen
" to the man, but from what may happen
" to the nation, the danger of its coming to
" its ſenſes."

Then, gentlemen, we have been inſane for theſe ſeven or eight hundred years: and I ſhall juſt diſmiſs this with this obſervation, that this inſanity having ſubſiſted ſo long, I truſt in God that it is incurable.

In page 116 you have this note,—" I hap-
" pened to be in England at the celebration of
" the centenary of the revolution of 1688. The
" characters of William and Mary have al-
" ways appeared to me deteſtable; the one
" ſeeking to deſtroy his uncle, and the other
" her father, to get poſſeſſion of power them-
" ſelves; yet as the nation was diſpoſed
" to think ſomething of that event, I felt hurt
" at

" at ſeeing it aſcribe the whole reputation of
" it to a man who had undertaken it as a job,
" and who, beſides what he otherwiſe got,
" charged ſix hundred thouſand pounds for
" the expence of a little fleet that brought
" him from Holland.—George the Firſt acted
" the ſame cloſe-fiſted part as William had
" done, and bought the Duchy of Bremen with
" the money he got from England, two hun-
" dred and fifty thouſand pounds over and above
" his pay as King; and having thus purchaſed
" it at the expence of England, added it to his
" Hanoverian dominions for his own private
" profit.—In fact, every nation that does not
" govern itſelf, is governed as a job. England
" has been the prey of jobs ever ſince the Re-
" volution."

Then, gentlemen, what he calls a nation governing itſelf, is ſomething extremely different from a nation having conſented from time immemorial to be governed by a democracy, an ariſtocracy, and an hereditary executive ſupreme magiſtrate; and moreover, by a law paramount, which all are bound to obey, he conceives, I ſay, that ſort of government not to be a government of the people themſelves, but he denominates that ſort of government a job, and not a government.

Gentlemen, ſuch are the paſſages which I have ſelected to you, as thoſe that diſcloſe the moſt offenſive doctrines in the book; that is, ſuch as go fundamentally to the overturning the government of this country.—I beg pardon, I have omitted one which contains more of direct invitation than any thing I have yet ſtated.

—it is in page 161: it is said, " the fraud, hy-
" pocrify and impofition of governments are
" now beginning to be too well underftood
" to promife them any long career.—The farce
" of monarchy and ariftocracy in all countries
" is following that of chivalry, and Mr. Burke
" is dreffing for the funeral—let it then pafs
" quietly to the tomb of all other follies, and
" the mourner be comforted. The time is not
" very diftant when England will laugh at
" itfelf for fending to Holland, Hanover, Zell,
" or Brunfwick, for men, at the expence of a
" million a year, who underftand neither her
" laws, her language, nor her intereft, and
" whofe capacities would fcarcely have fitted
" them for the office of parifh conftable."

This is faid of William the Third—this is faid of two very illuftrious Princes of the Houfe of Brunfwick, George the Firft and Second, and extends to the prefent Sovereign upon the throne.

" If government could be trufted to fuch
" hands, it muft be fome eafy and fimple thing
" indeed, and materials fit for all the purpofes
" may be found in every town and village in
" England."

The policy of the conftitution of this country has ever avoided, excepting when driven to it by melancholy neceffity, to difturb the hereditary fucceffion to the throne; and it has wifely thought it more fitting to purfue that fyftem, even though a foreigner fhould be feated on the throne of thefe realms, than to break through it.—This would infinuate, that the neceffary defects of an hereditary monarchy

are

are ſuch as outweigh the advantages attending that which I have ſtated. Is that ſo? I would aſk any man who hears me, in point of hiſtory, whether it is not the permanent defect of elective monarchies or ſovereigns, that they ſeldom are men of any conſideration, and for an obvious reaſon; moſt frequently it has happened that turbulent factions, after having deſolated their country, one of them (it has ſo happened, at leaſt in moſt inſtances as far as my recollection goes) ſets up a tool whom the ſucceſsful faction can themſelves govern at pleaſure.—Often has it happened that ſuch factions, when a civil war ariſes, which muſt almoſt neceſſarily be the caſe in elective monarchies, not chooſing to come to the concluſion of an armed conteſt, have choſen a very weak perſon, each in hope of ſtrengthening his party by the time the periodical civil war ſhould come round. I believe, upon examination, this will be found to be generally the caſe, and to have prevailed in elective monarchies to a greater degree than any inconveniences that may have ever ariſen from the natural infirmities of princes who ſucceeded to their thrones by hereditary rights, in the conſtitution of Great Britain; for to that, this man alludes.

Has he ſtated with any ſort of fairneſs, or has he at all ſtated or adverted to the many, many remedies we have for any defect of that ſort? Has he ſtated the numerous councils of a King? His council of Parliament —his council of his Judges in matters of law—his Privy council? Has he ſtated the reſponſibility of all thoſe councils? Some in point of

character, ſome of perſonable reſponſibility? Has he ſtated the reſponſibility of thoſe immediate ſervants who conduct his executive government? Has he ſtated the appointment of regents? Has he ſtated all this, which is indiſpenſibly neceſſary towards a fair and honeſt diſcuſſion (which this book will poſſibly be called) of this point of his inſuperable objection to hereditary monarchy? Can this be called any other than groſs ſuppreſſion and wilful mis-ſtatement, to raiſe diſcontentin half-informed minds?

There does come acroſs my mind at this moment, unqueſtionably, one illuſtrious exception to that doctrine I have ſtated, of men not the moſt capable of government having in general been choſen in the caſe of elective monarchies; and that is a man whom no indignities, no misfortunes, no disappointments, no civil commotions, no provocations, ever forced from the full and ſteady poſſeſſion of a ſtrong mind, which has always riſen with elaſticity under all the preſſures that I have ſtated; and he, though not in one ſenſe of that word a great *Prince*, yet is certainly a great *Man*, who will go down as ſuch to the lateſt poſterity: I mean the King of Poland. Don't imagine, gentlemen, that my adverting to this illuſtrious character is uſeleſs. Every gentleman who hears knows he had a conſiderable part of his matured education in this country. Here he familiarized himſelf with the conſtitution of this country. Here he became informed of the proviſions of what this man calls the Bill of Wrongs and Inſults, without diſ-

paragement

paragement to him, for I believe him to be a juſt and wiſe prince, of great natural faculties, here it was that he ſaw, and could alone learn how the regal government of a free people was conducted, and that under a prince of the houſe of Brunſwick.

Gentlemen, having ſtated thus much to you, I will now, for want of ſuitable expreſſions, (for mine are very feeble) borrow from another; I certainly have formed an opinion upon this ſubject preciſely ſimilar; to deliver it in plain words would exhauſt the utmoſt of my powers, but I will borrow the words of a very able writer, who has moſt properly, for fear ſome ill impreſſion ſhould be made by this book on the weaker part of mankind in America, given an anſwer to this book of Mr. Paine. That diſtinguiſhed gentleman, I have reaſon to believe, though not the chief magiſtrate in that country, is the ſecond in the executive government of it; that is, he is ſecond in the exerciſe of the regal part of the government of that country. He takes care to confute accurately what Mr. Paine ſays with reſpect to America; but, borrowing his *words*, I beg to be underſtood, that this is my *opinion* of the work before you, and which I humbly offer for your conſideration and adoption. He ſays, " his intention " appears evidently to be, to convince the " people of Great Britain, that they have nei- " ther liberty nor a conſtitution; that their " only poſſible means to produce thoſe bleſ- " ſings to themſelves, is to topple down head-

" long their preſent government, and follow
" implicitly the example of the French."

Gentlemen, the next paſſage, which I beg to be underſtood as mine, I wiſh I could expreſs it as well myſelf, is this :—" Mr. Paine,
" in reply, cuts the Gordian knot at once,
" declares the parliament of 1688 to have
" been downright uſurpers, cenſures them
" for having unwiſely ſent to Holland for a
" King, denies the exiſtence of a Britiſh Con-
" ſtitution, and invites the people of England
" to overturn their preſent government and
" to erect another upon the broad baſis of na-
" tional ſovereignty and government by re-
" preſentation. As Mr. Paine has departed al-
" together from the principles of the revolu-
" tion, and has torn up by the roots all reaſon-
" ing from the Britiſh Conſtitution, by the de-
" nial of its exiſtence, it becomes neceſſary to
" examine his work upon the grounds which he
" has choſen to aſſume. If we judge of the
" production from its apparent tendency, we
" may call it an addreſs to the Engliſh nation,
" attempting to prove that they have a right to
" form a new Conſtitution; that it is expedient
" for them immediately to exerciſe that right,
" and that in the formation of this Conſtitution
" they can do no better than to imitate the
" model ſet before them by the French na-
" tional aſſembly. However immethodical his
" production is, I believe the whole of its ar-
" gumentative part may be referred to theſe
" three points: If the ſubject were to affect
" only the Britiſh nation, we might leave
" them to reaſon and act for themſelves; but

" theſe

" theſe are concerns equally important to all
" mankind; and the citizens of America are
" called upon, from high authority, (he al-
" ludes to a gentleman in a high ſituation in
" that country, who has publiſhed an opinion
" of this book) to rally round the ſtandard
" of this champion of revolutions. I ſhall,
" therefore now proceed to examine the rea-
" ſons;" and ſo he goes on.

Gentlemen, I would adopt, with your permiſſion, a few more words from this publication:—" When Mr. Paine invited the people
" of England to deſtroy their preſent govern-
" ment, and form another conſtitution, he
" ſhould have given them ſober reaſoning,
" and not flippant witticiſms." Whether that is or not the caſe what I have read to you to-day will enable you to judge. " He ſhould
" have explained to them the nature of the
" grievances by which they are oppreſſed, and
" demonſtrated the impoſſibility of reforming
" the government in its preſent organization.
" He ſhould have pointed out ſome poſſible
" method for them to act, in their original
" character, without a total diſſolution of
" civil ſociety among them; he ſhould have
" proved what great advantages they would
" reap as a nation from ſuch a revolution,
" without diſguiſing the great dangers and
" formidable difficulties with which it muſt be
" attended." So much for the paſſages themſelves, and this interpretation, which I humbly ſubmit to your conſideration.

The next matter upon which I ſhall proceed is the evidence which I propoſe to adduce, and

that

that evidence will go to ſhew, not only the fact of this man's being the writer of this book, by his own repeated admiſſion, and by letters under his own hand, but will likewiſe go directly to ſhew what is his intent in ſuch publication, which appears I think moſt clearly; and over and above that I ſhall produce to you a Letter, which this man was pleaſed to addreſs to myſelf, in which Letter he avows himſelf in ſo many words the author, and I ſhall prove it to be his hand-writing; and further than that, there is matter in that letter, apparently ſhewing the intention with which that book was written, namely to vilify this conſtitution, and to injure this country irretrievably.

Two other letters I ſhall be under the neceſſity of reading to you, in which he has ſtated himſelf the author. The one is a letter to a perſon of the name of Jordan, in which he expreſſes himſelf in this manner:

" February 16, 1792," (that was the day
" on which the book was publiſhed) For
" your ſatisfaction and my own I ſend you
" the incloſed, though I do not apprehend
" there will be any occaſion to uſe it: if in
" caſe there ſhould, you will immediately
" ſend a line for me, under cover, to Mr.
" Johnſon, St. Paul's Church Yard, who will
" forward it to me, upon which I ſhall
" come and anſwer perſonally for the work;
" ſend alſo for Mr. Horne Tooke.

" T. P."

The letter incloſed was this; addreſſed to the ſame man, Jordan, the Bookſeller.—" Sir,

" ſhould

" ſhould any perſon, under the ſanction of any
" kind of authority, enquire of you reſpecting
" the author and publiſher of the Rights of
" Man, you will pleaſe to mention me as the
" author and publiſher of that work, and ſhew
" to ſuch perſon this letter. I will, as ſoon
" as I am acquainted with it, appear and
" anſwer for the work perſonally."

Gentlemen, with reſpect to his letter written to me, it is in theſe terms.

Mr. ERSKINE. My Lord, the Attorney General ſtates a letter in the hand writing of Mr. Paine, which eſtabliſhes that he is the author. I deſire to know whether he means to read a letter which may be the ſubject of a ſubſtantive and diſtinct proſecution; I do not mean to diſpute the publication, or even to give him the trouble of proving the letters which he has juſt ſtated; whether the Attorney General will think it conſiſtent with the ſituation in which he is placed, at this moment, to read a letter written at a time long ſubſequent to the publication, containing, as I underſtand (if I am miſtaken in that I withdraw my objection) but containing diſtinct clear and unequivocal libellous matter, and which I, in my addreſs to the jury, if I am not deceived in what I have heard, ſhall admit to be upon every principle of the Engliſh Law a libel. Therefore, if that ſhould turn out to be the caſe, will your lordſhip ſuffer the mind of the jury to be entirely put aſide from that matter which is the ſubject of the proſecution, and to go into matter which hereafter may be, and I cannot but ſuppoſe would be, if the defendant

were

were within the reach of the law of this country, the ſubject of a diſtinct and independant proſecution.

LORD KENYON. If that letter goes a jot to prove that he is the author of this publication, I cannot reject that evidence; in proſecutions for high treaſon, where overt acts are laid, you may prove overt acts not laid to prove thoſe that are laid; if it goes to prove him the author of the book, I am bound to admit it.

"Mr. ATTORNEY GENERAL,

The Letter is thus:

"*Paris*, 11*th of November*, 1*ſt Year of the Republic.*

"Sir, as there can be no perſonal reſent-
" ment between two ſtrangers, I write this
" letter to you, as to a man againſt whom I
" have no animoſity.

" You have, as Attorney General, com-
" menced a proſecution againſt me as the
" author of the Rights of Man. Had not my
" duty, in conſequence of my being elected
" a member of the National Convention of
" France, called me from England, I ſhould
" have ſtaid to have conteſted the injuſtice of
" that proſecution; not upon my own account,
" for I cared not about the proſecution, but
" to defend the principles I had advanced in
" the work.

" The duty I am now engaged in is of too
" much importance to permit me to trouble
" myſelf about your proſecution; when I have

" leiſure

" leiſure, I ſhall have no objection to meet you
" on that ground; but, as I now ſtand, whe-
" ther you go on with the proſecution or
" whether you do not, or whether you obtain
" a verdict, or not, is a matter of the moſt
" perfect indifference to me as an individual. If
" you obtain one (which you are welcome to if
" you can get it), it cannot affect me, either in
" perſon, property, or reputation, otherwiſe
" than to increaſe the latter; and with re-
" ſpect to yourſelf, it is as conſiſtent that you
" obtain a verdict againſt the Man in the
" Moon, as againſt me; neither do I ſee how
" you can continue the proſecution againſt me
" as you would have done againſt one of
" *your own people*, who had abſented himſelf
" becauſe he was proſecuted; what paſſed at
" Dover, proves that my departure from
" England was no ſecret.

" My neceſſary abſence from your country
" affords the opportunity of knowing whe-
" ther the proſecution was intended againſt
" Thomas Paine, or againſt the Rights of the
" People of England to inveſtigate ſyſtems
" and principles of government; for as I
" cannot now be the object of the proſecution,
" the going on with the proſecution will ſhew
" that ſomething elſe was the object, and that
" ſomething elſe can be no other than the
" People of England; for it is againſt *their*
" *Rights*, and not againſt me, that a verdict or
" ſentence can operate, if it can operate at all.
" Be then ſo candid as to tell the Jury (if you
" chuſe to continue the proceſs) whom it is

" you

" you are profecuting, and on whom it is that
" the verdict is to fall."

Gentlemen, I certainly will comply with this requeſt. I am profecuting both him and his work; and if I ſucceed in this profecution, he ſhall never return to this country otherwiſe than *in vinculis*, for I will outlaw him.

" But I have other reaſons than thoſe I have
" mentioned for writing you this letter; and
" however you may chuſe to interpret them,
" they procceed from a good heart. The
" time, Sir, is becoming too ſerious to play with
" Court profecutions, and ſport with national
" rights. The terrible examples that have
" taken place here upon men who, leſs than a
" year ago, thought themſelves as ſecure as
" any profecuting Judge, Jury, or Attorney
" General, can now do in England, ought
" to have ſome weight with men in your
" ſituation."

Now gentlemen, I do not think that Mr. Paine judges very well of mankind—I do not think that it is a fair concluſion of Mr. Paine, that men ſuch as you and myſelf, who are quietly living in obedience to the laws of the land which they inhabit, exerciſing their ſeveral functions peaceably, and I hope with a moderate ſhare of reputation: I do not conceive that men called upon to think, and in the habit of reflection, are the moſt likely men to be immediately thrown off the hinges by meances and threats; and I doubt whether men exerciſing public functions, as you and I do in the face of our country, could have the courage to run away. All I can tell Mr. Paine

is

is this—if any of his aſſaſſins are here in London, and there is ſome ground to ſuppoſe they may be, or the aſſaſſins of thoſe with whom he is connected ; if they are here, I tell them, that I do in my conſcience think, that for a man to die of doing his duty, is juſt as good a thing as dying of a raging fever, or under the tortures of the ſtone. Let him not think, that not to be an incendiary is to be a coward.

He ſays—" That the Government of Eng-
" land is as great, if not the greateſt perfection
" of fraud and corruption, that ever took place
" ſince governments began, is what you cannot
" be a ſtranger to ; unleſs the conſtant habit of
" ſeeing it has blinded your ſenſe." Upon
" my word gentlemen, I am ſtone blind, I am not ſorry for it.—" But though you may not
" chuſe to ſee it, the people are ſeeing it very
" faſt, and the progreſs is beyond what you
" may chuſe to believe, or that reaſon can
" make any other man believe, that the capa-
" city of ſuch a man as Mr. Guelph, or any
" of his profligate ſons, is neceſſary to the
" government of a nation."

Now, gentlemen, with reſpect to this paſſage, I have this to ſay, it is contemptuous, ſcandalous, falſe, cruel ;—Why Gentlemen, is Mr. Paine, in addition to the political doctrines that he is teaching us in this country ; Is he to teach us the morality and religion, of IMPLACABILITY ? Is he to teach human creatures, whoſe moments of exiſtence, depend upon the permiſſion of a Being, merciful, long ſuffering and of great goodneſs, that thoſe youthful errors from which even royalty is not exempted,

empted, are to be treaſured up in a vindictive memory, and are to receive ſentence of irremiſſible ſin at HIS hands. Are they all to be confounded in theſe ſlanderous terms, ſhocking for Britiſh ears to hear, and I am ſure diſtreſſing to their hearts. He is a barbarian, who could uſe ſuch profligate expreſſions uncalled for by any thing which could be the object of his letter addreſſed to me. If giving me pain was his object, he has that helliſh gratification. Would this man deſtroy that great auxiliary of all human laws and conſtitutions—" to judge of others as we would be judged ourſelves."—This is the bill of wrongs and inſults of the chriſtian religion. I preſume it is conſidered as that bill of wrongs and inſults, in the heart of that man who can have the barbarity to uſe thoſe expreſſions and addreſs them to me in a way by which I could not but receive them.

Gentlemen, there is not perhaps in the world a more beneficial analogy, nor a finer rule to judge by in public matters, than by aſſimilating them to what paſſes in domeſtic life.—A family is a ſmall kingdom, a kingdom is a large family ſuppoſe this to have happened in private life, judge of the good heart of this man, who thruſts into my hands, the grateful ſervant of a kind and beneficent maſter, and that too through the unavoidable trick of the common poſt ſlander upon that maſter, and ſlander upon his whole offspring. Lay your hands upon your hearts, and tell me what is *your* verdict with reſpect to his heart—I *ſee* it!

Gentlemen,

Gentlemen, he has the audacity to ſay, "I ſpeak to you as one man ought to ſpeak to another." Does he ſpeak to me of thoſe Auguſt Perſonages as one man ought to ſpeak to another? Had he ſpoken thoſe words to me perſonally, I will not anſwer for it, whether I ſhould not have forgot the duties of my office, and the dignity of my ſtation, by being hurried into a violation of that peace, the breach of which I am compelled to puniſh in others. He ſays, "And I know alſo, that I ſpeak, what "other people are beginning to think. That you "cannot obtain a verdict (and if you do, it "will ſignify nothing) without *packing a Jury*, "and we *both* know that ſuch tricks are "practiſed, is what I have very good rea-"ſon to believe."——*Mentiris impudentiſſime.* —Gentlemen, I know of no ſuch practice; I know, indeed, that no ſuch practice exiſts, nor can exiſt; I know the very contrary of this to be true; and I know too that this Letter, containing this dangerous falſehood, was deſtined for future publication; that I have no doubt of, and therefore I dwell thus long upon it.

"I have gone into coffee-houſes, and places "where I was unknown, on purpoſe to learn "the currency of opinion." Whether the ſenſe of this *nation* is to be had in ſome pot-houſes and coffee-houſes in this town of his own chooſing, is a matter I leave to your judgment. "And I never yet ſaw any company "of twelve men that condemned the book; "but I have often found a greater number "than twelve approving it; and this I think

" is *a fair way of collecting the natural currency*
" *of opinion.* Do not then, Sir, be the inſtru-
" ment of drawing twelve men into a ſituation
" that may be *injurious* to them afterwards ;"
injurious to them afterwards, thoſe words
ſpeak for themſelves. He proceeds thus,

" I do not ſpeak this from policy," (what then ?) " but from" (gentlemen, I will give you a hundred gueſſes) " BENEVOLENCE ! but if
" you chuſe to go on with the proceſs, I make
" it my requeſt that you would read this let-
" ter in Court, after which the Judge and
" the Jury may do as they pleaſe. As I do not
" conſider myſelf the object of the proſecution,
" neither can I be affected by the iſſue one
" way or the other, I ſhall, though a foreigner
" in your country, ſubſcribe as much money
" as any other man towards ſupporting the
" right of the nation againſt the proſecution ;
" and it is for this purpoſe only that I ſhall
" do it.---THOMAS PAINE."

So it is a ſubſcription defence you hear.

" P. S. I intended, had I ſtaid in England,
" to have publiſhed the information, with my
" remarks upon it,"—that would have been a decent thing— " before the trial came on ;
" but as I am otherwiſe engaged, I reſerve
" myſelf till the trial is over, when I ſhall re-
" ply fully to every thing you ſhall advance ;"
I hope in God he will not omit any one ſingle word that I have uttered to day, or ſhall utter in my future addreſs to you. This *conceited* menace I deſpiſe, as I do thoſe of a nature more *cut-throat*.

Gentlemen,

Gentlemen, I do not think that I need to trouble you any further for the preſent: according as you ſhall be of opinion, that the neceſſarily miſchievous tendency and intent of this book is that which I have taken the liberty (at more length than I am warranted perhaps) to ſtate to you; according as you ſhall or ſhall not be of that opinion, ſo neceſſarily will be your verdict. I have done my duty in bringing before a Jury an offender of this magnitude. Be the event what it may, I *have* done my duty; I am ſatisfied with having placed this great and flouriſhing community under the powerful ſhield of your protection.

EVIDENCE FOR THE CROWN.

Thomas Haynes ſworn

[Examined by *Mr. Bearcroft.*]

Q. Where did you get that book?

A. At Mr. Jordan's, in Fleet-ſtreet.

Q. When?

A. In the month of February, 1792.

(It was put into Court).

Thomas Chapman ſworn.

[Examined by *Mr. Solicitor General.*]

Q. What buſineſs are you?

A. A Printer

Q. Do you know the defendant, Thomas Paine?

A. I do.

Q. Upon what occaſion did you become acquainted with him?

A. On the recommendation of Mr. Thomas Chriſtie.

Q. For what purpoſe was he introduced to you, or you to him?

A. I was introduced to Mr. Paine, by Mr. Chriſtie, to print ſome book that he had.

Q. When was that?

A. I cannot directly ſay; it was in the year 1791.

Q. What book was that?

A. The Firſt Part of the Rights of Man.

Q. Are you a publiſher as well as a printer?

A. I am not; merely a printer.

Q. Did you print the Firſt Part of the Rights of Man?

A. I did.

Q. Who was the ſelling bookſeller of that book?

A. Mr. Jordan, of Fleet-ſtreet.

Q. Had you any intercourſe with Mr. Jordan and Mr. Paine concerning that book?

A. I had?

Q. What was that intercourſe relative to?

A. To the manner of publiſhing the book.

Q. Did Jordan in fact publiſh that book?

A. He did.

Q. Had you any intercourſe with Mr. Paine relative to the printing this book which I have in my hand. *(The Witneſs looks at it.)*

A. The firſt edition of this book I had; I don't think I printed this edition of it. I printed the firſt edition of it.

Q. Is

Q. Is that the Firſt or Second Part?

A. The Second Part. I printed a part of the Second Part.

Mr. Erſkine. Can you ſwear to that very book?

A. I cannot.

Mr. Solicitor General. You ſay you printed part of the Second Part of the Rights of Man?

A. Yes.

Q. What part did you print?

A. I printed as far as page 112, ſignature H.

Q. By ſignature H, you mean the letter H that is at the bottom of the page?

A. Yes.

Q. Upon whoſe employment did you print ſo much of the Second Part?

A. Mr. Paine's.

Q. Did you print the reſt of the work from letter H to the concluſion of it?

A. I have the copy in my poſſeſſion as far as 146, I think: the manuſcript copy.

Q. Did you print as far as 146, or ſtop at 112, ſignature H?

A. I ſtopped at 112; but my people had compoſed to page 146, which was not printed by me.

Q. Had you any converſation with Mr. Paine relative to the printing the remainder of the work, and if you had, what was that converſation?

A. When I had finiſhed page 112, or ſheet H, the proof ſheet I, came into my hand; upon examining ſheet I, there was a part, which, in my weak judgment, appeared of a dangerous tendency; I therefore immediately concluded

in my mind not to proceed any farther in the work; accordingly I wrote a ſhort note to Mr. Paine; this was about two o'clock in the afternoon, determining to ſend a letter, with the remainder of the copy. I felt a degree of reluctance from the circumſtance of Mr. Paine's civilities that I had experienced as a gentleman and an employer; and I was fearful I ſhould not have courage in the morning to deliver up the copy; but a circumſtance occurred in the courſe of the day, which enabled me to do it with ſatisfaction to myſelf. I will relate the circumſtance, if you will give me leave.

Q. Was Mr. Paine preſent when that circumſtance happened?

A. He was: and as it may, in the eyes of the Court, exculpate me from a charge that Mr. Paine has thought proper to bring againſt me, I ſhall eſteem it a favor of the Court if they will ſuffer me to mention every circumſtance of that kind—That very day at ſix o'clock Mr. Paine called upon me.

Q. Do you recollect the day?

A. I have a copy of that letter, which is dated the 17th of January, ſo that he muſt have called upon me on the 16th. Mr. Paine called upon me, and, as was rather unuſual, at leaſt to my knowledge, he was rather intoxicated by liquor. He had, I believe, that day, dined with Mr. Johnſon, in Saint Paul's Church Yard. Being intoxicated he introduced a ſubject we have unfortunately differed on ſeveral times; the ſubject of religion, a favourite ſubject with him when intoxicated. I am

ſorry

ſorry to mention theſe circumſtances; but as it will juſtify me in the eyes of the public, as part of the Appendix has done me material injury in my profeſſion. The ſubject of debate ran very high; he oppoſed every thing with great virulence, till at length he came to perſonal abuſe, very much ſo, both to myſelf and Mrs. Chapman. An obſervation was made by Mrs. Chapman, late in the evening, I believe near ten o'clock, at which Mr. Paine was particularly offended; riſing up in a great paſſion, he ſaid he had not been ſo perſonally affronted in the whole courſe of his life before.

Mr. Erſkine. The information charges no offence like this.

Court. This is no offence, it appears only at preſent to be impertinent.

Mr. Erſkine. I admit the publication, but I cannot admit that letter.

Mr. Solicitor General. Go on.

Chapman. Mr. Paine accordingly roſe in a great paſſion, declaring that, as I was a diſſenter, he had a very bad opinion of diſſenters in general; he believed them all to be a pack of hypocrites, and therefore he muſt deal very cautiouſly with them, and begged, therefore, that in the morning, before I proceeded any further in his work, we ſhould have a ſettlement. I felt a degree of pleaſure in it, as it enabled me, with courage, next morning, to deliver up his copy, which I had before determined. I ſent a letter next morning, incloſing the whole of his copy. He called upon me, and made many apologies for what

he had ſaid: he ſaid that it was the effect of liquor, and hoped that I would paſs it over, and proceed with the work; but being determined on the matter, I would not upon any account.

Q. And did you ſtate to him the reaſon why you would not go on with the work?

A. I did. The letter will ſhew the reaſon.

Mr. Solicitor General. You have told us that Mr. Paine was your employer, ſo far as you did print. Did you ever make any offers to any body to buy the copy of the Second Part of the Rights of Man?

A. I did.

Q. To whom?

A. To Mr. Paine.

Q. When you made theſe offers, did he accept them or refuſe them, or how did he treat the offers?

A. I made him three ſeparate offers in the different ſtages of the work; the firſt, I believe, was a hundred guineas, the ſecond five hundred, and the laſt was a thouſand.

Q. To theſe offers, what did Mr. Paine anſwer?

A. To the beſt of my recollection, he anſwered, that as it was his intention to publiſh a ſmall edition of his work, he wiſhed to reſerve it in his own hands

Q. Have you ſeen this Mr. Paine write?

A. I have.

Q. Do you think you know his hand writing?

A. I think I do.

Q. Look

Q. Look at that letter, (dated Feb. 16, 1792,) is that his hand writing?

A. I think it is.

Q. Look at that (dated Feb. 16, 1792,) enclosed in the above.

A. I think that is his hand writing.

Q. Look particularly at this short note, (dated April 21, 1792,) is that his hand writing?

A. I believe it is.

Q. Here is an order directed to yourself, (dated Feb. 7, 1792,) look at that, is that his hand writing?

A. It is.

Q. Look at that letter (dated June 29, 1792) is that Mr. Paine's hand writing?

A. I believe it is.

Q. Look at that letter (the letter to the Attorney General, dated Paris, the 11th of Nov.) is that Mr. Paine's hand writing?

A. I cannot speak with any certainty.

Q. Do you believe that to be his hand writing?

A. I am inclined to think it is.

Thomas Chapman, crofs-examined by *Mr. Erskine.*

Q. In the firft place, how often have you feen Mr. Paine write?

A. I prefume a dozen times.

Q. Did you ever look at him when he was writing, fo as particularly to obferve how he formed his characters?

A. De-

A. Decency would not ſuffer me to look particularly.

Q. I take for granted, that you did not at that time ſuppoſe you ſhould be called upon to prove his hand writing, and did not of courſe take any notice of it.—Did you, upon your oath, look at it with a view of ſaying, I will ſee how this man writes in order that I may know his writing again?

A. I did not.

Q. Did you ever ſee any other writing than that you have deſcribed?

A. No.

Q. Then you are only inclined to believe that laſt letter is his hand writing?

A. Yes.

Mr. Solicitor General. Do you believe that that laſt letter is his hand writing?

A. I think it is.

Mr. Erſkine. Do you mean to ſay, that you have a firmer belief of it now than you had a moment ago?

A. Yes.

Q. What has produced this change in your opinion?

A. By the manner of his ſignature.

Q. Had not you looked at his ſignature before?

A. It ſtruck me that there was ſomething particular in the manner of his writing his ſignature.

Q. Then you have a firmer belief now than you had a few minutes ago?—

A. Yes.

The

The Letters read.

"Mr. Chapman, pleaſe to deliver to Mr. "Jordan the remaining ſheets of the Rights of "Man.

"THOMAS PAINE."

"*Feb.* 7th, 92.

"*Feb.* 16, 1792.

"For your ſatisfaction and my own, I ſend "you the encloſed, tho' I do not apprehend "there will be any occaſion to uſe it; if in caſe "there ſhould, you will immediately ſend a line "for me under cover, to Mr. Johnſon, St. Paul's "Church-Yard, who will forward it to me, upon "which I ſhall come and anſwer perſonally for "the work.—Send alſo to Mr. Horne Tooke.

"Mr. Jordan, "T. P."

"No. 166, Fleet-ſtreet.

"*Feb.* 16, 1792.

"SIR,

"Should any perſon, under the ſanction of "any kind of authority, enquire of you reſpect-"ing the author and publiſher of the Rights of "Man, you will pleaſe to mention me as the "author and publiſher of that work, and ſhew "to ſuch perſon this letter. I will, as ſoon as "I am made acquainted with it, appear and "anſwer for the work perſonally.

"Your humble Servant,

"Mr. Jordan, "THOMAS PAINE."

"No. 166, Fleet-ſtreet.

Mr.

April 21, 1792.

" Mr. JORDAN,

" Pleaſe to ſettle the account of the ſale of " the pamphlets with Mr. Johnſon, as I am at " preſent engaged in getting forward another " ſmall work for publication.

" Your's, &c.

" Mr. Jordan, " THOMAS PAINE."

" No. 166, Fleet-ſtreet.

London, June 29, 1792.

" SIR,

" I have drawn on you two drafts for one " hundred and fifty pounds each, one at ſeven " days ſight, the other at fourteen, payable to " Mr. Johnſon, or order, for monies which he " has advanced on my account, and bills which " are due, which drafts pleaſe to pay, and place " the ſame to my account.

" Yours, &c.

" THOMAS PAINE."

" Mr. Jordan,

" No. 166, Fleet ſtreet.

" *Paris, 11th of November,*

" *1ſt year of the Republic.*

" SIR,

" As there can be no perſonal reſentment be- " tween two ſtrangers, I write this letter to you, " as to a man againſt whom I have no animo- " ſity.

" You have, as Attorney General, commenced " a proſecution againſt me, as the Author of

Rights

" Rights of Man. Had not my duty, in conſe-
" quence of my being elected a Member of the
" National Convention of France, called me from
" England, I ſhould have ſtaid to have conteſted
" the injuſtice of that proſecution; not upon
" my own account, for I cared not about the
" proſecution, but to have defended the prin-
" ciples I had advanced in the work.

" The duty I am now engaged in is of too
" much importance to permit me to trouble
" myſelf about your proſecution: when I have
" leiſure, I ſhall have no objection to meet you
" on that ground; but as I now ſtand, whether
" you go on with the proſecution, or whether
" you do not, or whether you obtain a verdict,
" or not, is a matter of the moſt perfect indif-
" ference to me as an individual. If you ob-
" tain one (which you are welcome to, if you
" can get it) it cannot affect me either in per-
" ſon, property, or reputation, otherwiſe than
" to increaſe the latter; and with reſpect to
" yourſelf, it is as conſiſtent that you obtain a
" verdict againſt the Man in the Moon as againſt
" me: neither do I ſee how you can continue the
" proſecution againſt me as you would have
" done againſt one of *your own people* who had
" abſented himſelf becauſe he was proſecuted:
" what paſſed at Dover proves that my depar-
" ture from England was no ſecret.

" My neceſſary abſence from your country
" now, in conſequence of my duty here, affords
" the opportunity of knowing whether the pro-
" ſecution was intended againſt Thomas Paine,
" or againſt the Rights of the people of Eng-
" land to inveſtigate ſyſtems and principles of
" government;

" government; for as I cannot now be the ob-
" ject of the profecution, the going on with the
" profecution will ſhew that ſomething elſe was
" the object, and that ſomething elſe can be no
" other than the people of England, for it is
" againſt *their rights*, and not againſt me, that a
" verdict or ſentence can operate, if it can ope-
" rate at all. Be then ſo candid as to tell the
" jury (if you chuſe to continue the proceſs)
" whom it is you are profecuting, and on
" whom it is that the verdict is to fall.

" But I have other reaſons than thoſe I have
" mentioned for writing you this letter; and,
" however you may chuſe to interpret them,
" they proceed from a good heart. The time,
" Sir, is becoming too ſerious to play with
" Court profecutions, and ſport with National
" Rights. The terrible examples that have
" taken place here, upon men who leſs than a
" year ago thought themſelves as ſecure as any
" profecuting Judge, Jury, or Attorney General,
" can now do in England, ought to have ſome
" weight with men in your ſituation. That the
" government of England is as great, if not the
" greateſt, perfection of fraud and corruption
" that ever took place ſince governments be-
" gan, is what you cannot be a ſtranger to, un-
" leſs the conſtant habit of ſeeing it has blinded
" your ſenſes; but though you may not chuſe
" to ſee it, the people are ſeeing it very faſt, and
" the progreſs is beyond what you may chuſe to
" believe. Is it poſſible that you, or I can be-
" lieve, or that reaſon can make any other man
" believe, that the capacity of ſuch a man as
" Mr. Guelph, or any of his profligate ſons, is

" neceſſary

" neceſſary to the government of a nation. I
" ſpeak to you as one man ought to ſpeak to
" another ; and I know alſo, that I ſpeak what
" other people are beginning to think.

" That you cannot obtain a verdict (and if
" you do it will ſignify nothing) without pack-
" ing a jury, (and we both know that ſuch
" tricks are practiſed) is what I have very good
" reaſon to believe. I have gone into coffee-
" houſes, and places where I was unknown, on
" purpoſe to learn the currency of opinion, and
" I never yet ſaw any company of twelve men
" that condemned the book ; but I have often
" found a greater number than twelve approv-
" ing it, and this I think is a fair way of collect-
" ing the natural currency of opinion. Do not
" then, Sir, be the inſtrument of drawing
" twelve men into a ſituation that may be in-
" jurious to them afterwards. I do not ſpeak
" this from policy, but from benevolence ; but
" if you chuſe to go on with the proceſs, I make
" it my requeſt to you that you will read this
" letter in Court, after which the Judge and the
" Jury may do as they pleaſe. As I do not con-
" ſider myſelf the object of the proſecution,
" neither can I be affected by the iſſue, one way
" or the other, I ſhall, though a foreigner in
" your country, ſubſcribe as much money as any
" other man towards ſupporting the right of
" the Nation againſt the proſecution ; and it is
" for this purpoſe only that I ſhall do it.

" THOMAS PAINE."

" To Archd. Macdonald,
" Attorney General.

" As

" As I have not time to copy letters, you
" will excuſe the corrections.

" P. S. I intended, had I ſtaid in England,
" to have publiſhed the information, with my
" remarks upon it, before the trial came on;
" but, as I am otherwiſe engaged, I reſerve my-
" ſelf till the trial is over, when I ſhall reply
" fully to every thing you ſhall advance.

" T. P."

Andrew Milne ſworn.

Examined by *Mr. Bearcroft.*

Q. I believe you lived with Mr. Jordan?

A. Yes.

Q. When?

A. About this time twelvemonth.

Q. Did you at any time ſee Mr. Paine at Mr. Jordan's?

A. Yes.

Q. What was the buſineſs he came upon?

A. It was reſpecting money principally.

Q. Did you ever go to the printers of that book while it was in hand?

A. The Second Part I did.

Q. Did you go by the directions of any-body, and by whoſe directions?

A. By Mr. Paine's directions.

Q. Had you occaſion to ſee him more than once?

A. Yes.

Q. Did you at any time get an order from him to Mr. Crowder, the printer?

A. Yes, once in particular.

Q. Was

Q. Was that before or after it was gone out of the hands of Chapman?

A. After.

Q. Did you ever ſee him at Jordan's ſhop, after it had been publiſhed more than once?

A. Yes.

Q. Tell us the circumſtances.

A. Reſpecting that note, in which he mentions Mr. Horne Tooke, I was in the ſhop at the time Mr. Paine came with Mr. Horne Tooke to Mr. Jordan's, in the evening; the converſation was in the parlour; I did not hear the converſation, but I knew of it afterwards.

Q. I don't aſk you what you learned from any body elſe; did you learn it from Paine?

A. No.

Q. Did you ſee any money paid by Jordan to Mr. Paine on account of this book?

A. Yes.

John Purdue ſworn.

[Examined *by Mr. Wood.*]

Q. Are you acquainted with Mr. Paine?

A. I was formerly.

Q. How long ago?

A. I have not ſeen him ſince he went to America.

Q. He was in the Exciſe?

A. He was in the Exciſe.

Q. Are you acquainted with his hand-writing?

A. Formerly I was.

Q. Look at theſe letters, and ſay, whether you believe them to be his hand-writing?

A. I believe they all are.

(The Extracts from the Libel read, as follows.)

Page 21.

" All hereditary government is in its na-
" ture tyranny. An heritable Crown, or an
" heritable Throne, or by what other fanciful
" name ſuch things may be called, have no other
" ſignificant explanation than that mankind
" are heritable property. To inherit a go-
" vernment, is to inherit the people, as if they
" were flocks and herds!"

Page 47.

" This convention met at Philadelphia in
" May 1787, of which General Waſhington was
" elected preſident. He was not at that time
" connected with any of the State-govern-
" ments, or with Congreſs. He delivered up his
" commiſſion when the war ended, and ſince
" then had lived a private citizen.

" The convention went deeply into all the
" ſubjects; and having, after a variety of debate
" and inveſtigation, agreed among themſelves
" upon the ſeveral parts of a federal conſtitution,
" the next queſtion was, the manner of giving
" it authority and practice.

" For

" For this purpoſe, they did not, like a cabal " of courtiers, ſend for a Dutch Stadtholder, " or a German Elector; but they referred the " whole matter to the ſenſe and intereſt of the " country."

Page 52.

" The hiſtory of the Edwards and Henries, " and up to the commencement of the Stuarts, " exhibits as many inſtances of tyranny as " could be acted within the limits to which " the nation had reſtricted it. The Stuarts " endeavoured to paſs thoſe limits, and their " fate is well known. In all thoſe inſtances " we ſee nothing of a conſtitution, but only " of reſtrictions on aſſumed power.

" After this, another William, deſcended " from the ſame ſtock, and claiming from " the ſame origin, gained poſſeſſion; and of " the two evils, *James* and *William*, the na- " tion preferred what it thought the leaſt; " ſince, from circumſtances, it muſt take one. " The Act, called the Bill of Rights, comes " here into view. What is it but a bargain, " which the parts of the Government made " with each other to divide powers, profits, " and privileges? You ſhall have ſo much, " and I will have the reſt; and with reſpect " to the nation, it ſaid, for *your ſhare*, " YOU *ſhall have the right of petitioning*. " This being the caſe, the Bill of Rights is " more properly a bill of wrongs, and of in-

" fult. As to what is called the Convention
" Parliament, it was a thing that made itſelf,
" and then made the authority by which it
" acted. A few perſons got together, and
" called themſelves by that name. Several of
" them had never been elected, and none of
" them for the purpoſe.

" From the time of William, a ſpecies of
" government aroſe, iſſuing out of this coali-
" tion Bill of Rights; and more ſo, ſince the
" corruption introduced at the Hanover ſuc-
" ceſſion, by the agency of Walpole; that
" can be deſcribed by no other name than a
" deſpotic legiſlation. Though the parts may
" embarraſs each other, the whole has no
" bounds; and the only right it acknowleges
" out of itſelf is the right of petitioning. Where
" then is the Conſtitution either that gives or
" that reſtrains power?

" It is not becauſe a part of the government
" is elective, that makes it leſs a deſpotiſm,
" if the perſons ſo elected, poſſeſs afterwards,
" as a parliament, unlimited powers. Elec-
" tion, in this caſe, becomes ſeparated from
" repreſentation, and the candidates are can-
" didates for deſpotiſm."

Page 56.

" The attention of the Government of En-
" gland, (for I rather chuſe to call it by this
" name, than the Engliſh Government) ap-
" pears

" pears, ſince its political connexion with Ger-
" many, to have been ſo completely engroſſed
" and abſorbed by foreign affairs, and the
" means of raiſing taxes, that it ſeems to exiſt
" for no other purpoſes. Domeſtic concerns
" are neglected; and with reſpect to regular
" law, there is ſcarcely ſuch a thing."

Page 63. Note.

" With reſpect to the two Houſes, of which
" the Engliſh Parliament is compoſed, they
" appear to be effectually influenced into one,
" and, as a legiſlature, to have no temper
" of its own. The Miniſter, whoever he at
" any time may be, touches it as with an
" opium wand, and it ſleeps obedience.

" But if we look at the diſtinct abilities
" of the two Houſes, the difference will ap-
" pear ſo great, as to ſhew the inconſiſtency
" of placing power where there can be no
" certainty of the judgment to uſe it. Wretched
" as the ſtate of repreſentation is in England,
" it is manhood compared with what is called
" the Houſe of Lords; and ſo little is this
" nicknamed Houſe regarded, that the people
" ſcarcely enquire at any time what it is doing.
" It appears alſo to be moſt under influence,
" and the furtheſt removed from the general
" intereſt of the nation."

" Having

Pages 107-108.

" Having thus glanced at ſome of the de-
" fects of the two Houſes of Parliament, I
" proceed to what is called the Crown, upon
" which I ſhall be very conciſe.

" It ſignifies a nominal office of a million
" ſterling a year, the buſineſs of which con-
" ſiſts in receiving the money. Whether the
" perſon be wiſe or fooliſh, ſane or inſane,
" a native or a foreigner, matters not. Every
" miniſtry acts upon the ſame idea, that Mr.
" Burke writes, namely, that the people muſt
" be hoodwinked, and held in ſuperſtitious ig-
" norance by ſome bugbear or other; and
" what is called the Crown anſwers this pur-
" poſe, and therefore it anſwers all the pur-
" poſes to be expected from it. This is more
" than can be ſaid of the other two branches.
" The hazard to which this office is expoſed in
" all countries, is not from any thing that can
" happen to the man, but from what may
" happen to the nation—the danger of its
" coming to its ſenſes."

Page 116. *Note.*

" I happened to be in England at the cele-
" bration of the centenary of the revolution
" of 1688. The characters of William and
" Mary have always appeared to me deteſtable;
" the one ſeeking to deſtroy his uncle, and
" the other her father, to get poſſeſſion of
" power themſelves; yet, as the nation was

" diſ-

" diſpoſed to think ſomething of that event,
" I felt hurt at ſeeing it aſcribe the whole
" reputation of it to a man who had under-
" taken it as a job, and who, beſides what he
" otherwiſe got, charged 600,000l. for the
" expence of the little fleet that brought him
" from Holland. George the Firſt acted the
" ſame cloſe-fiſted part as William had done,
" and bought the Duchy of Bremin with the
" money he got from England, 250,000l.
" over and above his pay as King; and hav-
" ing thus purchaſed it at the expence of
" England, added it to his Hanoverian do-
" minions for his own private profit. In fact,
" every nation that does not govern itſelf, is
" governed as a job. England has been the
" prey of jobs ever ſince the revolution."

Page 161,

" The fraud, hypocriſy, and impoſition of
" governments, are now beginning to be too
" well underſtood to promiſe them any long
" career. The farce of monarchy and ariſto-
" cracy, in all countries, is following that of
" chivalry, and Mr. Burke is dreſſing for the
" funeral. Let it then paſs quietly to the
" tomb of all other follies, and the mourners
" be comforted.

" The time is not very diſtant when England
" will laugh at itſelf for ſending to Holland,
" Hanover, Zell, or Brunſwick for men, at

the

" the expence of a million a year, who under-
" ſtood neither her laws, her language, nor her
" intereſt, and whoſe capacities would ſcarcely
" have fitted them for the office of pariſh con-
" ſtable. If government could be truſted to
" ſuch hands, it muſt be ſome eaſy and ſimple
" thing indeed, and materials fit for all the
" purpoſes may be found in every town and
" village in England".

The end of the Evidence for the Crown.

The Honorable Thomas Erſkine.

Gentlemen of the Jury,

THE Attorney-General, in that part of his addreſs which aroſe from a letter, ſuppoſed to have been written to him from France, exhibited ſigns of ſtrong ſenſibility and emotion. I do not, I am ſure, charge him with acting a part to ſeduce you; on the contrary, I am perſuaded from my own feelings, and from my acquaintance with my friend from our childhood upwards, that he expreſſed himſelf as he felt. But, gentlemen, if he felt thoſe painful embarraſſments, think what mine muſt be: he can only feel for the auguſt Character whom he repreſents in this place, as a ſubject for his Sovereign, too far removed by cuſtom, and by law, from the intercourſes which generate affections, to produce any other ſentiments than thoſe that flow from a relation common to us all. But it will be remembered, that I ſtand in the ſame relation* towards another Great Perſon, more deeply implicated by this ſuppoſed letter; who, not reſtrained from the cultivation of perſonal attachment by thoſe qualifications which muſt always ſecure them, has exalted my duty of a ſubject to a Prince, into a warm and honeſt affection between man and man. Thus circumſtanced, I certainly ſhould have been glad to have had an earlier opportunity of knowing correctly the contents of this letter, and whether (which I poſitively deny) it

* Mr. Erſkine is Attorney-General to the Prince of Wales.

proceeded from the defendant. Coming thus ſuddenly upon us, I ſee but too plainly the impreſſion it has made upon you who are to try the cauſe, and I feel its weight upon myſelf, who am to conduct it; but this ſhall neither detach me from my duty, nor, added to all the other difficulties that thicken around me, enervate me (if I can help it) in the diſcharge of it.

Gentlemen, if the Attorney General is well founded in the commentaries he has made to you upon this book which he proſecutes; if he is warranted by the law of England, in repreſſing its circulation through theſe realms, from the illegal and dangerous matters contained in it; if that ſuppreſſion be, as he avows it, and as in common ſenſe it muſt be, the ſole object of the proſecution, the public has great reaſon to lament that this letter ſhould have been at all brought into the ſervice of the cauſe: it is no part of the charge upon the record; it had no exiſtence for months after the work was compoſed and publiſhed; it was not even written, if written at all, till after he had been at Dover, in a manner inſultingly expelled from the country by the influence of government, and had become the ſubject of another country. It cannot, therefore, by any fair inference, even decypher the mind of the author when he compoſed his work; ſtill leſs can it affect the conſtruction of the language in which the work itſelf is written. The introduction of this letter at all is, therefore, not only a departure from the charge, but a ſort of dereliction of the object of the proſecution, which is to condemn the book: for if the condemnation of the author is to be obtained, not by the work itſelf, but by collateral

matter

matter not even exiſting when it was written, nor known to its various publiſhers throughout the kingdom, how can a verdict upon ſuch grounds condemn the work, or criminate other publiſhers, ſtrangers to the collateral matter on which the conviction may be obtained? I maintain, therefore, that, upon every principle of ſound policy, as it affects the intereſts of the crown, and upon every rule of juſtice, as it affects the author of the Rights of Man, the letter ſhould be wholly diſmiſſed from your conſideration.

Gentlemen, the Attorney General has thought it neceſſary to inform you, that a rumour had been ſpread, and had reached his ears, that he only carried on the proſecution as a public proſecutor, but without the concurrence of his own private judgment; and therefore to add the juſt weight of his own character to his public duty, and to repel what he thinks a calumny, he tells you that he ſhould have deſerved to have been driven from ſociety, if he had not arraigned the work and the author before you.

Here too we ſtand in ſituations very different. I have no doubt of the exiſtence of ſuch a rumour, and of its having reached his ears, becauſe he ſays ſo; but for the narrow circle in which any rumour, perſonally implicating my learned friend's character, has extended, I might appeal to the multitudes who ſurround us, and aſk, which of all them, except the few connected in office with the crown, ever heard of its exiſtence. But with regard to myſelf, every man who hears me at this moment, nay, the whole People of England, have been witneſſes to the calumnious clamour that, by every art, has been raiſed and kept up againſt me: In every

place, where buſineſs or pleaſure collect the public together, day after day my name and character have been the topics of injurious reflection. And for what—only for not having ſhrunk from the diſcharge of a duty which no perſonal advantage recommended, and which a thouſand difficulties repelled. But, gentlemen, I have no complaint to make, either againſt the printers of theſe libels, nor even againſt their authors; the greater part of them, hurried perhaps away by honeſt prejudices, may have believed they were ſerving their country by rendering me the object of its ſuſpicion and contempt; and if there have been amongſt them others who have mixed in it from perſonal malice and unkindneſs, I thank God I can forgive them alſo.——Little indeed did they know me, who thought that ſuch proceedings would influence my conduct: I will for ever, at all hazards, aſſert the dignity, independence, and integrity of the ENGLISH BAR; without which, impartial juſtice, the moſt valuable part of the Engliſh conſtitution, can have no exiſtence. For, from the moment that any advocate can be permitted to ſay, that he will or will not ſtand between the crown and a ſubject arraigned in the court where he daily ſits to practiſe, from that moment the liberties of England are at an end. If the advocate refuſes to defend, from what he may think of the charge or of the defence, he aſſumes the character of the judge; nay, he aſſumes it before the hour of judgment; and, in proportion to his rank and reputation, puts the heavy influence of, perhaps, a miſtaken opinion into the ſcale againſt the accuſed, in whoſe favour the benevolent principle of Engliſh

gliſh law makes all preſumptions, and which commands the very Judge to be his counſel.

Gentlemen, it is now my duty to addreſs myſelf regularly and without digreſſion to the defence. And the firſt thing which preſents itſelf in the diſcuſſion of a judicial ſubject, and indeed of every other, is to ſtate diſtinctly, and with preciſion, what the queſtion is, and (where prejudice and miſrepreſentation have been exerted), to diſtinguiſh it accurately from what it is not. The queſtion then is NOT whether the conſtitution of our fathers, under which we live—under which I preſent myſelf before you, and under which alone you have any juriſdiction to hear me,—be or be not preferable to the conſtitution of America or France, or any other human conſtitution. For upon what principle can a court, conſtituted by the authority of any government, and adminiſtering a poſitive ſyſtem of law under it, pronounce a deciſion againſt the conſtitution which creates its authority; or the rule of action which its juriſdiction is to enforce? The common ſenſe of the moſt uninformed perſon muſt revolt at ſuch an abſurd ſuppoſition.

I have no difficulty, therefore, in admitting, that if by accident ſome or all of you were alienated in opinion and affection from the forms and principles of the Engliſh government, and were impreſſed with the value of that unmixed repreſentative conſtitution which this work recommends and inculcates, you could not, on that account, acquit the defendant. Nay, to ſpeak out plainly, I freely admit, that even if you were avowed enemies to monarchy, and devoted to republicaniſm, you would be nevertheleſs bound by your oaths,

as a jury ſworn to adminiſter Engliſh juſtice, to convict the author of the Rights of Man, if it were brought home to your conſciences, that he had exceeded thoſe widely extended bounds which the ancient wiſdom and liberal policy of the Engliſh conſtitution have allotted to the range of a free preſs. I freely concede this, becauſe you have no juriſdiction to judge either the author or the work, by any rule but by the Engliſh law, which is the ſource of your authority. But having made this large conceſſion, it follows, by a conſequence ſo inevitable as to be invulnerable to all argument or artifice, that if, on the other hand, you ſhould be impreſſed (which I know you to be) not only with a dutiful regard, but with an enthuſiaſm, for the whole form and ſubſtance of your own government; and though you ſhould think that this work, in its circulation amongſt claſſes of men unequal to political reſearches, may tend to alienate opinion, ſtill you cannot, upon theſe grounds, without a ſimilar breach of duty, convict the defendant of a libel, unleſs he has clearly ſtepped beyond that extended range of communication which the ſame ancient wiſdom and liberal policy of the Britiſh conſtitution has allotted for the liberty of the preſs.

Gentlemen, I admit, with the Attorney General, that in every caſe where a court has to eſtimate the quality of a writing, the mind and intention of the writer muſt be taken into the account; the bona, or mala fides, as lawyers expreſs it, muſt be examined: for a writing may undoubtedly proceed from a motive, and be directed to a purpoſe, not to be decyphered by the mere conſtruction of the thing written. But wherever a writing is arraigned as ſeditious or ſlanderous,

not

not upon its ordinary conſtruction in language, nor from the neceſſary conſequences of its publication, under any circumſtances and at all times, but that the criminality ſprings from ſome extrinſic matter, not viſible upon the page itſelf, nor univerſally operative, but capable only of being connected with it by evidence, ſo as to demonſtrate the effect of the publication, and the deſign of the publiſher; ſuch a writing, not libellous PER SE, cannot be arraigned as the author's work is arraigned upon the record before the court. I maintain, without the hazard of contradiction, that the law of England poſitively requires, for the ſecurity of the ſubject, that every charge of a libel complicated with extrinſic facts and circumſtances, *debors the writing*, muſt appear literally upon the record, that the defendant may know what crime he is called upon to anſwer, and how to ſtand upon his defence. What crime is it that the defendant comes to anſwer for to day? what is the notice that I, who am his counſel, have from this parchment of the crime alleged againſt him? I come to defend his having written this book. The record ſtates nothing elſe: the charge of ſedition in the introduction is notoriouſly paper and pack-thread, and the innuendos cannot enlarge the ſenſe, or natural conſtruction of the text. The record does not ſtate any one extrinſic fact or circumſtance, to render the work criminal, at one time more than another; it ſtates no peculiarity of time, or ſeaſon, or intention, not proveable from the writing itſelf, which is the naked charge upon record. There is nothing therefore which, upon any principle of Engliſh law, gives you any juriſdiction beyond the conſtruction of the *work itſelf*;

and you cannot be juſtified in finding it criminal becauſe publiſhed at this time, unleſs it would have been a criminal publication under any circumſtances, or at any other time.

The law of England then, both in its forms and ſubſtance, being the only rule by which the author or the work can be juſtified or condemned, and the charge upon the record being the naked charge of a libel, the cauſe reſolves itſelf into a queſtion of the deepeſt importance to us all, THE NATURE AND EXTENT OF THE LIBERTY OF THE ENGLISH PRESS.

But before I enter upon it, I wiſh to fulfil a duty to the defendant, which, if I do not deceive myſelf, is at this moment peculiarly neceſſary to his impartial trial.—If an advocate entertains ſentiments injurious to the defence he is engaged in, he is not only juſtified, but bound in duty, to conceal them; ſo, on the other hand, if his own genuine ſentiments, or any thing connected with his character or ſituation, can add ſtrength to his profeſſional aſſiſtance, he is bound to throw them into the ſcale: in addreſſing myſelf, therefore, to gentlemen not only zealous for the honour of Engliſh government, but viſibly indignant at any attack upon its principles, and who would, perhaps, be impatient of arguments from a ſuſpected quarter, I give my client the benefit of declaring, that I am, and ever have been, attached to the genuine principles of the Britiſh government; and that, however the court or you may reject the application, I defend him upon principles not only conſiſtent with its permanence and ſecurity, but, without the eſtabliſhment of which, it never could have had an exiſtence.

The

The propoſition which I mean to maintain as the baſis of the liberty of the preſs, and without which it is an empty ſound, is this:

That every man, not intending to miſlead and to confound, but ſeeking to enlighten others with what his own reaſon and conſcience, however erroneouſly, dictate to him as truth, may addreſs himſelf to the univerſal reaſon of a whole nation, either upon the ſubject of governments in general, or upon that of our own particular country: that he may analyſe the principles of its conſtitution, point out its errors and defects, examine and publiſh its corruptions, warn his fellow-citizens againſt their ruinous conſequences, and exert his whole faculties in pointing out the moſt advantageous changes in eſtabliſhments which he conſiders to be radically defective, or ſliding from their object by abuſe.—All this every ſubject of this country has a right to do, if he contemplates only what he thinks its happineſs, and but ſeeks to change the public mind by the conviction which flows from reaſonings dictated by conſcience.

If, indeed, he writes what he does not think; if, contemplating the miſery of others, he wickedly condemns what his own underſtanding approves; or, even admitting his real diſguſt againſt the government or its corruptions, if he calumniates *living magiſtrates*, or holds out to individuals, that they have a right to run before the public mind in their conduct; that they may oppoſe by contumacy or force what private reaſon only diſapproves; that they may diſobey the law, becauſe their judgment condemns it; or reſiſt the public will, becauſe they honeſtly wiſh to change it: he

is

is then a criminal upon every principle of rational policy, as well as upon the immemorial precedents of Engliſh juſtice; becauſe ſuch a perſon ſeeks to diſunite individuals from their duty to the whole, and excites to overt acts of miſconduct in a part of the community, inſtead of endeavouring to change, by the impulſe of reaſon, that univerſal aſſent which, in this and in every country, conſtitutes the law for all.

I have therefore no difficulty in admitting that, if, upon an attentive peruſal of this work, it ſhall be found that the defendant has promulgated any doctrines which tend to withdraw individuals from their ſubjection to the law by which the whole nation conſents to be governed; nay, if the direct contrary ſhall not be found to be ſtudiouſly inculcated—if his book ſhall be found to have warranted or excited that unfortunate criminal who appeared here yeſterday to endeavour to relieve himſelf from impriſonment, by the deſtruction of a priſon, while the law of impriſonment remained, or dictated to him the language of defiance which ran through his whole defence—if throughout the whole work there ſhall be found any ſyllable or letter, which ſtrikes at the ſecurity of property, or which hints that any thing leſs than the whole nation can conſtitute the law, or that the law, be it what it may, is not the inexorable rule of action for every individual, I willingly yield him up to the juſtice of the court.

Gentlemen, I ſay, in the name of Thomas Paine, and in his words as author of the Rights of Man, as written in the very volume that is charged with ſeeking the deſtruction of property,

" The

" The end of all political aſſociations is,
" The preſervation of the rights of man,
" which rights are liberty, property, and ſe-
" curity; that the nation is the ſource of all
" ſovereignty derived from it: the right of pro-
" perty being ſecured and inviolable, no one
" ought to be deprived of it, except in caſes
" of evident public neceſſity, legally aſcertain-
" ed, and on condition of a previous juſt in-
" demnity."

Theſe are undoubtedly the rights of man—the rights for which all governments are eſtabliſhed—and the only rights Mr. Paine contends for; but which he thinks (no matter whether right or wrong) are better to be ſecured by a republican conſtitution than by the forms of the Engliſh government. He inſtructs me to admit, that, when government is once conſtituted, no individuals, without rebellion, can withdraw their obedience from it—that all attempts to excite them to it are highly criminal, for the moſt obvious reaſons of policy and juſtice—that nothing ſhort of the will of a whole people can change or affect the rule by which a nation is to be governed—and that no private opinion, however honeſtly inimical to the forms or ſubſtance of the law, can juſtify reſiſtance to its authority, while it remains in force. The author of the Rights of Man not only admits the truth of all this doctrine, but he conſents to be convicted, and I alſo conſent for him, unleſs his work ſhall be found ſtudiouſly and painfully to inculcate theſe great principles of government which it is charged to have been written to deſtroy. Let

me not, therefore, be ſuſpected to be contending, that it is lawful to write a book pointing out defects in the Engliſh government, and exciting individuals to deſtroy its ſanctions, and to refuſe obedience. But, on the other hand, I do contend, that it is lawful to addreſs the Engliſh nation on theſe momentous ſubjects, for had it not been for thisu nalienable right (thanks be to God and our fathers for eſtabliſhing it), how ſhould we have had this conſtitution which we ſo loudly boaſt of? If, in the march of the human mind, no man could have gone before the eſtabliſhments of the time he lived in, how could our eſtabliſhment, by reiterated changes, have become what it is? If no man could have awakened the public mind to errors and abuſes in our government, how could it have paſſed on from ſtage to ſtage, through reformation and revolution, ſo as to have arrived from barbariſm to ſuch a pitch of happineſs and perfection that the Attorney General conſiders it as profanation to touch it any further, or to look for any future amendment.

In this manner power has reaſoned in every age—government, in *its own eſtimation*, has been at all times a ſyſtem of perfection; but a free preſs has examined and detected its errors, and the people have happily reformed them: this freedom has alone made our government what it is, and alone can preſerve it; and therefore, under the banners of that freedom, to-day I ſtand up to defend Thomas Paine. But how, alas! ſhall this taſk be accompliſhed? How may I expect from you what human nature has not made man for the performance of? How am I to addreſs

dreſs your reaſons, or aſk them to pauſe, amidſt the torrent of prejudice which has hurried away the public mind on the ſubject you are to judge?

Was any Engliſhman ever ſo brought as a criminal before an Engliſh court of juſtice?—If I were to aſk you, gentlemen of the jury, what is the choiceſt fruit that grows upon the tree of Engliſh liberty, you would anſwer, SECURITY UNDER THE LAW. If I were to aſk the whole people of England, the return they looked for at the hands of government, for the burthens under which they bend to ſupport it, I ſhould ſtill be anſwered, SECURITY UNDER THE LAW; or, in other words, an impartial adminiſtration of juſtice. So ſacred, therefore, has the freedom of trial been ever held in England; ſo anxiouſly does Juſtice guard againſt every poſſible bias in her path, that if the public mind has been locally agitated upon any ſubject in judgment, the forum is either changed, or the trial poſtponed. The circulation of any paper that brings, or which can be ſuppoſed to bring, prejudice, or even well founded knowledge, within the reach of a Britiſh tribunal, on the ſpur of an occaſion, is not only highly criminal, but defeats itſelf, by leading to put off the trial which its object was to pervert. On this principle, his lordſhip will permit me to remind him, that on the trial of the Dean of St. Aſaph for a libel, or rather when he was brought to trial, the circulation of books by a ſociety favourable to his defence, was held by the noble lord, as Chief Juſtice of Cheſter, to be a reaſon for not trying the cauſe; although they contained no matter relative to the Dean, nor to the object of his trial;

being

being only extracts from ancient authors of high reputation, on the general rights of juries to conſider the innocence as well as the guilt of the accuſed, yet ſtill, as the recollection of theſe rights was preſſed forward with a view to affect the proceedings, to guard the principle the proceedings were poſtponed.

Is the defendant then to be the only exception to theſe admirable proviſions?—Is the Engliſh law to judge him, ſtript of the armour with which its univerſal juſtice encircles all others?—Shall we, in the very act of judging him for detracting from the Engliſh government, furniſh him with ample matter for juſt reprobation, inſtead of detraction? Has not his cauſe been prejudged through a thouſand channels? Has not the work before you been daily publicly reviled, and his perſon held up to deriſion and reproach? Has not the public mind been excited, by crying down the very phraſe and idea of the Rights of Man? Nay, have not aſſociations of gentlemen, I ſpeak it with regret, becauſe I am perſuaded, from what I know of ſome of them, that they, amongſt them at leaſt, thought they were ſerving the public; yet have they not, in utter contempt and ignorance of that conſtitution of which they declare themſelves to be the guardians, publiſhed the groſſeſt attacks upon the defendant? Have they not, even while the cauſe has been ſtanding here in the paper for immediate trial, publiſhed a direct proteſt againſt the very work now before you; advertiſing in the ſame paper, though under the general deſcription of ſeditious papers, a reward on the conviction of any perſon who ſhould dare to ſell the book itſelf, to which their own publication was an anſwer?—The

Attorney-

Attorney-General has ſpoken of a forced circulation of this work; but how have theſe prejudging papers been circulated? we all know how: they have been thrown into our carriages in every ſtreet; they have met us at every turnpike; and they lie in the areas of all our houſes. To complete the triumph of prejudice, that high tribunal, of which I have the honour to be a member, (my learned friends know what I ſay to be true) has been drawn into this vortex of ſlander; and ſome of its members, for I do not ſpeak of the Houſe itſelf, have thrown the weight of their ſtations into the ſame ſcale.

By all means I maintain that this cauſe has been prejudged.

It may be ſaid, that I have made no motion to put off the trial for theſe cauſes, and that courts of themſelves take no cognizance of what paſſes elſewhere, without facts laid before them. Gentlemen, I know that I ſhould have had equal juſtice from that quarter, if I had brought myſelf within the rule. But when ſhould I have been better in the preſent aſpect of things? And therefore I only remind you of all theſe hardſhips, that you may recollect that your judgment is to proceed upon that alone which meets you here, upon the evidence in the cauſe, and not upon ſuggeſtions deſtructive of every principle of juſtice.

Having diſpoſed of theſe foreign prejudices, I hope you will as little regard ſome arguments that have been offered to you in court. The letter which has been ſo repeatedly preſſed upon you, ought to diſmiſs even from your recollection; I have already put it out of the queſtion, as having been written long ſubſequent to the book, and as

being

being a libel on the king, which no part of the information charges, and which may hereafter be profecuted as a diſtinct offence. I conſider that letter beſides, and indeed have always heard it treated, as a forgery, contrived to injure the merits of the cauſe, and to embarraſs me perſonally in its defence. I have a right ſo to conſider it, becauſe it is unſupported by any thing ſimilar at an earlier period. The defendant's whole deportment, previous to the publication, has been wholly unexceptionable: he properly deſired to be given up as the author of the book, if any enquiry ſhould take place concerning it; and he is not affected in evidence, directly or indirectly, with any illegal or ſuſpicious conduct; not even with having uttered an indiſcreet or taunting expreſſion, nor with any one matter or thing, inconſiſtent with the duty of the beſt ſubject in England. His opinions indeed were adverſe to our ſyſtem; but I maintain that OPINION is free, and that CONDUCT alone is amenable to the law.

You are next deſired to judge of the author's mind and intention, by the modes and extent of the circulation of his work. The firſt part of the Rights of Man, Mr. Attorney-General tells you, he did not profecute, altho' it was in circulation thro' the country for a year and a half together, becauſe it ſeems it circulated only amongſt what he ſtiles the judicious part of the public, who poſſeſſed in their capacities and experience an antidote to the poiſon; but that with regard to the ſecond part now before you, its circulation had been forced into every corner of ſociety; had been printed and reprinted for cheapneſs even upon whited brown

paper, and had crept into the very nurſeries of children, as a wrapper for their ſweetmeats.

In anſwer to this ſtatement, which after all ſtands only upon Mr. Attorney General's own aſſertion, unſupported by any kind of proof (no witneſs having proved the author's perſonal interference with the ſale), I ſtill maintain, that if he had the moſt anxiouſly promoted it, the queſtion would remain exactly the ſame: the queſtion would ſtill be, whether at the time when Paine compoſed his work, and promoted the moſt extenſive purchaſe of it, he believed or diſbelieved what he had written, and whether he contemplated the happineſs or the miſery of the Engliſh nation, to which it is addreſſed; and whichever of theſe intentions may be evidenced to your judgments upon reading the book itſelf, I confeſs I am utterly at a loſs to comprehend how a writer can be ſuppoſed to mean ſomething different from what he has written, by an anxiety (common I believe to all authors) that his work ſhould be generally read.

Remember, I am not aſking your opinions of the *doctrines themſelves*, you have given them already pretty viſibly ſince I began to addreſs you; but I ſhall appeal not only to you, but to thoſe who, without our leave, will hereafter judge without appeal of all that we are doing to day; Whether, upon the matter which I haſten to lay before you, you can refuſe in juſtice to pronounce, that from his education—from the accidents and habits of his life—from the time and occaſion of the publication—from the circumſtances attending it—and from every line and letter of the work itſelf, and all his other writings, before and *even ſince*, his

conſcience and underſtanding *(no matter whether erroneouſly or not)* were deeply and ſolemnly impreſſed with the matters contained in his book,—that he addreſſed it to the reaſon of the nation at large, and not to the paſſions of individuals, and that in the iſſue of its influence, he contemplated only what appeared to *him (though it may not to us)* to be the intereſt and happineſs of England, and of the whole human race. In drawing the one or the other of theſe concluſions, the book ſtands firſt in order, and it ſhall now ſpeak for itſelf.

Gentlemen, the whole of it is in evidence before you; the particular parts arraigned having only been read by my conſent, upon the preſumption that on retiring from the court, you would carefully compare them with the context, and all the parts with the whole viewed together. You cannot indeed do juſtice without it. The moſt common letter, even in the ordinary courſe of buſineſs, cannot be read in a cauſe to prove an obligation for twenty ſhillings without the whole being read, that the writer's meaning may be ſeen without deception. But in a criminal charge of only four pages and a half, out of a work containing nearly two hundred, you cannot, with even the appearance of common juſtice, pronounce a judgment without the moſt deliberate and cautious compariſon. I obſerve that the noble and learned judge confirms me in this obſervation. But if any given part of a work be legally explanatory of every other part of it, the preface, a fortiori, is the moſt material; becauſe the preface is the author's own key to his writing: it is there that he takes the reader by the hand, and introduces him to his ſubject:

ject: it is there that the ſpirit and intention of the whole is laid before him by way of prologue. A preface is meant by the author as a clue to ignorant or careleſs readers: the author ſays by it, to every man who chooſes to begin where he ought, look at my plan—attend to my diſtinctions—mark the purpoſe and limitations of the matter I lay before you.

Let then the calumniators of Thomas Paine now attend to his preface, where, to leave no excuſe for ignorance or miſrepreſentation, he expreſſes himſelf thus:

" I have differed from ſome profeſſional gen-
" tlemen on the ſubject of proſecutions, and I
" ſince find they are falling into my opinion,
" which I will here ſtate as fully, but as con-
" ciſely as I can.

" I will firſt put a caſe with reſpect to any
" law, and then compare it with a government,
" or with what in England is, or has been, called
" a conſtitution.

" It would be an act of deſpotiſm, or what
" in England is called arbitrary power, to make
" a law to prohibit inveſtigating the principles,
" good or bad, on which ſuch a law, or any
" other, is founded.

" If a law be bad, it is one thing to oppoſe
" the practice of it, but it is quite a different
" thing to expoſe its errors, to reaſon on its de-
" fects, and to ſhew cauſe why it ſhould be
" repealed, or why another ought to be ſub-
" ſtituted in its place. I have always held it
" an opinion (making it alſo my practice) that
" it is better to obey a bad law, making uſe at

" the ſame time of every argument to ſhew its
" errors and procure its repeal, than forcibly
" to violate it; becauſe the precedent of break-
" ing a bad law might weaken the force, and
" lead to a diſcretionary violation, of thoſe which
" are good.

" The caſe is the ſame with principles and
" forms of government, or to what are called
" conſtitutions and the parts of which they are
" compoſed.

" It is for the good of nations, and not for the
" emolument or aggrandiſement of particular in-
" dividuals, that government ought to be eſta-
" bliſhed, and that mankind are at the expence of
" ſupporting it. The defects of every government
" and conſtitution, both as to principle and form,
" muſt, on a parity of reaſoning, be as open to
" diſcuſſion as the defects of a law, and it is a
" duty which every man owes to ſociety to point
" them out. When thoſe defects, and the
" means of remedying them are generally ſeen
" by a nation, that nation will reform its go-
" vernment or its conſtitution in the one caſe,
" as the government repealed or reformed the
" law in the other."

Gentlemen, you muſt undoubtedly wiſh to deal with every man who comes before you in judgment, as you would be dealt by yourſelves; and ſurely you will not lay it down to day as a law to be binding hereafter even upon yourſelves, that if you ſhould publiſh any opinion concerning the exiſting abuſes in your country's government, and point out to the whole public the means of amendment, you are to be acquitted or convicted as any twelve

men may happen to agree with you in your opinions. Yet this is preciſely what you are aſked to do to another: it is precilely the caſe before you. Mr. Paine expreſsly ſays, I obey a law until it is repealed; obedience is not only my principle but my practice, ſince my diſobedience of a law from thinking it bad, might apply to juſtify another man in the diſobedience of a good one; and thus individuals would give the rule for themſelves, and not ſociety for all.

Gentlemen, you will preſently ſee that the ſame principle pervades the reſt of the work; and I am the more anxious to call your attention to it, however repetition may tire you, becauſe it unfolds the whole principle of my argument: for, if you find a ſentence in the whole book that inveſts any individual, or any number of individuals, or any community ſhort of the whole nation, with a power of changing any part of the law or conſtitution, I abandon the cauſe—YES, I freely abandon it, becauſe I will not affront the majeſty of a court of juſtice by maintaining propoſitions which, even upon the ſurface of them, are falſe. Mr. Paine, page 162—168, goes on thus:

> "When a nation changes its opinion and
> "habits of thinking, it is no longer to be go-
> "verned as before; but it would not only be
> "wrong, but bad policy, to attempt by force
> "what ought to be accompliſhed by reaſon.
> "Rebellion conſiſts in forcibly oppoſing the
> "general will of a nation, whether by a party
> "or by a government. There ought, there-

" fore, to be, in every nation, a method of
" occaſionally aſcertaining the ſtate of public
" opinion with reſpect to government.
" There is, therefore, no power but the
" voluntary will of the people that has a right
" to act in any matter reſpecting a general re-
" form; and, by the ſame right that two per-
" ſons can confer on ſuch a ſubject, a thou-
" ſand may. The object in all ſuch prelimi-
" nary proceedings is, to find out what the
" general ſenſe of a nation is, and to be go-
" verned by it. If it prefer a bad or defective
" government to a reform, or chooſe to pay
" ten times more taxes than there is occaſion
" for, it has a right ſo to do; and, ſo long as
" the majority do not impoſe conditions on
" the minority different to what they impoſe
" on themſelves, though there may be much
" error, there is no injuſtice; neither will the
" error continue long. Reaſon and diſcuſſion
" will ſoon bring things right, however
" wrong they may begin. By ſuch a proceſs
" no tumult is to be apprehended. The poor,
" in all countries, are naturally both peaceable
" and grateful in all reforms in which their
" intereſt and happineſs are included. It is
" only by neglecting and rejecting them that
" they become tumultuous."

Gentlemen, theſe are the ſentiments of the author of the Rights of Man; and, whatever his opinions may be of the defects in our government, it never can change our ſentiments concerning it, if our ſentiments are juſt; and a writ-

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ing can never be ſeditious in the ſenſe of the Engliſh law, which ſtates that the government leans on the univerſal will for its ſupport.

Gentlemen, this univerſal will is the beſt and ſecureſt title which his Majeſty and his family have to the throne of theſe kingdoms; and in proportion to the wiſdom of our inſtitutions, the title muſt in common ſenſe become the ſtronger: ſo little idea, indeed, have I of any other, that in my place in Parliament, not a week ago, I conſidered it as the beſt way of expreſſing my attachment to the conſtitution, as eſtabliſhed at the revolution, to declare (I believe in the preſence of the heir apparent of the crown, for whom I have the greateſt perſonal zeal) that his Majeſty reigned in England, by choice and conſent, as the magiſtrate of the Engliſh people; not indeed a conſent and choice by perſonal election, like a King of Poland, the worſt of all poſſible conſtitutions; but by the election of a family for great national objects, in defiance of that hereditary right, which only becomes tyranny, in the ſenſe of Mr. Paine, when it claims to inherit a nation, inſtead of governing by their conſent, and continuing for its benefit.

Gentlemen, this ſentiment has the advantage of Mr. Burke's high authority, who ſays with great truth, in a letter to his conſtituents, "Too "little dependance cannot be had at this time of "day on names and prejudices: the eyes of "mankind are opened; and communities muſt "be held together by a viſible and ſolid inte-"reſt." I believe, Gentlemen of the Jury, that the Prince of Wales will always render this title dear to the people. The Attorney General can

only tell you what he believes of him; I can tell you what I know, and what I am bound to declare, ſince this Prince may be traduced and calumniated in every part of the kingdom, without its coming often in queſtion, till brought in to load a defence with matter collateral to the charge. I therefore aſſert what the Attorney General can only hope, that, whenever that Prince ſhall come to the throne of this country (which I hope, but by the courſe of nature, will never happen), he will make the conſtitution of Great Britain the foundation of all his conduct.

Having now, Gentlemen, eſtabliſhed the author's general intention by his own introduction, which is the beſt and faireſt expoſition, let us next look at the occaſion which gave it birth.

The Attorney General, throughout the whole courſe of his addreſs to you (I knew it would be ſo), has avoided the moſt diſtant notice or hint of any circumſtance having led to the appearance of the author in the political world, after a ſilence of ſo many years; he has not even pronounced, or even glanced at the name of Mr. Burke, but has left you to take it for granted that the defendant volunteered this delicate and momentous ſubject; and that, without being led to it by the provocation of political controverſy, he had ſeized a favourable moment to ſtigmatiſe, from mere malice, and againſt his own confirmed opinions, the Conſtitution of this Country.

Gentlemen, my learned friend knows too well my reſpect and value for him to ſuppoſe that I am charging him with a wilful ſuppreſſion; I know him to be incapable of it; he knew it would come from me. He will permit me, however,

however, to lament that it ſhould have been left for me, at this late period of the cauſe, to inform you, that, not only the work before you, but the Firſt Part, of which it is a natural continuation, were written *avowedly, and upon the face of them,* IN ANSWER TO MR. BURKE. They were written beſides under circumſtances which I ſhall hereafter explain, and in the courſe of which explanation I may have occaſion to cite a few paſſages from the works of that celebrated perſon. And I ſhall ſpeak of him with the higheſt reſpect: for, with whatever contempt he may delight to look down upon my humble talents, however he may diſparage the principles which direct my public conduct, he ſhall never force me to forget the regard which this country owes to him for the writings which he has left upon record for the illumination of our moſt diſtant poſterity. After the gratitude which we owe to God for the divine gifts of reaſon and underſtanding, our next thanks are due to thoſe from the fountain of whoſe enlightened minds they are fed and fructified. But pleading, as I do, the cauſe of freedom of opinions, I ſhall not give offence by remarking that this great author has been thought to have changed ſome of his; and, if Thomas Paine had not thought ſo, I ſhould not now be addreſſing you, becauſe the book which is my ſubject would never have been written. Who is right and who is wrong, in the contention of doctrines, I have repeatedly diſclaimed to be the queſtion; I can only ſay that Mr. Paine may be right throughout, but that Mr. Burke cannot—Mr. Paine has been uniform in his opinions, but Mr. Burke has not—Mr.

Burke

Burke can only be right in part; but, ſhould Mr. Paine be even miſtaken in the whole, ſtill I am not removed from the principle of his defence. My defence has nothing to do with either the concealment or rectitude of his doctrines. I admit Mr. Paine to be a republican; you ſhall ſoon ſee what made him one—I do not ſeek to ſhade or qualify his attack upon our conſtitution; I put my defence on no ſuch matter—he undoubtedly means to declare it to be defective in its forms, and contaminated with abuſes, which, in his judgment, will one day or other bring on the ruin of us all: it is in vain to mince the matter; this is the ſcope of his work. But ſtill, if it contains no attack upon the King's Majeſty, nor upon any other living magiſtrate; if it excites to no reſiſtance to magiſtracy, but, on the contrary, if it even inculcates, as it does, obedience to government, then, whatever may be its defects, the queſtion continues as before, and ever muſt remain an unmixed queſtion of the liberty of the preſs. I therefore conſidered it as no breach of profeſſional duty, nor injurious to the cauſe I am defending, to expreſs my own admiration of the real principles of our conſtitution—a conſtitution which I hope never to ſee give way to any other—a conſtitution which has been productive of various benefits, and which will produce many more hereafter, if we have wiſdom enough to pluck up thoſe weeds that grow in the richeſt ſoils and amongſt the brighteſt flowers. I agree with the merchants of London, that the Engliſh government is equal to the reformation of its own abuſes; and, as an inhabitant of the city, I would have ſigned their

Declaration,

Declaration, if I had known, *of my own knowledge*, the facts recited in its preamble. But abuſes the Engliſh conſtitution unqueſtionably has which call loudly for reformation, the exiſtence of which has been the theme of our greateſt ſtateſmen, which have too plainly formed the principles of the defendant, and created the very conjuncture which produced his book.

Gentlemen, we all but too well remember the calamitous ſituation in which our country ſtood but a few years ago—a ſituation which no man can look back upon without horror, nor feel himſelf ſafe from relapſing into again, while the cauſes remain which produced it. The event I allude to you muſt know to be the American war and the ſtill exiſting cauſes of it, the corruptions of this government. In thoſe days it was not thought virtue by the patriots of England to conceal their exiſtence from the people; but then, as now, authority condemned them as diſaffected ſubjects, and defeated the ends they ſought by their promulgation.

Hear the opinion of Sir George Saville;—not his ſpeculative opinion concerning the ſtructure of our government in the abſtract, but his opinion of the ſettled abuſes which prevailed in his own time, and which continue at this moment. But firſt let me remind you who Sir George Saville was—I fear we ſhall hardly look upon his like again—How ſhall I deſcribe him to you?—In my own words I cannot. I was lately commended by Mr. Burke, in the Houſe of Commons, for ſtrengthening my own language by an appeal to Dr. Johnſon. Were the honourable gentleman preſent at this moment, he would no

doubt doubly applaud my choice in reſorting to his own works for the deſcription of Sir George Saville:

" His fortune is among the largeſt; a for-
" tune, which, wholly unincumbered as it is,
" without one ſingle charge from luxury, vanity,
" or exceſs, ſinks under the benevolence of its
" diſpenſer. This private benevolence, ex-
" panding itſelf into patriotiſm, renders his
" whole being the eſtate of the public, in
" which he has not reſerved a *peculium* for
" himſelf of profit, diverſion, or relaxation.
" During the ſeſſion, the firſt in, and the laſt
" out of the Houſe of Commons; he paſſes
" from the ſenate to the camp; and, ſeldom
" ſeeing the ſeat of his anceſtors, he is always
" in Parliament to ſerve his country, or in
" the field to defend it."

It is impoſſible to aſcribe to ſuch a character any principle but patriotiſm, when he expreſſed himſelf as follows:

" I return to you baffled and diſpirited, and
" I am ſorry that truth obliges me to add,
" with hardly a ray of hope of ſeeing any
" change in the miſerable courſe of public ca-
" lamities.
" On this melancholy day of account, in
" rendering up to you my truſt, I deliver to
" you your ſhare of a country maimed and
" weakened; its treaſure laviſhed and miſ-
" ſpent; its honours faded; and its conduct
" the laughing-ſtock of Europe: our nation

" in

" in a manner without allies or friends, ex-
" cept ſuch as we have hired to deſtroy our
" fellow-ſubjects, and to ravage a country,
" in which we once claimed an invaluable
" ſhare. I return to you ſome of your prin-
" cipal privileges impeached and mangled.
" And, laſtly, I leave you, as I conceive, at
" this hour and moment fully, effectually,
" and abſolutely, under the diſcretion and
" power of a military force, which is to act
" without waiting for the authority of the ci-
" vil magiſtrates.

" Some have been accuſed of exaggerating
" the public misfortunes, nay, of having en-
" deavoured to help forward the miſchief,
" that they might afterwards raiſe diſcon-
" tents. I am willing to hope, that neither
" my temper, nor my ſituation in life, will be
" thought naturally to urge me to promote
" miſery, diſcord, or confuſion, or to exult in
" the ſubverſion of order, or in the ruin of
" property. I have no reaſon to contemplate
" with pleaſure the poverty of our country,
" the increaſe of our debts, and of our taxes;
" or the decay of our commerce.—Truſt not,
" however, to my report: reflect, compare,
" and judge for yourſelves.

" But, under all theſe diſheartening cir-
" cumſtances, I could yet entertain a cheerful
" hope, and undertake again the commiſſion
" with alacrity, as well as zeal, if I could ſee
" any effectual ſteps taken to remove the ori-
" ginal cauſe of the miſchief—' Then would
" there be a hope.'

" But, till the purity of the conſtituent

" body,

" body, and thereby that of the repreſentative,
" be reſtored, there is NONE.

" I gladly embrace this moſt public opportuni-
" ty of delivering my ſentiments, not only to all
" my conſtituents, but to thoſe likewiſe not
" my conſtituents, whom yet, in the large
" ſenſe, I repreſent, and am faithfully to
" ſerve.

" I look upon reſtoring election and repre-
" ſentation in ſome degree (for I expect no
" miracles) to their original purity, to be that,
" without which all other efforts will be vain
" and ridiculous.

" If ſomething be not done, you may, in-
" deed, retain the outward form of your con-
" ſtitution, but not the power thereof."

Such were the words of that great good man, loſt with thoſe of many others of his time, and his fame, as far as power could hurt it, put in the ſhade along with them. The conſequences we have all ſeen and felt: America, from an obedient affectionate colony, became an independent nation; and two millions of people, nurſed in the very lap of our monarchy, became the willing ſubjects of a republican conſtitution.

Gentlemen, in that great and calamitous conflict Mr. Burke and Mr. Paine fought in the ſame field of reaſon together, but with very different ſucceſſes. Mr. Burke ſpoke to a parliament in England, ſuch as Sir George Saville deſcribes it, that had no ears but for ſounds that flattered its corruptions. Mr. Paine, on the other hand, ſpoke TO A PEOPLE; reaſoned with them, that they were bound by no ſubjection to any ſovereignty,

further

further than their own benefits connected them; and by theſe powerful arguments prepared the minds of the American people for that GLORIOUS, JUST, and HAPPY revolution.

Gentlemen, I have a right to diſtinguiſh it by that appellation, becauſe I aver that at this moment there is as ſacred a regard to property; as inviolable a ſecurity to all the rights of individuals; lower taxes; fewer grievances; leſs to deplore, and more to admire, in the conſtitution of America, than that of any other country under heaven. I wiſh indeed to except our own, but I cannot even do that, till it ſhall be purged of thoſe abuſes which, though they obſcure and deform the ſurface, have not as yet *(thank God)* deſtroyed the vital parts.

Why then is Mr. Paine to be calumniated, and reviled, becauſe out of a people conſiſting of near three millions, he alone did not remain attached in opinion to a monarchy. Remember, that all the blood which was ſhed in America, and to which he was for years a melancholy and indignant witneſs, was ſhed by the authority of the crown of Great Britain, under the influence of its parliament, ſuch as Sir George Saville has deſcribed it, and ſuch as Mr. Burke himſelf will be called upon by and by in more glowing colours to paint it. How then can it be wondered at that Mr. Paine ſhould return to this country in his heart a republican? Was he not equally republican when he wrote Common Senſe? yet that volume has been ſold without reſtraint or proſecution in every ſhop in England ever ſince, and which nevertheleſs *(I appeal to the book, which I have in court, and which is in every body's hands)* contains every one principle of government, and every abuſe in the Britiſh

tiſh conſtitution, which is to be found in the Rights of Man. Yet Mr. Burke himſelf ſaw no reaſon to be alarmed at its publication, nor to cry down its contents, even when America, which was ſwayed by it, was in arms againſt the crown of Great-Britain. You ſhall hear his opinion of it, in his letter to the ſheriffs of Briſtol, pages 33 and 34.

" The court gazette accompliſhed what the
" abettors of independence had attempted in
" vain. When that diſingenuous compilation,
" and ſtrange medley of railing and flattery,
" was adduced, as a proof of the united ſenti-
" ments of the people of Great-Britain, there
" was a great change throughout all America.
" The tide of popular affection, which had ſtill
" ſet towards the parent country, began im-
" mediately to turn, and to flow with great ra-
" pidity in a contrary courſe. Far from con-
" cealing theſe wild declarations of enmity, *the*
" *author of the celebrated pamphlet which pre-*
" *pared the minds of the people for indepen-*
" *dence*, inſiſts largely on the multitude and
" the ſpirit of theſe addreſſes; and draws an
" argument from them, which (if the fact were
" as he ſuppoſes) muſt be irreſiſtible. For I
" never knew a writer on the theory of govern-
" ment ſo partial to authority, as not to allow,
" that the hoſtile mind of the rulers to their
" people, did fully juſtify a change of govern-
" ment; nor can any reaſon whatever be given,
" why one people ſhould voluntarily yield any
" degree of pre-eminence to another, but on
" a ſuppoſition of great affection and benevo-
" lence towards them. Unfortunately your

" rulers,

" rulers, truſting to other things, took no
" notice of this great principle of con-
" nexion."

But there is a time, it ſeems, for all things.

Gentlemen, the conſequences of this mighty revolution are too notorious to require illuſtration. No audience would ſit to hear (what every body has ſeen and felt,) the independence of America notoriouſly produced, not by remote and circuitous effect, but directly and palpably, the revolutions which now agitate Europe, and which portend ſuch new changes over the face of the earth. Let governors take warning. The revolution in France was the conſequence of her incurably corrupt and profligate government. God forbid that I ſhould be thought to lean, by this declaration, upon her unfortunate monarch, bending, perhaps at this moment, under afflictions which my heart ſinks within me to think of; but, when I ſpeak with deteſtation of the former politics of the French court, I faſten as little of them upon that fallen and unhappy prince, as I impute to our gracious ſovereign the corruptions of our own government. I deſire, indeed, in the diſtincteſt manner, to be underſtood that I mean to ſpeak of his Majeſty, not only with that obedience and duty which I owe to him as a ſubject, but with that juſtice which I think is due to him from all men who examine his conduct either in public or private life.

Gentlemen, Mr. Paine happened to be in England when the French revolution took place,

and notwithſtanding what he muſt be ſuppoſed and allowed from his hiſtory to have felt upon ſuch a ſubject, he remained wholly ſilent and inactive. The people of this country too appeared to be indifferent ſpectators of the animating ſcene. They ſaw, without viſible emotion, deſpotiſm deſtroyed, and the King of France, by his own conſent, become the firſt magiſtrate of a free people. Certainly, at leaſt, it produced none of thoſe effects which are ſo deprecated by government at preſent; nor, moſt probably, ever would, if it had not occurred to the celebrated perſon, whoſe name I muſt ſo often mention, voluntarily to provoke the ſubject; a ſubject which, if dangerous to be diſcuſſed, he ſhould not have led to the diſcuſſion: for, ſurely, it is not to be endured, that any private man is to publiſh a creed for a whole nation; to tell us that we are not to think for ourſelves—to impoſe his own fetters upon the human mind—to dogmatiſe at diſcretion—and that no man ſhall ſit down to anſwer him without being guilty of a libel. I aſſert, that if it be a libel to miſtake our conſtitution—to ſupport it by means that tend to deſtroy it—and to chooſe the moſt dangerous ſeaſon for the interference, Mr. Burke is that libeller; but not therefore the object of a criminal proſecution: for, whilſt I am defending the motives of one man, I have neither right nor diſpoſition to criminate the motives of another. All I contend for, is a fact that cannot be controverted, viz. that this officious interference was the origin of Mr. Paine's book. I put my cauſe upon its being the origin of it—the avowed origin

—as

—as will abundantly appear from the introduction and preface to both parts, and throughout the whole body of the work; nay, from the very work of Mr. Burke himſelf, to which both of them are anſwers.

Gentlemen, for the hiſtory of that celebrated work, I appeal to itſelf.

When the French revolution had arrived at ſome of its early ſtages, a few, and but a few, perſons (not to be named when compared with the nation) took a viſible intereſt in theſe mighty events; an intereſt well worthy of Engliſhmen. They ſaw a pernicious ſyſtem of government, which had led to cruel deſolating wars, and had been for ages the ſcourge of Great Britain, giving way to a ſyſtem which ſeemed to promiſe harmony and peace amongſt the nations. They ſaw this with virtuous and peaceable ſatisfaction: And a reverend divine *, eminent for his eloquence, recollecting that the iſſues of life are in the hands of God, ſaw no profaneneſs in mixing the ſubject with public thankſgiving; reminding the people of this country of their own glorious deliverance in former ages. It happened, alſo, that a ſociety of gentlemen, France being then a neutral nation, and her own monarch ſwearing almoſt daily upon her altars to maintain the new conſtitution, thought they infringed no law by ſending a general congratulation. Their numbers, indeed, were very inconſiderable; ſo much ſo, that Mr. Burke, with more truth than

* Dr. Price.

wiſdom, begins his volume with a ſarcaſm upon their inſignificance.

" Until very lately he had never heard
" of ſuch a club. It certainly never occu-
" pied a moment of his thoughts; nor, he
" believed, thoſe of any perſon out of their
" own ſet."

Why then make their proceedings the ſubject of alarm throughout England? — There had been no proſecution againſt them, nor any charge founded upon ſuſpicion of diſaffection againſt any of their body. But Mr. Burke thought it was reſerved for his eloquence to whip theſe curs of faction to their kennels. How he has ſucceeded, I appeal to all that has happened ſince the introduction of his ſchiſm in the Britiſh empire, by giving to the King, whoſe title was queſtioned by no man, a title which it is his Majeſty's moſt ſolemn intereſt to diſclaim.

After having, in his firſt work, laſhed Dr. Price in a ſtrain of eloquent irony for conſidering the monarchy to be elective, which he could not but know Dr. Price, in the literal ſenſe of election, neither did or could poſſibly conſider it, Mr. Burke publiſhed a ſecond treatiſe; in which, after reprinting many paſſages from Mr. Paine's former work, he ridicules and denies the ſuppoſed right of the people to change their governments, in the following words:

" The

" The French revolution, *ſay they*," (ſpeaking of the Engliſh ſocieties) " was the act of " the majority of the people; and if the " majority of any other people, *the people* " *of England, for inſtance*, wiſh to make the " ſame change, they have the ſame right; " juſt the ſame undoubtedly; that is, none " at all."

And then, after ſpeaking of the ſubſerviency of will to duty, (in which I agree with him,) he, in a ſubſtantive ſentence, maintains the ſame doctrine; thus:

" The conſtitution of a country being once " ſettled upon ſome compact, tacit or expreſſ- " ed, there is no power exiſting of force to " alter it, without the breach of the covenant, " or the conſent of all the parties. Such is " the nature of a contract."

So that if reaſon, or even revelation itſelf, were now to demonſtrate to us, that our conſtitution was miſchievous in its effects; that, to uſe Mr. Attorney General's expreſſion, we had been inſane for the many centuries we have ſupported it; yet that ſtill, if the King had not forfeited his title to the crown, nor the Lords their privileges, the univerſal voice of the whole people of England could not build up a new government upon a legitimate baſis.

Gentlemen, not to argue for the preſent againſt ſuch a propoſition, and ſuppoſing it could, beyond all controverſy, be maintained; for heaven's ſake, let wiſdom never utter it! Let policy and prudence for ever conceal it! If you ſeek the ſtability of the Engliſh government, rather put the book of Mr. Paine, which calls it bad, into every hand in the kingdom, than doctrines which bid human nature rebel even againſt that which is the beſt.—Say to the people of England, Look at your conſtitution, there it lies before you—the work of your pious fathers, handed down as a ſacred depoſit from generation to generation, the reſult of wiſdom and virtue, and its parts cemented together with kindred blood. There are, indeed, a few ſpots upon its ſurface; but the ſame principle which reared the ſtructure will bruſh them all away: you may keep it, or you may deſtroy it.—To ſuch an addreſs, what would be the anſwer? A chorus of the nation—YES, WE WILL PRESERVE IT. But ſay to the ſame nation, even of the very ſame conſtitution, It is yours, ſuch as it is, for better or for worſe; it is ſtrapped upon your backs, to carry it as beaſts of burthen, and you have no juriſdiction to caſt it off. Let this be your poſition, and you inſtantly raiſe up (I appeal to every man's conſciouſneſs of his own nature) a ſpirit of uneaſineſs and diſcontent. Yet it is the controverſy alone, which this uſeleſs and miſchievous propoſition ſtirred up, that has pointed moſt of the paſſages arraigned before you, which it will be preſently my duty to explain.

But

But let the prudence of the argument be what it may, the argument itſelf is untenable.

His Majeſty undoubtedly was not elected to the throne. No man can be ſuppoſed, in the teeth of fact, to have contended it; but did not the people of England elect King William, and break the hereditary ſucceſſion? and does not his Majeſty's title grow out of that election? It is one of the charges againſt the defendant, his having denied the parliament which called the Prince of Orange to the throne to have been a legal convention of the whole people; and is not the very foundation of that charge, that it was ſuch a legal convention, and that it was intended to be ſo? and if it was ſo, did not the people then confer the crown upon King William without any regard to hereditary right? Did they not cut off the Prince of Wales, who ſtood directly in the line of ſucceſſion, and who had incurred no perſonal forfeiture? Did they not give their deliverer an eſtate in the crown totally new and unprecedented in the law or hiſtory of the country? And, laſtly, might they not, by the ſame authority, have given the royal inheritance to the family of a ſtranger? Mr. Juſtice Blackſtone, in his Commentaries, in terms, aſſerts that they might; and aſcribes their choice of King William, and the ſubſequent limitations of the crown, not to want of juriſdiction, but to their true origin, to prudence and diſcretion in not diſturbing a valuable inſtitution further than public ſafety and neceſſity dictated.

The Engliſh government ſtands then on this public conſent, the true root of all governments.

And

And I agree with Mr. Burke, that, while it is well adminiſtered, it is not in the power of factions or libels to diſturb it; though, when miniſters are in fault, they are ſure to ſet down all diſturbances to theſe cauſes. This is moſt juſtly and eloquently exemplified in the Thoughts on the Cauſe of the preſent Diſcontents, page 5 and 6.

" Miniſters contend that no adequate pro-
" vocation has been given for ſo ſpreading a
" diſcontent, our affairs having been conduct-
" ed throughout with remarkable temper and
" conſummate wiſdom. The wicked induſ-
" try of ſome libellers, joined to the in-
" trigues of a few diſappointed politicians,
" have, in their opinion, been able to
" produce this unnatural ferment in the na-
" tion.

" Nothing, indeed, can be more unnatural
" than the preſent convulſions of this country,
" if the above account be a true one. I con-
" feſs I ſhall aſſent to it with great reluctance,
" and only on the compulſion of the cleareſt
" and firmeſt proofs; becauſe their account
" reſolves itſelf into this ſhort but diſcourag-
" ing propoſition, 'That we have a very good
" miniſtry, but that we are a very bad people;'
" that we ſet ourſelves to bite the hand that
" feeds us; and, with a malignant inſanity,
" oppoſe the meaſures, and ungratefully vilify
" the perſons of thoſe whoſe ſole object is our
" own peace and proſperity. If a few puny

" libellers,

" libellers, acting under a knot of factious po-
" liticians, without virtue, parts, or character
" (for such they are constantly represented by
" these gentlemen), are sufficient to excite
" this disturbance, very perverse must be the
" disposition of that people, amongst whom
" such a disturbance can be excited by such
" means."

He says true: never were serious disturbances excited by such means!

But to return to the argument.—Let us now see how the rights of the people stand upon authority, and whether this great source of government is not maintained by persons on whom my friend will find it hard to fasten the character of libellers.

I shall begin with the most modern author on the subject of government—a gentleman, whose work lies spread out before me, as it often does for my delight and instruction in my leisure hours. I have also, by the favour of a friend who sits near me in court, the honour of his personal acquaintance. He is a man, perhaps more than any other, devoted to the real constitution of the country, as will be found throughout his valuable work; and he is a person, besides, of great learning, which enabled him to infuse much useful knowledge into my learned friend who introduced me to him *. I speak of Mr. Paley, Archdeacon of Carlisle, and of his work, entitled, The Principles of Political and Moral Philosophy, in which he investigates the

* Mr. Law, King's Counsel.

firſt principles of all governments — a diſcuſſion not thought dangerous till lately: and I hope we ſhall ſoon get rid of this ridiculous panic.

Mr. Paley profeſſes to think of governments what the Chriſtian religion was thought of by its firſt teachers:—'If it be of God it will ſtand;' and he puts the duties of obedience to them upon free will and moral duty. After diſſenting from Mr. Locke as to the origin of governments in compact, he ſays,

" Wherefore, rejecting the intervention of
" a compact as unfounded in its principle, and
" dangerous in the application, we aſſign for
" the only ground of the ſubjects' obligation,
" THE WILL OF GOD, AS COLLECTED
" FROM EXPEDIENCY.

" The ſteps by which the argument pro-
" ceeds are few and direct —' It is the will of
" God that the happineſs of human life be
" promoted:'—this is the firſt ſtep, and the
" foundation, not only of this, but of
" every moral concluſion. ' Civil ſociety
" conduces to that end:'—this is the ſecond
" propoſition. ' Civil ſocieties cannot be up-
" held, unleſs in each, the intereſt of the
" whole ſociety be binding upon every part
" and member of it:'—this is the third ſtep, and
" conducts us to the concluſion, namely,—
" That, ſo long as the intereſt of the whole
" ſociety requires it (that is, ſo long as the
" eſtabliſhed government cannot be reſiſted

" or

" or changed without public inconveniency)
" it is the will of God (which will univerſally
" determines our duty) that the eſtabliſhed
" government be obeyed,'—*and no longer.*
" But who ſhall judge of this? We an-
" ſwer, '*Every man for himſelf.*' In con-
" tentions between the ſovereign and the
" ſubject, the parties acknowledge no com-
" mon arbitrator; and it would be abſurd to
" commit the deciſion to thoſe whoſe con-
" duct has provoked the queſtion, and
" whoſe own intereſt, authority, and fate,
" are immediately concerned in it. The
" danger of error and abuſe is no objec-
" tion to the rule of expediency, becauſe
" every other rule is liable to the ſame
" or greater; and every rule that can be
" propounded upon the ſubject (like all rules
" which appeal to, or bind the conſcience)
" muſt, in the application, depend upon
" private judgment. It may be obſerved,
" however, that it ought equally to be ac-
" counted the exerciſe of a man's private
" judgment, whether he determines by rea-
" ſonings and concluſions of his own, or
" ſubmits to be directed by the advice of
" others, provided he be free to chooſe his
" guide."

He then proceeds in a manner rather inconſiſtent with the principles entertained by my learned friend in his opening to you:——

" No uſage, law, or authority whatever, is

" ſo binding, that it need or ought to be con-
" tinued, when it may be changed with ad-
" vantage to the community. The family of
" the prince—the order of ſucceſſion—the pre-
" rogative of the crown—the form and parts
" of the legiſlature—together with the reſpec-
" tive powers, office, duration, and mutual
" dependency of the ſeveral parts; are all only
" ſo many laws, mutable, like other laws,
" whenever expediency requires, either by the
" ordinary act of the legiſlature, or, if the oc-
" caſion deſerve it, BY THE INTERPOSITION
" OF THE PEOPLE."

No man can ſay that Mr. Paley intended to diſ-fuſe diſcontent by this declaration. He muſt there-fore be taken to think with me, that freedom and affection, and the ſenſe of advantages, are the beſt and the only ſupports of government. On the ſame principle, he then goes on to ſay,—" Theſe
" points are wont to be approached with a kind
" of awe; they are repreſented to the mind as
" principles of the conſtitution, ſettled by our
" anceſtors, and being ſettled, to be no more
" committed to innovation or debate; as foun-
" dations never to be ſtirred; as the terms and
" conditions of the ſocial compact, to which
" every citizen of the ſtate has engaged his fide-
" lity, by virtue of a promiſe which he cannot
" now recall. Such reaſons have no place in
" our ſyſtem."

Such are the ſentiments of this excellent author, and there is no part of Mr. Paine's work, from the one end of it to the other, that advances any other propoſition.

But

But the Attorney General will ſay, theſe are the grave ſpeculative opinions of a friend to the Engliſh Government, whereas Mr. Paine is its profeſſed enemy ; what then ? the principle is, that every man, while he obeys the laws, is to think for himſelf, and to conduct himſelf as he thinks. The very ends of ſociety exact this licence, and the policy of the law, in its proviſions for its ſecurity, has tacitly ſanctioned it. The real fact is, that writings againſt a free and well-proportioned Government, need not be guarded againſt by laws. They cannot often exiſt, and never with effect. The juſt and aweful principles of ſociety, are rarely brought forward, but when they are inſulted and denied, or abuſed in practice : Mr. Locke's Eſſay on Government, we owe to Sir Robert Filmer, as we owe Mr. Paine's to Mr. Burke ; and indeed, between the arguments of Filmer and Burke, I ſee no eſſential difference ; ſince it is not worth diſputing, whether a King exiſts by *Divine* right, or indiſſoluble *Human* compact, if he exiſts whether we will or no : If his exiſtence be without our conſent, and to continue without benefit, it matters not a farthing, whether his title be from God or from Man.

That his title is from man, and from every generation of man, without regard to the determination of former ones, hear from Mr. Locke, " *All men,*" ſay they, (i. e. Filmer and his adherents,) " *are born under government, and* " *therefore they cannot be at liberty to begin a new* " *one. Every one is born a ſubject to his father,* " *or his prince, and is therefore under the perpe-*

" *tual tie of ſubjection and allegiance.* It is
" plain, mankind never owned nor conſidered
" any ſuch natural *ſubjection that they were born*
" *in*, to one or to the other, that tied them,
" without their own conſents, to a ſubjection
" to them and their heirs."

" It is true, that whatever engagements or
" promiſes any one has made for himſelf, he
" is under the obligation of them, but can-
" not, by any compact whatſoever, bind his
" children or poſterity: for his ſon, when a
" man, being altogether as free as the father,
" any *act of the father can no more give away the*
" *liberty of the ſon*, than it can of any body
" elſe."

So much for Mr. Locke's opinion of the rights of mankind. Let us now examine his ideas of the ſuppoſed danger of truſting them with them.

" Perhaps it will be ſaid, that the people
" being ignorant, and always diſcontented, to
" lay the foundation of government in the un-
" ſteady opinion and uncertain humour of the
" people, is to expoſe it to certain ruin: and
" no government will be able long to ſubſiſt,
" if the people may ſet up a new legiſlature,
" whenever they take offence at the old one.
" To this, I anſwer quite the contrary: people
" are not ſo eaſily got out of their old forms,
" as ſome are apt to ſuggeſt: they are hardly to
" be prevailed with to amend the acknow-
" ledged faults in the frame they have been
" accuſtomed to; and if there be any origi-
" nal defects, or adventitious ones introduced
" by time, or corruption, it is not an eaſy thing

to

" to be changed, even when all the world ſees
" there is an opportunity for it. This ſlow-
" neſs and averſion in the people to quit their
" old conſtitutions, has in the many revolu-
" tions which have been ſeen in this kingdom,
" in this and former ages, ſtill kept us to, or,
" after ſome interval of fruitleſs attempts, ſtill
" brought us back again to our old legiſlative
" of king, lords and commons: and whatever
" provocations have made the crown be taken
" from ſome of our princes heads, they never
" carried the people ſo far as to place it in
" another line."

Gentlemen, I wiſh I had ſtrength to go on with all that is material, but I have read enough, not only to maintain the true principles of government, but to put to ſhame the narrow ſyſtem of diſtruſting the people.

It may be ſaid, that Mr. Locke went great lengths in his poſitions, to beat down the contrary doctrine of divine right, which was then endangering the new eſtabliſhment. But that cannot be objected to David Hume, who maintains the ſame doctrine; ſpeaking of the Magna Charta in his hiſtory, vol. ii. page 88, he ſays,
" It muſt be confeſſed, that the former ar-
" ticles of the great charter, contain ſuch miti-
" gations and explanations of the feodal law, as
" are reaſonable and equitable; and that the lat-
" ter involve all the chief outlines of a legal
" Government, and provide for the equal diſtri-
" bution of juſtice and free enjoyment of pro-
" perty; the great object for which political
" ſociety was founded by men, *which the peo-*
" *ple have a perpetual and unalienable right to*

"*recall*; and which no time, nor precedent,
" nor ſtatute, nor poſitive inſtitution, ought to
" deter them from keeping ever uppermoſt in
" their thoughts and attention."

Theſe authorities are ſufficient to reſt on, yet I cannot omit Mr. Burke himſelf, who is, if poſſible, ſtill more diſtinct on the ſubject. Speaking not of the ancient people of England, but of Colonies planted almoſt within our memories, he ſays, " If there be one fact
" in the world perfectly clear, it is this;
" That the diſpoſition of the people of Ame-
" rica is wholly averſe to any other than a
" free Government" and this is indication
" enough to any honeſt ſtateſman, how he
" ought to adapt whatever power he finds in
" his hands to their caſe. If any aſk me
" what a free Government is, I anſwer, THAT
" IT IS WHAT THE PEOPLE THINK
" SO; AND THAT THEY, AND NOT
" I, ARE THE NATURAL, LAWFUL,
" AND COMPETENT JUDGES OF THIS
" MATTER. If they practically allow me
" a greater degree of authority over them than
" is conſiſtent with any correct ideas of perfect
" freedom, I ought to thank them for ſo great
" a truſt, and not to endeavour to prove from
" thence, that they have reaſoned amiſs, and
" that having gone ſo far, by analogy, they
" muſt here-after have no enjoyment but by
" my pleaſure."

Gentlemen, I am ſorry to feel my time conſiderably conſumed before I am arrived at what I conceive to be the material ſubject of your conſideration. For all that I have been ſtating now, is only to ſhew; that

there

there is not that novelty in the opinions of the defendant, that ſhould lead you to think that he does not *bona fide* entertain them, much leſs when connected with the hiſtory of his life, which I therefore brought in review before you.—But ſtill the great queſtion remains unargued. Had he a right to promulgate theſe opinions? Gentlemen, if he entertained them, I ſhall argue that he had—And although my arguments upon the Liberty of the Preſs, may not to-day be honoured with your, or the Court's approbation, I ſhall retire not at all diſheartened, conſoling myſelf with the reflection, that a ſeaſon may arrive for their reception.—The moſt eſſential freedoms of mankind have been but ſlowly and gradually received, and ſo very late, indeed, do ſome of them come to maturity, that notwithſtanding the Attorney General tells you that the very queſtion I am now agitating, is moſt peculiarly for *your* conſideration, AS A JURY, under our ANCIENT Conſtitution, yet I muſt remind both you and him, that your juriſdiction to conſider and deal with it at all in judgment, is but A YEAR OLD.—When, before that late period, I ventured to maintain this very RIGHT OF A JURY over the queſtion of Libel under the ſame *ancient* Conſtitution. (I do not mean before my Lord, for the matter was gone to reſt in the Courts, at leaſt long before he came to ſit where he does.) But when, before a Noble and Reverend Magiſtrate of the moſt exalted underſtanding, and of the moſt uncorrupted integrity, to give effect to it *, I had occaſion to maintain it, he

* Earl Mansfield.

treated me, not with diſregard, indeed, for of that his nature was incapable; but he put me aſide with indulgence, as you do a child while it is liſping its prattle out of ſeaſon; and if this cauſe had been tried then, inſtead of now, the Defendant muſt have been inſtantly convicted on the proof of the publication, whatever *you* might have thought of his caſe.—Yet, I have lived to ſee it reſolved, by an almoſt unanimous vote of the whole Parliament of England, that I had all along been in the right. If this be not an awful leſſon of caution concerning opinions, where are ſuch leſſons to be read!

Gentlemen, I have inſiſted, at great length, upon the origin of Government being in the conſent of the people, and detailed the authorities which you have heard upon the ſubject, becauſe I conſider it to be not only a ſupport, but, indeed, the only foundation of the Liberty of the Preſs. If Mr. Burke be right in HIS principles of Government, I admit that the Preſs, in my ſenſe of its freedom, ought not to be free, *nor free in any ſenſe at all*; and that all Addreſſes to the people upon the ſubject of Government; and all ſpeculations of amendment, of what kind or nature ſoever, are illegal and criminal:—For, if the people have, without poſſible recall, delegated all their authorities, they have no juriſdiction to act, and therefore none to think, upon ſuch ſubjects; and it is a libel to arraign Government or any of its acts, before thoſe that have no juriſdiction to correct them. But on the other hand, as it is a ſettled rule in the Law of

England,

England, that the ſubject may always addreſs a competent juriſdiction on every matter within it, no legal argument can ſhake the freedom of the Preſs in my ſenſe of it, if I am ſupported in my doctrines concerning the great unalienable rights of the people, to change or to reform their Governments.

Gentlemen, it is becauſe the Liberty of the Preſs reſolves itſelf into this great iſſue, that it has been in every time and country, the laſt liberty which ſubjects have been able to wreſt from power.—Other liberties are held under Governments, but the liberty of opinion keeps Governments themſelves in due ſubjection to their duties. This has produced the martyrdom of truth in every age, and the world has only purged itſelf from ignorance with the innocent blood of thoſe who have enlightened it.

Gentlemen, my ſtrength and time are waſted, and I can only make this melancholy hiſtory paſs like a ſhadow before you.

I ſhall begin with the grand type and example.

The univerſal God of Nature,—the Saviour of Mankind,—the Fountain of all Light, who came to pluck the world from eternal darkneſs, expired upon a croſs the ſcoff of infidel ſcorn; and his bleſſed Apoſtles followed him in the train of Martyrs. When he came in the fleſh, he might have come like the Mahometan Prophet, as a powerful Sovereign, and propagated that religion with an unconquerable ſword, which even now, after the lapſe of ages, is but ſlowly moving, under the

influence of reaſon, over the face of the earth: But ſuch a proceſs would have been inconſiſtent with his miſſion, which was to confound the pride, and to eſtabliſh the univerſal rights of men; he came therefore in that lowly ſtate which is repreſented in the Goſpel, and preached his conſolations to the poor.

When the foundation of this religion was diſcovered to be invulnerable and immortal, we find political power taking the church into partnerſhip; thus began the corruptions both of Religion and Civil Power, and, hand in hand together, what havoc have they not made in the world; ruling by ignorance and the perſecution of truth; but this very perſecution only haſtened the revival of letters and liberty, which was to deſtroy the one and to raiſe up the other. Nay, you will find, that in the exact proportion that knowledge and learning have been beat down and fettered, they have deſtroyed the Governments that bound them. The Court of Star-Chamber, the firſt reſtriction on the Preſs of England, was erected in 1637. From that moment no man could legally write without an Imprimatur from the State; but truth and freedom found their way with greater force through ſecret channels, and the unhappy Charles, unwarned by a free preſs, was brought in eleven years afterwards to an ignominious death.

When men can freely communicate their thoughts and their ſufferings, real or imaginary, their paſſions ſpend themſelves in air, like gun-powder ſcattered upon the ſurface; but pent up by terrors, they work unſeen like

ſubter-

ſubterraneous fire, burſt forth in earthquake, and deſtroy every thing in their courſe. Let reaſon be oppoſed to reaſon, and argument to argument, and every good Government will be ſafe.

The Uſurper, Cromwell, purſued the ſame ſyſtem of reſtraint in ſupport of his Government, and the end of it ſpeedily followed.

At the Reſtoration of Charles the Second, the Star-Chamber Ordinance of 1637, was worked up into an Act of Parliament, and was followed up during that reign, and the ſhort one that followed it, by the moſt ſanguinary proſecutions; but what fact in hiſtory is more notorious, than that this blind and contemptible policy prepared and haſtened on the Revolution. At that great æra theſe cob-webs were all bruſhed away: The freedom of the Preſs was regenerated, and the Country, ruled by its affections, has ſince enjoyed a century of tranquillity and glory.---Thus I have maintained, by Engliſh Hiſtory, that in proportion as the Preſs has been free, Engliſh Government has been ſecure.

Gentlemen, I will now ſupport the ſame important truth by very great authorities. Upon a ſubject of this kind reſort cannot be had to Law Caſes. The ancient Law of England knew nothing of ſuch Libels; they began, and ſhould have ended, with the Star-Chamber. What writings are ſlanderous of individuals, muſt be looked for where theſe proſecutions are recorded; but upon general ſubjects we muſt go to general writers. If, indeed, I were to refer to obſcure authors, I might

might be anſwered, that my very authorities were Libels, inſtead of juſtifications or examples; but this cannot be ſaid with effect of great men, whoſe works are claſſics in our language, taught in our ſchools, and printed under the eye of Government.

Gentlemen, I ſhall begin with the Poet Milton, a great authority in all learning.--- It may be ſaid, indeed, he was a Republican, but that would only prove that Republicaniſm is not incompatible with virtue; it may be ſaid too, that the work which I cite was written againſt previous Licenſing, which is not contended for to-day. But, in my opinion, if every work is to be adjudged a libel, which is adverſe to the wiſhes of Government, or to the opinions of thoſe who may try it, the revival of a Licencer would be a ſecurity to the public: For, if I preſent my book to a Magiſtrate appointed by law, if he rejects it, I have only to forbear from the publication, and in the forbearance I am ſafe; and he too is anſwerable to Law for the abuſe of his authority. But, upon the argument of to-day, a man muſt print at his peril, without any guide to the principles of judgment, upon which his work may be afterwards proſecuted and condemned. Milton's argument therefore applies, and was meant to apply, to every interruption to writing, which, while they oppreſs the individual, endanger the State.

"We have them not," ſays Milton, "that "can be heard of, from any ancient ſtate, or "polity, or church, nor by any ſtatute left us "by our anceſtors, elder or later, nor from the

"modern

" modern cuſtom of any reformed city, or
" church abroad; but from the moſt antichriſ-
" tian council, and the moſt tyrannous inquiſi-
" tion that ever exiſted. Till then, books
" were ever as freely admitted into the world
" as any other birth; *the iſſue of the brain*
" *was no more ſtifled than the iſſue of the womb.*

" To the pure all things are pure; not only
" meats and drinks, but all kind of knowledge
" whether good or evil; the knowledge cannot
" defile, nor conſequently the books, if the will
" and conſcience be not defiled.

" Bad books ſerve in many reſpects to diſ-
" cover, to confute, to forewarn and to illuſ-
" trate. Whereof, what better witneſs can we
" expect I ſhould produce, than one of your
" own, now ſitting in parliament, the chief of
" learned men reputed in this land, *Mr.*
" *Selden*; whoſe volume of natural and national
" laws, proves, not only by great authorities
" brought together, but by exquiſite reaſons
" and theorems almoſt mathematically demon-
" ſtrative, that all opinions, yea errors, known,
" read and collated, are of main ſervice and aſ-
" ſiſtance toward the ſpeedy attainment of
" what is trueſt.

" Opinions and underſtanding are not ſuch
" wares as to be monopolized and traded in by
" tickets and ſtatutes, and ſtandards. We
" muſt not think to make a ſtaple commodity
" of all the knowledge in the land, to mark
" and licence it like our broad cloth and our
" woolpacks."

" Nor is it to the common people leſs than a
" reproach; for if we be ſo jealous over them

that

" that we cannot truſt them with an Engliſh
" pamphlet, what do we but cenſure them,
" for a giddy, vicious, and ungrounded people;
" in ſuch a ſick and weak eſtate of faith and
" diſcretion, as to be able to take nothing down
" but through the pipe of a Licenſer. That
" this is care or love of them we cannot pre-
" tend.

" Thoſe corruptions which it ſeeks to pre-
" vent, break in faſter at doors which cannot
" be ſhut.

" To prevent men thinking and acting for
" themſelves, by reſtraints on the preſs, is like
" to the exploits of that gallant man, who,
" thought to pound up the crows by ſhutting
" his park gate.

" This obſtructing violence meets for the
" moſt part with an event, utterly oppoſite to
" the end which it drives at: inſtead of ſup-
" preſſing books, it raiſes them and inveſts
" them with a reputation: the puniſhment of
" wits enhances their authority, ſaith the Viſ-
" count St. Albans'; and a forbidden writing
" is thought to be a certain ſpark of truth, that
" flies up in the face of them who ſeek to
" tread it out."

He then adverts to his viſit to the famous Galileo, whom he found and viſited in the inquiſition, " for not thinking in Aſtronomy with
" the Franciſcan and Dominican Monks."
And what event ought more deeply to intereſt and affect us. The very laws of Nature were to bend under the rod of a Licenſer; this illuſtrious Aſtronomer ended his life within the bars of a priſon, becauſe, in ſeeing the phaſes of Venus through his newly-invented teleſcope, he pronounced,

pronounced, that ſhe ſhone with borrowed light, and from the Sun as the centre of the univerſe. This was the mighty crime, the placing the Sun in the center: that Sun which now inhabits it upon the foundation of mathematical truth, which enables us to traverſe the pathleſs ocean, and to carry our line and rule amongſt other worlds, which but for Galileo we had never known, perhaps even to the receſſes of an Infinite and Immortal God.

Milton then, in his moſt eloquent addreſs to the parliament, puts the liberty of the preſs on its true and moſt honourable foundation. "Believe it, Lords and Commons, they who "counſel ye to ſuch a ſuppreſſing of books, do "as good as bid you ſuppreſs yourſelves; and "I will ſoon ſhew how."

"If it be deſired to know the immediate "cauſe of all this free writing and free ſpeak-"ing, there cannot be aſſigned a truer than "your own mild, and free, and humane Govern-"ment; it is the liberty, Lords and Com-"mons, which your own valorous and happy "counſels have purchaſed us; liberty which "is the nurſe of all great wits: this is that "which hath rarified and enlightened our "ſpirits like the influence of heaven; this is "that which hath enfranchiſed, enlarged and "lifted up our apprehenſions, degrees above "themſelves. Ye cannot make us now leſs ca-"pable, leſs knowing, leſs eagerly purſuing "the truth, unleſs ye firſt make yourſelves, "that made us ſo, leſs the lovers, leſs the "founders of our true liberty. We can grow ig-"norant again, brutiſh formal and ſlaviſh, as ye

"found

" found us ; but you then muſt firſt become
" that which ye cannot be, oppreſſive, arbitra-
" ry and tyrannous, as they were from whom
" ye have freed us. That our hearts are now
" more capacious, our thoughts now more
" erected to the ſearch and expectation of great-
" eſt and exacteſt things, is the iſſue of your
" own virtue propagated in us. Give me the
" liberty to know, to utter, and to argue freely
" according to conſcience, above all liberties."

Gentlemen, I will now refer you to another Author, whoſe opinion you may think more in point, as having lived in our own times, and as holding the higheſt monarchical principles of Government. I ſpeak of Mr. Hume, who, nevertheleſs, conſiders, that this Liberty of the Preſs extends not only to abſtract ſpeculation, but to keep the public on their guard againſt all the acts of their Government.

After ſhewing the advantages of a Monarchy to public freedom, provided it is duly controlled and watched by the popular part of the Conſtitution, he ſays, " Theſe principles
" account for the great liberty of the preſs in
" theſe kingdoms, beyond what is indulged
" in any other Government. It is apprehend-
" ed, that arbitrary power would ſteal in upon
" us, were we not careful to prevent its pro-
" greſs, and were there not an eaſy method
" of conveying the alarm from one end of the
" kingdom to the other. *The ſpirit of the*
" *people muſt frequently be rouſed, in order to*
" *curb the ambition of the Court*; and the
" dread of rouſing this ſpirit muſt be employ-
" ed to prevent that ambition. Nothing is ſo

" effectual

" effectual to this purpoſe as the liberty of the
" preſs, by which all the learning, wit, and
" genius of the nation, may be employed on
" the ſide of freedom; and every one be ani-
" mated to its defence. *As long, therefore, as*
" *the republican part of our Government can*
" *maintain itſelf againſt the monarchical, it will*
" *naturally be careful to keep the preſs open, as*
" *of importance to its own preſervation.*"

There is another authority co-temporary with the laſt, a ſplendid Speaker in the upper Houſe of Parliament, and who held during moſt of his time high offices under the King; I ſpeak of the Earl of Cheſterfield, who thus expreſſed himſelf in the Houſe of Lords :---
" One of the greateſt bleſſings, my Lords, we
" enjoy, is Liberty; but every good in this
" life has its alloy of evil---Licentiouſneſs is
" the alloy of Liberty, it is ———."

Lord Kenyon. Doctor Johnſon claims to pluck that feather from Lord Cheſterfield's wing; he ſpeaks, I believe, of the eye of the political body.

Mr. Erſkine. Gentlemen, I have heard it ſaid, that Lord Cheſterfield borrowed that which I was juſt about to ſtate, and which his Lordſhip has anticipated.

Lord Kenyon. That very ſpeech which did Lord Cheſterfield ſo much honour, is ſuppoſed to have been written by Doctor Johnſon.

Mr. Erſkine. Gentlemen, I believe it was ſo, and I am much obliged to his Lordſhip for giving me a far higher authority for my doctrine. For though Lord Cheſterfield was a

man

man of great ingenuity and wit, he was undoubtedly far inferior in learning and in monarchical opinion, to the celebrated writer to whom my Lord has now delivered the work by his authority. Doctor Johnson then says, "One of the greateſt bleſſings we enjoy, one "of the greateſt bleſſings a people, my Lords, "can enjoy, is Liberty; but every good in this "life has its alloy of evil: licentiouſneſs is the "alloy of liberty: it is an ebullition, an ex-"creſcence; it is a ſpeck upon the eye of the "political body, which I can never touch but "with a gentle, with a trembling hand, leſt I "deſtroy the body, leſt I injure the eye upon "which it is apt to appear.

"There is ſuch a connection between licen-"tiouſneſs and liberty, that it is not eaſy to "correct the one, without dangerouſly wound-"ing the other; it is extremely hard to diſ-"tinguiſh the true limit between them: like a "changeable ſilk, we can eaſily ſee there are "two different colours, but we cannot eaſily "diſcover where the one ends, or where the "other begins."

I confeſs, I cannot help agreeing with this learned author. The danger of touching the preſs is the difficulty of marking its limits. My learned friend, who has juſt gone out of Court, has drawn no line, and unfolded no principle. He has not told us, if this book is condemned, what book may be written. If I may not write againſt the exiſtence of a monarchy, and recommend a republic, may I write againſt any part of the Government? May I ſay that we ſhould be better without a

Houſe

Houſe of Lords, or a Houſe of Commons, or a Court of Chancery, or any other given part of our eſtabliſhment? Or if, as has been hinted, a work may become libellous for ſtating even legal matter with ſarcaſtic phraſe, the difficulty becomes the greater, and the liberty of the preſs more impoſſible to define.

The ſame author, purſuing the ſubject and ſpeaking of the fall of Roman liberty, ſays, "But this ſort of liberty came ſoon after to be "called licentiouſneſs; for we are told that "Auguſtus, after having eſtabliſhed his empire, "reſtored order in Rome by reſtraining licen- "tiouſneſs. God forbid we ſhould in this "country have order reſtored, or licentiouſneſs "reſtrained, at ſo dear a rate as the people of "Rome paid for it to Auguſtus.

"Let us conſider, my Lords, that arbitrary "power has ſeldom or never been introduced "into any country at once. It muſt be in- "troduced by ſlow degrees, and as it were "ſtep by ſtep, leſt the people ſhould ſee its "approach. The barriers and fences of the "people's liberty muſt be plucked up one by "one, and ſome plauſible pretences muſt be "found for removing or hoodwinking, one "after another, thoſe ſentries who are poſted "by the conſtitution of a free country, for "warning the people of their danger, When "theſe preparatory ſteps are once made, the "people may then, indeed, with regret, ſee "ſlavery and arbitrary power making long "ſtrides over their land; but it will be too "late to think of preventing or avoiding the "impending ruin.

" The ſtage, my Lords, and the preſs, are " two of our out-ſentries; if we remove them, " if we hoodwink them, if we throw them in " fetters, the enemy may ſurpriſe us."

Gentlemen, this ſubject was ſtill more lately put in the juſteſt and moſt forcible light by a noble perſon high in the Magiſtracy; and whoſe mind is not at all tuned to the introduction of diſorder by improper popular exceſſes; I mean Lord Loughborough, chief Juſtice of the Court of Common Pleas. I believe I can anſwer for the correctneſs of my note, which I ſhall follow up with the opinion of another member of the Lord's houſe of Parliament; the preſent Earl Stanhope; or rather, I ſhall take Lord Stanhope firſt, as his Lordſhip introduces the ſubject by adverting to this argument of Lord Loughborough's. " If," ſays his Lordſhip, " our boaſted liberty of the preſs, were to con- " ſiſt only in the liberty to write in praiſe of " the Conſtitution, this is a liberty enjoyed " under many arbitrary governments. I ſup- " poſe it would not be deemed quite an unpar- " donable offence, even by the Empreſs of " Ruſſia, if any man were to take into his " head to write a panegyric upon the Ruſſian " form of Government. Such a liberty as that " might therefore properly be termed the *Ruſ-* " *ſian liberty of the Preſs. But, the Engliſh* " *liberty of the Preſs* is of a very different de- " ſcription: for, by the law of England, it is " not prohibited to publiſh ſpeculative works " upon the Conſtitution, whether *they con-* " *tain praiſe or cenſure.*"—*Lord Stanhope's de-* *fence of the Libel Bill.*

You

You ſee therefore, as far as the general principle goes, I am ſupported by the opinion of Lord Stanhope, for otherwiſe the noble Lord has written a libel himſelf, by exciting other people to write *whatever they may think*, be it good or evil, of the conſtitution of the country. As to the other high authority, Lord Loughborough, I will read what applies to this ſubject---' Every man' ſaid Lord Loughborough, ' may publiſh at his diſcretion ' his opinions concerning forms and ſyſtems ' of Government.'

' If they be wiſe and enlightening, the world ' will gain by them; if they be weak and ab- ' ſurd, they will be laughed at and forgotten; ' and, if they be *bona fide*, they cannot be cri- ' minal, however erroneous. On the other ' hand, the purpoſe and the direction may give ' a different turn to writings whoſe common ' conſtruction is harmleſs or even meritorious. ' Suppoſe men, aſſembled in diſturbance of the ' peace, to pull down mills or turnpikes, or ' to do any other miſchief, and that a miſchie- ' vous perſon ſhould diſperſe among them an ' excitation to the planned miſchief known to ' both writer and reader, *To your tents, O Iſrael*; ' that publication would be criminal. But ' how criminal? not as a libel, not as an ab- ' ſtract writing, but as an act; and the act ' being the crime *it muſt be ſtated as a fact ex- ' trinſic on the record:* for, otherwiſe, a Court ' of Error could have no juriſdiction but over ' the natural conſtruction of the writing; nor ' would the defendant have any notice of ſuch ' matter at the trial, without a charge on the

'Record. To give the Jury cognizance of 'any matter beyond the conſtruction of the 'writing, the averrment ſhould be in the caſe 'as I have inſtanced, that certain perſons were, 'as I have deſcribed, aſſembled; and that 'the publiſher, intending to execute theſe 'perſons ſo aſſembled, wrote *ſo and ſo*. 'Here the crime is complete, and conſiſts in 'an overt-act of wickedneſs evidenced by a 'writing.'

In anſwer to all theſe authorities, the Attorney General may ſay, that, if Mr. Paine had written his obſervations with the views of thoſe high perſons and under other circumſtances, he would be protected and acquitted: to which I can only anſwer, that no facts or circumſtances attending his work are either charged or proved; that you have no juriſdiction whatever but over the natural conſtruction of the work before you, and that I am therefore brought without a flaw in the deduction to the paſſages which are the particular ſubject of complaint.

Gentlemen, I am not unmindful how long I have already treſpaſſed upon your patience; and, recollecting the nature of the human mind, and how much, for a thouſand reaſons, I have to ſtruggle againſt at this moment, I ſhall not be diſconcerted if any of you ſhould appear anxious to retire from the pain of hearing me farther. It has been ſaid, that my vanity has forwarded my zeal in this cauſe; but I might appeal even to the authors of thoſe paragraphs, whether a ſituation ever exiſted which vanity would have been fonder to fly

from

from---the taſk of ſpeaking againſt every known prepoſſeſſion; with every countenance, as it were, planted and lifted up againſt me. But I ſtand at this bar to give to a criminal arraigned before it, the defence which the law of the country entitles him to. If any of my arguments be indecent, or unfit for the Court to hear, the noble Judge preſides to interrupt them: If all, or any of them, are capable of an anſwer, they will be anſwered: Or, if they be ſo unfounded in your own minds, who are to judge of them as not to call for refutation, your verdict in a moment will overthrow all that has been ſaid---We ſhall then have all diſcharged our duties——It is your's to judge, but mine only to addreſs your judgments.

When my Lord and I were Counſel for Lord George Gordon in 1781, it was not conſidered by that Jury, nor imputed to us by any body, that we were contending for the privileges of over-awing the Houſe of Commons, or recommending the conflagration of this city: *I* am doing the ſame duty now, which *my Lord and I* then did in concert together; and, whatever may become of the cauſe, I expect to be heard: conſcious that no juſt obloquy can be, or will (*in the end*) be caſt upon me for having done my duty in the manner I have endeavoured to perform it.

Gentlemen, I come now to obſerve on the paſſages ſelected by the information; and with regard to the firſt I ſhall diſpoſe of it in a moment.

'All *Hereditary* government is in its na-
'ture tyranny. An hereditable crown, or

an

'an hereditable throne, or by what other fanciful name ſuch things may be called, have 'no other ſignificant explanation than that 'mankind are hereditable *property*. To *inherit* a government is to *inherit* the *people*, 'as if they were flocks and herds.'

And is it to be endured, ſays the Attorney General, that the people of this country are to be told that they are driven like oxen or ſheep? Certainly not. I am of opinion that a more dangerous doctrine cannot be inſtilled into the people of England. But who inſtils ſuch a doctrine? I deny it is inſtilled by Paine. For when he maintains that hereditary monarchy inherits a people like flocks and herds, it is clear from the context *(which is kept out of view,)* that he is combating the propoſition in Mr. Burke's book, which aſſerts, that the hereditary monarchy of England is faſtened upon the people of England by indiſſoluble compact. Mr. Paine, on the contrary, aſſerts the King of England to be the *magiſtrate of the people*, exiſting by their conſent, which is utterly incompatible with their being driven like herds. His argument, therefore, is this, and it retorts on his adverſary: he ſays, ſuch a King as you repreſent the King of England to be, inheriting the people by virtue of conqueſt, or of ſome compact, which, having once exiſted, cannot be diſſolved while the original terms of it are kept, *is an inheritance like flocks and herds.* But I deny that to be the King of England's title, he is *the magiſtrate of the people*, and that title I reſpect. It is to your own imaginary King of

England

England therefore, and not to his Majeſty, that your unfounded innuendos apply. It is the Monarchs of Ruſſia and Pruſſia, and all Governments faſtened upon unwilling ſubjects by hereditary indefeaſible titles, that are ſtigmatiſed by Paine as inheriting the people like flocks. The ſentence, therefore, muſt either be taken in the pure abſtract, and then it is not only merely ſpeculative, but the application of it to our own Government fails altogether, or it muſt be taken connected with the matter which conſtitutes the application, and then it is Mr. Burke's King of England, and not his Majeſty whoſe title is denied.

I paſs therefore to the next paſſage, which appears to be an extraordinary ſelection. It is taken at a leap from page 21 to page 47, and breaks in at the words, "This convention." The ſentence ſelected ſtands thus, "This con-
"vention met at Philadelphia in May 1787,
"of which General Waſhington was elected
"preſident. He was not at that time con-
"nected with any of the ſtate governments, or
"with Congreſs. He delivered up his com-
"miſſion when the war ended, and ſince then
"had lived a private citizen.

"The Convention went deeply into all the
"ſubjects; and having after a variety of debate
"and inveſtigation, agreed among themſelves
"upon the ſeveral parts of a federal Conſti-
"tution, the next queſtion was, the manner
"of giving it authority and practice.

"For this purpoſe, they did not, like a
"cabal of courtiers, ſend for a Dutch Stadt-
"holder, or a German Elector; but they re-

"ferred

" ferred the whole matter to the ſenſe and " intereſt of the country."

This ſentence, ſtanding thus by itſelf, may appear to be a mere ſarcaſm on King William, upon thoſe who effected the Revolution; and upon the Revolution itſelf, without any reaſoning or deduction: But when the context and ſequel are looked at and compared, it will appear to be a ſerious Hiſtorical compariſon between the Revolution effected in England in 1688, and the late one in America when ſhe eſtabliſhed her independence; and no man can doubt that his judgment on that compariſon was ſincere. But where is the Libel on the Conſtitution? For whether King William was brought over here by the ſincereſt and juſteſt motives of the whole people of England, each man acting for himſelf, or through the motives and agencies imputed by the defendant, it ſignifies not one farthing at this time of day to the eſtabliſhment itſelf. Blackſtone warns us not to fix our obedience or affection to the Government on the motives of our anceſtors, or the rectitude of their reaſonings, but to be ſatisfied that it is eſtabliſhed. This is ſafe reaſoning, and, for my own part, I ſhould not be differently affected to the Conſtitution of my country, which my own underſtanding approved, whether angels or demons had given it birth.

Do any of you love the reformation the leſs becauſe Henry the eighth was the author of it? Or becauſe luſt and poverty, and not religion, were his motives. He had ſquandered the treaſures of his father, and he preferred Anne Bullen to his Queen; theſe were the cauſes

which

which produced it.—What then! does that affect the purity of our reformed religion, undermine its eſtabliſhment, or ſhake the King's title as Prince of the country, to the excluſion of thoſe who held by the religion it had aboliſhed? Will the Attorney General affirm, that I could be convicted of a libel for a whole volume of aſperity againſt Henry the Eighth, merely becauſe he effected the reformation; and if not, why againſt King William, who effected the Revolution? Where is the line to be drawn? Is one, two, or three centuries to be the ſtatute of limitation? But do not our own hiſtorians detail this very cabal of courtiers, from the records of our own country? If you will turn to Hume's hiſtory, volume the eighth, page 188, &c. &c. you will find that he ſtates at great length, the whole detail of intrigues which paved the way for the Revolution, and the intereſted coalition of parties which gave it effect.

But what of all this, concerning the motives of parties, which is recorded by Hume. The queſtion is, *What is the thing brought about,*—*Not* HOW *it was brought about.* If it ſtands as Blackſtone argues it, upon the conſent of our anceſtors, followed up by our own, no individual can withdraw his obedience. If he diſlikes the eſtabliſhment, let him ſeek elſewhere for another; I am not contending for uncontrouled *conduct*, but for freedom of *opinion.*

With regard to what has been ſtated of the *Edwards* and *Henrys*, and the other princes under which the author can only diſcover "*reſtrictions on power, but nothing of a conſtitution.*"

tion :" ſurely my friend is not in earneſt when he ſelects that as a libel.

Paine inſiſts, that there was no conſtitution under theſe princes, and that Engliſh liberty was obtained from uſurped power by the ſtruggles of the people. So SAY I. And I think it for the honor and advantage of the country that it ſhould be known.

Was there any freedom after the original eſtabliſhment of the Normans by conqueſt? Was not the MAGNA CHARTA wreſted from John by open force of arms at Runnymead? Was it not again re-enacted whilſt menacing arms were in the hands of the people? Were not it's ſtipulations broken through, and two and forty times re-enacted by Parliament, upon the firm demand of the people in the following reigns? I proteſt it fills me with aſtoniſhment to hear theſe truths brought in queſtion.

I was formerly called upon under the diſcipline of a College to maintain them, and was rewarded for being thought to have ſucceſsfully maintained that our preſent Conſtitution was by no means a remnant of Saxon liberty, nor any other inſtitution of liberty, but the pure conſequence of the oppreſſion of the Norman tenures, which ſpreading the ſpirit of freedom from one end of the kingdom to another, enabled our brave fathers, inch by inch, not to reconquer, *but for the firſt time to obtain* thoſe privileges which are the unalienable inheritance of all mankind.

But why do we ſpeak of the Edwards and Henries, when Hume himſelf expreſsly ſays, notwithſtanding all we have heard to-day of

the

the antiquity of our conſtitution, that our monarchy was nearly abſolute till the middle of laſt century. I have his book in Court, and will read it to you. It is his Eſſay on the Liberty of the Preſs, vol. I, page 15.

'All abſolute Governments, and ſuch in a 'great meaſure was England, till the middle 'of the laſt century, *notwithſtanding the numerous panegyrics on* ANCIENT *Engliſh Liberty*, 'muſt very much depend on the adminiſtration.'

This is Hume's opinion; the concluſion of a grave hiſtorian from all that he finds recorded as the materials for hiſtory: and ſhall it be ſaid that Mr. Paine is to be puniſhed for writing to-day what was before written by another, who is now a diſtinguiſhed claſſic in the language? All the verdicts in the world will not make that palateable to an impartial public, or to poſterity.

The next paſſage arraigned is this: p. 56.

'The attention of the government of England, '(for I rather chuſe to call it by this name, 'than the Engliſh government) appears, ſince 'it's political connection with Germany, to 'have been ſo compleatly engroſſed and abſorbed by foreign affairs, and the means of 'raiſing taxes, that it ſeems to exiſt for no 'other purpoſes. Domeſtic concerns are neg'lected; and with reſpect to regular law, there 'is ſcarcely ſuch a thing.'

That the government of this country is, in conſequence of it's connection with the Continent, and the continental wars which it has occaſioned, been continually loaded with grievous

ous taxes, no man can diſpute; and I appeal to your juſtice, whether this ſubject has not been, for years together, the conſtant topic of unreproved declamation and grumbling?

As to what he ſays with regard to there hardly being ſuch a thing as regular law, he ſpeaks in the abſtract of the complexity of our ſyſtem; but does not arraign the adminiſtration of juſtice *in it's practice*. But with regard to criticiſms and ſtrictures on the general ſyſtem, it has been echoed over and over again by various authors; and even from the pulpits of our country, that the law of the land is mainly defective, devoid of regularity and preciſion, and overloaded with a variety of expenſive and unneceſſary forms. I have a Sermon in Court written during the American war, by a perſon of great eloquence and piety, part of which I will read to you on this ſubject, in which he looks forward to an exemption from the intolerable grievances of our old legal ſyſtem in the infant eſtabliſhment of the New World.

" It may be in the purpoſes of providence,
" on yon weſtern ſhores, to raiſe the bulwark
" of a purer reformation than ever Britain pa-
" tronized; to found a leſs burthenſome, more
" auſpicious, ſtable, and incorruptible govern-
" ment than ever Britain has enjoyed; and to
" eſtabliſh there a ſyſtem of law more juſt and
" ſimple in it's principles, leſs intricate, dubi-
" ous and dilatory in it's proceedings, more
" mild and equitable in it's ſanctions, more
" eaſy and more certain in it's execution;
" wherein no man can err through ignorance
" of what concerns him, or want juſtice through

" poverty

" poverty or weakneſs, or eſcape it by legal
" artifice, or civil privileges, or interpoſing
" power; wherein the rule of conduct ſhall
" not be hidden or diſguiſed in the language
" of principles and cuſtoms that died with the
" barbariſm which gave them birth; wherein
" haſty formulas ſhall not diſſipate the reverence
" that is due to the tribunals and tranſactions
" of juſtice; wherein obſolete preſcripts ſhall
" not pervert, nor entangle, nor impede the
" adminiſtration of it, nor in any inſtance ex-
" poſe it to deriſion or to diſregard; wherein
" miſrepreſentation ſhall have no ſhare in de-
" ciding upon right and truth; and under
" which no man ſhall grow great by the wages
" of chicanery, or thrive by the quarrels that
" are ruinous to his employers."

This is ten times ſtronger than Mr. Paine; but who ever thought of proſecuting Mr. Cappe?

In various other inſtances you will find de-fects in our juriſprudence pointed out and lamented, and not ſeldom by perſons called upon by their ſituations to deliver the law in the ſeat of magiſtracy: therefore, the author's *general* obſervation does not appear to be that ſpecies of attack upon the magiſtracy of the country, as to fall within the deſcription of a libel.

With reſpect to the two Houſes of Parliament, I believe I ſhall be able to ſhew you that the very perſon who introduced this controverſy, and who certainly is conſidered by thoſe who now adminiſter the government, as a man uſefully devoted to maintain the conſtitution of

the country in the preſent criſis, has himſelf made remarks upon theſe Aſſemblies; that upon compariſon you will think more ſevere than thoſe which are the ſubject of the Attorney General's animadverſion. The paſſage in Mr. Paine runs thus:

'With reſpect to *the two houſes*, of which 'the Engliſh Parliament is compoſed, they ap-'pear to be effectually influenced into one, and, 'as a legiſlature, to have no temper of it's 'own. The miniſter, whoever he at any time 'may be, touches it as with an opium wand, 'and it ſleeps obedience.

'But if we look at the diſtinct abilities of the 'two houſes, the difference will appear ſo 'great, as to ſhew the inconſiſtency of placing 'power where there can be no certainty of the 'judgment to uſe it. Wretched as the ſtate of 'repreſentation is in England, it is manhood 'compared with what is called the houſe of 'Lords; and ſo little is this nick-named houſe 'regarded, that the people ſcarcely inquire at 'any time what it is doing. It appears alſo 'to be moſt under influence, and the furtheſt 'removed from the general intereſt of the 'nation.'

The concluſion of the ſentence, and which was meant by Paine as evidence of the previous aſſertion, the Attorney General has omitted in the information, and in his ſpeech, it is this:

'In the debate on engaging in the Ruſſian and 'Turkiſh war, the majority in the Houſe of 'Peers in favour of it was upwards of ninety, 'when in the other houſe, which is more than

'double

‘ double it’s numbers, the majority was ſixty-
‘ three.’

The terms, however, in which Mr. Burke ſpeaks of the Houſe of Lords, are ſtill more expreſſive. “ It is ſomething more than a cen-
“ tury ago, ſince we voted the Houſe of Lords
“ uſeleſs. They have now voted themſelves
“ ſo, and the whole hope of reformation”
(*Speaking of the Houſe of Commons* “ is caſt up-
“ on us.” This ſentiment, Mr. Burke not only expreſſed in his place in parliament, where no man can call him to an account; but it has been ſince, repeatedly printed amongſt his other valuable works. And his opinion of BOTH THE HOUSES OF PARLIAMENT, which I am about to read to you, was originally publiſhed as a pamphlet, and applied to the ſettled habitual abuſes of theſe high aſſemblies. Remember, I do not uſe them as *argumenta ad hominem*, or *ad invidiam* againſt the author, for if I did, it could be no defence of Mr. Paine. But I uſe them as high authority, the work * having been the juſt foundation of ſubſtantial and laſting reputation. Would to God that any part of it were capable of being denied or doubted.

‘ Againſt the being of parliament I am ſatis-
‘ fied no deſigns have ever been entertained
‘ ſince the Revolution. Every one muſt per-
‘ ceive that it is ſtrongly the intereſt of the
‘ Court to have ſome ſecond cauſe interpoſed
‘ between the miniſters and the people. The
‘ gentlemen of the Houſe of Commons have an

* Mr. Burke’s Thoughts on the cauſe of the preſent diſcontents, publiſhed in 1775.

'intereſt equally ſtrong, in ſuſtaining the part of
'that intermediate cauſe. However they may
'hire out the *uſufruct* of their voices, they ne-
'ver will part, with the *fee and inheritance.*
'Accordingly thoſe who have been of the moſt
'known devotion to the will and pleaſure of a
'court, have at the ſame time been moſt for-
'ward in aſſerting an high authority in the
'Houſe of Commons. *When they knew who*
'*were to uſe that authority, and how it was to*
'*be employed, they thought it never could be car-*
'*ried too far.* It muſt be always the wiſh of
'an unconſtitutional ſtateſman, that an Houſe
'of Commons, *who are entirely dependent upon*
'*him, ſhould have every right of the people de-*
'*pendent upon their pleaſure.* FOR IT WAS
'DISCOVERED THAT THE FORMS OF A FREE,
'AND THE ENDS OF AN ARBITRARY GO-
'VERNMENT, WERE THINGS NOT ALTO-
'GETHER INCOMPATIBLE.

'The power of the crown almoſt dead and
'rotten as Prerogative, has grown up anew,
'with much more ſtrength and far leſs odium,
'under the name of influence. An influence
'which operates without noiſe and violence;
'which converts the very antagoniſt into the
'inſtrument of power; which contains in it-
'ſelf a perpetual principle of growth and reno-
'vation; and which the diſtreſſes and the
'proſperity of the country equally tend to
'augment, was an admirable ſubſtitute for a
'Prerogative, that being only the offspring of
'antiquated prejudices, had moulded in its
'original ſtamina irreſiſtible principles of de-
'cay and diſſolution. The ignorance of the

'people

'people is a bottom but for a temporary ſyſ-
'tem; but the intereſt of active men in the
'ſtate is a foundation perpetual and infallible.'

Mr. Burke therefore, in page 66, ſpeaking of the ſame court party, ſays:

'Parliament was indeed the great object of
'all theſe politics, the end at which they aimed,
'as well as the INSTRUMENT by which they
'were to operate.'

And purſuing the ſubject in page 70, proceeds as follows:

'They who will not conform their conduct
'to the public good, and cannot ſupport it by
'the prerogative of the crown, have adopted
'a new plan. They have totally abandoned
'the ſhattered and old-faſhioned fortreſs of pre
'rogative, and made a lodgement in the ſtrong
'hold of parliament itſelf. If they have any
'evil deſign to which there is no ordinary le-
'gal power commenſurate, they bring it into
'parliament. *There the whole is executed from*
'*the beginning to the end. And the power of ob-*
'*taining their object abſolute; and the ſafety in*
'*the proceeding perfect; no rules to confine, nor*
'*after reckonings to terrify.* For parliament
'cannot with any great propriety puniſh
'others for things in which they themſelves
'have been ACCOMPLICES. Thus its controul
'upon the executory power is loſt; becauſe
'it is made to partake in every conſiderable act
'of government, *and impeachment, that great*
'*guardian of the purity of the Conſtitution, is in*
'*danger of being loſt even to the idea of it.*

'Until this time, the opinion of the people,
'through the power of an Aſſembly, ſtill in

'ſome

'some sort popular, led to the greatest honours
'and emoluments in the gift of the crown.
'Now the principle is reversed; and the fa-
'vour of the court is the only sure way of ob-
'taining and holding those honours which
'ought to be IN THE DISPOSAL OF THE PEO-
'PLE.'

Mr. Burke, in page 100, observes with great truth, that the mischiefs he complained of, did not at all arise from the Monarchy, but from the parliament, and that it was the duty of the people to look to it. He says, 'The distem-
'pers of monarchy were the great subjects of
'apprehension and redress, in the *last cen-*
'*tury*; *in this*, the distempers of parliament.'

Not the distempers of parliament in this year or the last, but in *this century*, i. e. its settled habitual distemper. 'It is not in parliament
'alone that the remedy for parliamentary dis-
'orders can be compleated; and hardly in-
'deed can it begin there. Until a confidence
'in government is re-established, the people
'ought to be *excited* to a more strict and de-
'tailed attention to the conduct of their repre-
'sentatives. Standards for judging more sys-
'tematically upon their conduct ought to be
'settled in the meetings of counties and cor-
'porations, and frequent and correct lists of the
'voters in all important questions ought to be
'procured.

'By such means something may be done,
'since it may appear who those are, that by an
'indiscriminate support of all administrations,
'have totally banished all integrity and confi-

'dence

'dence out of public proceedings; have con-
'founded the beſt men with the worſt; and
'weakened and diſſolved, inſtead of ſtrengthen-
'ing and compacting the general frame of go-
'vernment.'

I wiſh it was poſſible to read the whole of this moſt important volume—but the conſequences of theſe truths contained in it were all eloquently ſummed up by the author in his ſpeech upon the reform of the houſehold.

'But what I confeſs was uppermoſt with
'me, what I bent the whole courſe of my mind
'to, was the reduction of that corrupt influence
'which is itſelf the perennial ſpring of all pro-
'digality and diſorder; which loads us more
'than millions of debt; which takes away
'vigour from our arms, wiſdom from our
'councils, and every ſhadow of authority and
'credit from the moſt venerable parts of our
'conſtitution.'

The ſame important truths were held out to the whole public, upon a ſtill later occaſion, by the perſon now at the head of his Majeſty's councils; and ſo high (as it appears) in the confidence of the nation. *He*, not in the abſtract like the author before you, but upon the ſpur of the occaſion, and in the teeth of what had been juſt declared in the Houſe of Commons, came to, and acted upon reſolutions which are contained in this book.* Reſolutions pointed to the purification of a parliament, dangerouſly corrupted into the very ſtate deſcribed by Mr. Paine. Remember here too, that I impute no cenſure to Mr. Pitt. It was the moſt brilliant paſſage in his

* Mr. Erſkine took up a book.

his life, and I ſhould have thought his life a better one, if he had continued uniform in the ſupport of opinions, which it is ſaid he has not changed, and which certainly have had nothing to change them. But at all events, I have a right to make uſe of the authority of his ſplendid talents and ſituation, not merely to protect the defendant, but the public, and to reſiſt the precedent, That what one man may do in England with approbation and glory, ſhall conduct another man to a pillory or a priſon.

It was the abuſes pointed out by the man before you, that led that Right Hon. Gentleman to aſſociate with many others of high rank, under the banners of the Duke of Richmond, whoſe name ſtands at the head of the liſt, and to paſs various public reſolutions, concerning the abſolute neceſſity of purifying the Houſe of Commons; and we collect the plan from a preamble entered in the book. 'Whereas the life, 'liberty and property of every man is or may 'be affected by the law of the land in which he 'lives, and every man is bound to pay obedi-'ence to the ſame.

'And whereas, by the conſtitution of this 'kingdom the right of making laws is veſted 'in three eſtates, of King, Lords, and Com-'mons, in parliament aſſembled, and the con-'ſent of all the three ſaid eſtates, comprehend-'ing the whole community, is neceſſary to 'make laws to bind the whole community. 'And whereas the Houſe of Commons repre-'ſents all the Commons of the realm, and the

'conſent

‘ conſent of the Houſe of Commons binds the
‘ conſent of all the Commons of the realm, and
‘ in all caſes on which the legiſlature is compe-
‘ tent to decide.

‘ And whereas no man is, or can be actually
‘ repreſented who hath not a vote in the elec-
‘ tion of his repreſentative.

‘ And whereas it is the right of every Com-
‘ moner of this realm (infants, perſons of in-
‘ ſane mind, and criminals incapacitated by
‘ law, only excepted) to have a vote in the
‘ election of the repreſentative who is to give
‘ his conſent to the making of laws by which
‘ he is to be bound.

‘ And whereas the number of perſons who
‘ are ſuffered to vote for electing the members
‘ of the Houſe of Commons, do not at this
‘ time amount to one-ſixth part of the whole
‘ Commons of this realm, whereby far the
‘ greater part of the ſaid Commons are deprived
‘ of their right to elect their repreſentatives ;
‘ and the conſent of the majority of the whole
‘ community to the paſſing of laws, is given
‘ by perſons whom they have not delegated
‘ for ſuch purpoſes ; and the majority of the
‘ ſaid community, and to which the ſaid ma-
‘ jority have not in fact conſented by them-
‘ ſelves or by their repreſentatives.

‘ And whereas the ſtate of election of mem-
‘ bers of the Houſe of Commons, hath in
‘ proceſs of time ſo groſſly deviated from its
‘ ſimple and natural principle of repreſentation
‘ and equality, that in ſeveral places, the mem-
‘ bers are returned by the property of one man ;

‘ that

'that the ſmalleſt boroughs ſend as many 'members as the largeſt counties, and that a 'majority of the repreſentatives of the whole 'nation are choſen by a number of votes not 'exceeding twelve thouſand.'

Theſe with many others, were publiſhed, not as abſtract, ſpeculative writings, but within a few days after the Houſe of Commons had declared that no ſuch rights exiſted, and that no alteration was neceſſary in the repreſentation. It was then that they met at the Thatched Houſe, and publiſhed their opinions and reſolutions to the country at large.—Were any of them proſecuted for theſe proceedings? Certainly not, (for they were legal proceedings.) But I deſire you as men of honour and truth, to compare all this with Mr. Paine's expreſſion of the Miniſter's touching Parliament with his opiate wand, and let equal juſtice be done—that is all I aſk—let all be puniſhed or none—do not let Mr. Paine be held out to the contempt of the public upon the ſcore of his obſervations on parliament, while others are enjoying all the ſweets which attend a ſuppoſed attachment to their country, who have ſaid the ſame things, and reduced their opinions to practice.

But now every man is to be cried down for ſuch opinions. I obſerved that my learned friend ſignificantly raiſed his voice in naming Mr. Horne Tooke, as if to connect him with Paine, or Paine with him. This is exactly the ſame courſe of juſtice; for after all he ſaid nothing of Mr. Tooke. What could he have

ſaid,

ſaid, but that he was a ſubſcriber with the great names. I have read in theſe proceedings which they have thought fit to deſert.

Gentlemen, let others hold their opinions, and change them at their pleaſure; I ſhall ever maintain it to be the deareſt privilege of the people of Great Britain to watch over every thing that affects their good government, either in the ſyſtem, or in the practice; and that for this purpoſe the preſs muſt be free. It has always been ſo, and much evil has been corrected by it.——If government finds itſelf annoyed by it, let it examine it's own conduct, and it will find the cauſe,—let it amend it, and it will find the remedy.

Gentlemen, I am no friend to ſarcaſms in the diſcuſſion of grave ſubjects, but you muſt take writers according to the view of the mind at the moment; Mr. Burke as often as any body indulges in it:—hear his reaſon in his ſpeech on reform, for not taking away the ſalaries from Lords who attend upon the Britiſh Court.

" You would," ſaid he, " have the court deſert-
" ed by all the nobility of the kingdom.
" Sir, the moſt ſerious miſchiefs would fol-
" low from ſuch a deſertion. Kings are natu-
" rally lovers of low company; they are ſo
" elevated above all the reſt of mankind, that
" they muſt look upon all their ſubjects as on a
" level: they are rather apt to hate than to
" love their nobility, on account of the occa-
" ſional reſiſtance to their will, which will be
" made by their virtue, their petulance, or
" their pride. It muſt indeed be admitted, that

' many

" many of the nobility are as perfectly willing
" to act the part of flatterers, tale-bearers, pa-
" rafites, pimps, and buffoons, as any of the
" loweft and vileft of mankind can poffibly be.
" But they are not properly qualified for this
" object of their ambition. The want of a
" regular education, and early habits, with
" fome lurking remains of their dignity, will
" never permit them to become a match for
" an Italian eunuch, a mountebank, a fidler,
" a player, or any regular practitioner of that
" tribe. The Roman Emperors, almoft from
" the beginning, threw themfelves into fuch
" hands; and the mifchief increafed every day,
" till it's decline, and it's final ruin. It is,
" therefore, of very great importance (pro-
" vided the thing is not overdone,) to contrive
" fuch an eftablifhment as muft, almoft whether
" a prince will or not, bring into daily and
" hourly offices about his perfon, a great
" number of his firft nobility; and it is rather
" an ufeful prejudice that gives them a pride in
" fuch a fervitude: though they are not much
" the better for a court, a court will be much
" the better for them. I have, therefore, not
" attempted to reform any of the offices of
" honour about the King's perfon."

What is this but faying that a King is an animal fo incurably addicted to low company, as generally to bring on by it the ruin of nations; but nevertheleſs, he is to be kept as a neceſſary evil, and his propenſities bridled by ſurrounding him with a parcel of miſcreants ſtill worſe if poſſible, but better than thoſe he would

would choſe for himſelf.—This therefore, if taken by itſelf, would be a moſt abominable and libellous ſarcaſm on Kings and Nobility: but look at the whole ſpeech, and you obſerve a great ſyſtem of regulation; and no man, I believe, ever doubted Mr. Burke's attachment to monarchy. To judge, therefore, of any part of a writing, the whole muſt be read.

With the ſame view I mean to read to you the beginning of Harrington's Oceana: but it is impoſſible to name this well known author without expoſing to juſt contempt and ridicule the ignorant or profligate miſrepreſentations which are vomited forth upon the public, to bear down every man as deſperately wicked, who in any age or country has countenanced a Republic, for the mean purpoſe of prejudging this trial.

[Mr. Erſkine took up a book, but laid it down again without reading from it, ſaying ſomething to the gentleman who ſat near him, in a low voice, which I did not hear.]

Is this the way to ſupport the Engliſh conſtitution? Are theſe the means by which Engliſhmen are to be taught to cheriſh it? I ſay, if the man upon trial were ſtained with blood inſtead of ink,—if he were covered over with crimes which human nature would ſtart at the naming of, the means employed againſt him would not be the leſs diſgraceful.

For this notable purpoſe then, Harrington, not above a week ago, was handed out to us as a low, obſcure wretch, involved in the murder of the Monarch, and the deſtruction of the

Monarchy, and as addreſſing his deſpicable works at the ſhrine of an Uſurper. Yet this very Harrington, this low blackguard, was deſcended (you may ſee his pedigree at the Herald's Office for ſixpence,) from eight Dukes, three Marquiſſes, ſeventy Earls, twenty-ſeven Viſcounts, and thirty-ſix Barons, ſixteen of whom were Knights of the Garter; a deſcent which I think would ſave a man from diſgrace in any of the circles of Germany. But what was he beſides?--A BLOOD-STAINED RUFFIAN? Oh brutal ignorance of the hiſtory of the Country! He was the moſt affectionate ſervant of Charles the Firſt, from whom he never concealed his opinions; for it is obſerved by Wood, that the King greatly affected his company; but when they happened to talk of a Common-wealth, he would ſcarcely endure it.—'I know not,' ſays Toland, 'which moſt to commend; the King 'for truſting an honeſt man, though a Repub-'lican; or Harrington for owning his principles 'while he ſerved a King.'

But did his opinions affect his conduct?—Let Hiſtory again anſwer.—He preſerved his fidelity to his unhappy Prince to the very laſt, after all his fawning courtiers had left him to his enraged ſubjects. He ſtaid with him while a priſoner in the Iſle of Wight; came up by ſtealth to follow the fortunes of his monarch and maſter; even hid himſelf in the boot of the coach when he was conveyed to Windſor; and ending as he began, fell into his arms and fainted on the ſcaffold.

After Charles's death, the Oceana was written,

ten, and, as if it were written from juſtice and affection to his memory: for it breathes the ſame noble and ſpirited regard, and aſſerts that it was not Charles that brought on the deſtruction of the monarchy, but the feeble and ill conſtituted nature of monarchy itſelf.

But the book was a flattery to Cromwell.—Once more and finally let hiſtory decide.

It was ſeized by the Uſurper as a libel, and the way it was recovered is remarkable. I mention it to ſhew that Cromwell was a wiſe man in himſelf, and knew on what governments muſt ſtand for their ſupport.

Harrington waited on his daughter to beg for his book, and on entering her apartment, ſnatched up her child and ran away.—On her following him with ſurprize and terror, he turned to her and ſaid, "I know what you feel " as a mother, feel then for me; your father " has got my child:" meaning the Oceana. The Oceana was afterwards reſtored on her petition; Cromwell anſwering with the ſagacity of a ſound politician, "Let him have his book; " if my government is made to ſtand, it has " nothing to fear from PAPER SHOT."—He ſaid true.—No good government will ever be battered by paper ſhot. Monteſquieu ſays that " In a free nation, it matters not whether indi- " viduals reaſon well or ill; it is ſufficient that " they do reaſon. Truth ariſes from the col- " liſion, and from hence ſprings liberty, which " is a ſecurity from the effect of reaſoning." The Attorney-General read extracts from Mr. Adams's anſwer to this book. Let others do

like Mr. Adams: I am not inſiſting upon the infallibility of Mr Paine's doctrines; if they are erroneous, let them be anſwered, and truth will ſpring from the colliſion.

A diſpoſition in a nation to this ſpecies of controverſy, is no proof of ſedition or degeneracy, but quite the reverſe, as is mentioned by Milton, [I omitted to cite the paſſage with the others] who in ſpeaking of this ſubject, riſes into that inexpreſſibly ſublime ſtile of writing, wholly peculiar to himſelf. He was indeed no plagiary from any thing human: he looked up for light and expreſſion, as he himſelf wonderfully deſcribes it, by devout prayer to that great Being, who is the ſource of all utterance and knowledge; and who ſendeth out his ſeraphim with the hallowed fire of his altars to touch and purify the lips of whom he pleaſes. 'When the chearfulneſs of 'the people,' ſays this mighty poet, 'is ſo 'ſprightly up, as that it has not only where-'with to guard well it's own freedom and 'ſafety, but to ſpare, and to beſtow upon the 'ſolideſt and ſublimeſt points of controverſy 'and new invention, it betokens us not de-'generated nor drooping to a fatal decay, but 'caſting off the old and wrinkled ſkin of cor-'ruption to outlive theſe pangs, and wax young 'again, entering the glorious ways of truth and 'proſperous virtue, deſtined to become great 'and honourable in theſe latter ages. Me-'thinks I ſee, in my mind, a noble and puiſ-'ſant nation rouſing herſelf, like a ſtrong man 'after ſleep, and ſhaking her invincible locks: 'methinks I ſee her as an eagle muing her

'mighty

‘ mighty youth, and kindling her undazzled
‘ eyes at the full mid-day beam; purging and
‘ unſcaling her long abuſed ſight at the foun-
‘ tain itſelf of heavenly radiance; while the
‘ whole noiſe of timorous and flocking birds,
‘ with thoſe alſo that love the twilight, flutter
‘ about, amazed at what ſhe means, and in
‘ their envious gabble would prognoſticate a
‘ year of ſects and ſchiſms.”

Gentlemen, what Milton only ſaw in his mighty imagination, I ſee in fact; what he expected, but which never came to paſs, I ſee now fulfilling: methinks I ſee this noble and puiſſant nation, not degenerated and drooping to a fatal decay, but caſting off the wrinkled ſkin of corruption to put on again the vigour of her youth.

And it is, becauſe others, as well as myſelf ſee this, that we have all this uproar:—France and its conſtitution are the mere pretences. It is, becauſe Britons begin to recollect the inheritance of their own conſtitution, left them by their anceſtors: It is, becauſe they are awakened to the corruptions which have fallen upon its moſt valuable parts, that forſooth the nation is in danger of being deſtroyed by a ſingle pamphlet.

Gentlemen, I have marked the courſe of this alarm: It began with the renovation of thoſe exertions for the public, which the authors of the alarm had themſelves originated and deſerted; and they became louder and louder when they ſaw theſe principles avowed and ſupported by my admirable and excellent friend

Mr.

Mr. Fox; the moſt eminently honeſt and enlightened ſtateſman, that hiſtory brings us acquainted with: a man whom to name is to honour, but whom in attempting adequately to deſcribe, I muſt fly to Mr. Burke, my conſtant refuge when eloquence is neceſſary: a man, who to relieve the ſufferings of the moſt diſtant nation, "put to the hazard his eaſe, his ſe-
"curity, his intereſt, his power, even his darling
"popularity for the benefit of a people whom
"he had never ſeen." How much more then for the inhabitants of his native country: yet this is the man who has been cenſured and diſavowed in the manner we have lately ſeen.

Gentlemen, I have but a few more words to trouble you with: I take my leave of you with declaring, that all this freedom which I have been endeavouring to aſſert, is no more than the freedom which belongs to our own inbred conſtitution: I have not aſked you to acquit Mr. Paine upon any new lights, or upon any principle but the law, which you are ſworn to adminiſter: My great object has been to inculcate, that wiſdom and policy, which are the parents of the law of Great Britain, forbid this jealous eye over her ſubjects; and that, on the contrary, they cry aloud in the language of the poet, employed by Lord Chatham on the memorable ſubject of America, unfortunately without effect:

"Be to their faults a little blind,
"Be to their virtues very kind;
"Let all their thoughts be unconfin'd,
"And clap your padlock on the mind."

Engage

Engage them by their affections, convince their reaſon, and they will be loyal from the only principle that can make loyalty ſincere, vigorous, or rational, a conviction that it is their trueſt intereſt, and that their form of government is for their common good. Conſtraint is the natural parent of reſiſtance, and a pregnant proof, that reaſon is not on the ſide of thoſe who uſe it. You muſt all remember, gentlemen, Lucian's pleaſant ſtory; Jupiter and a countryman were walking together, converſing with great freedom and familiarity upon the ſubject of heaven and earth. The countryman liſtened with attention and acquieſcence, while Jupiter ſtrove only to convince him; but happening to hint a doubt, Jupiter turned haſtily round and threatened him with his thunder.—"Ah! ha!" ſays the countryman, "now Jupiter, "I know that you are wrong; you're always "wrong when you appeal to your thunder."

This is the caſe with me—I can reaſon with the people of England, but I cannot fight againſt the thunder of authority.

Gentlemen, this is my defence for free opinions. With regard to myſelf, I am, and ever have been, obedient and affectionate to *the law*: to that rule of action, as long as I exiſt, I ſhall ever give my voice and my conduct; but I ſhall ever do as I have done to-day, maintain the dignity of my high profeſſion, and perform, as I underſtand them, all its important duties.

[Mr. Attorney General aroſe immediately to reply to Mr. Erſkine, when Mr. Campbell (the foreman

foreman of the Jury) ſaid,—My Lord, I am authorized by the Jury here, to inform the Attorney General, that a reply is not neceſſary for them, unleſs the Attorney General wiſhes to make it, or your Lordſhip.—Mr. Attorney General ſat down, and the Jury gave in their verdict,

GUILTY.

ERRATUM.

Page 79, line 20 *ſhould read thus*—

Is it poſſible that you or I can believe, or that reaſon can make any other man believe.

The paſſage is printed correct where it occurs again, the bottom of page 94.

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