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THE
NATURE
OF
CONTRACTS
CONSIDER'D.

AS THEY
Relate to the Third and Fourth
SUBSCRIPTIONS, taken in
by the SOUTH SEA
COMPANY.

In a LETTER to a FRIEND.

With a POSTSCRIPT, concerning
the Meeting at *Salter's Hall*, the 18th
instant.

By a TRADESMAN of the City, whose
Name is not to be found in any of the
Subscriptions.

Nullum est tempus, quod justitiâ vacare debeat,
M. T. Cic. de Offic. 1. i.

Nihil utile quod non honestum. Ibid. 1. iii.

HONESTY IS THE BEST POLICY.

The SECOND EDITION, Corrected.

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THE
PREFACE.

BEING inform'd, that
 some Persons are of-
 fended at the Civilities,
 I express towards the
 Directors of the South
 Sea Company, at the Close of the
 Letter, and have thereby misrepre-
 sented me, as a Tool of those Gen-
 tlemen, and an Abettor of their fatal
 Schemes ; I, therefore, take the
 Opportunity of this second Edition,
 to declare, That what is there said,
 is only intended to express that good
 Manners, which every reasonable Man
 owes,

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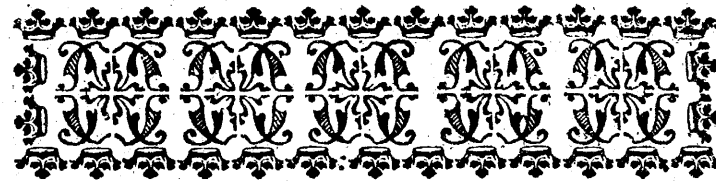
owes, and ought to pay, to his Superiors: And the better to distinguish some of those Directors, from others, who may not, however represented, be equally faulty.

And I should not have taken Notice either of them, or their Management, (such Things being Matters above my Sphere, and foreign to the Design in Hand) if some of their Measures had not naturally offered themselves under the Pretences I was examining.

I hope this may abundantly suffice to obviate and suppress such false Insinuations, and the impartial Reader will find, That an honest Intention only gave Birth to those plain Thoughts, which I have communicated to a Friend in the following Letter.

T H E

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T H E
N A T U R E
O F
C O N T R A C T S
C O N S I D E R ' D.

S I R,

UPON our late Conversation, about the Calamities in which too many are involv'd, by the present languishing State of Publick Credit, the Decay of Trade, and the sudden Fall of Stocks, you may remember we pleas'd ourselves with
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the agreeable Hopes, that the wise and great Prince we have upon the Throne, surrounded with able Statesmen and Patriots, the late Agreement between the *Bank* and *South Sea* Company, together with a Parliament disposed to concert Measures for a common Interest, would revive our Publick Credit and Trade, and ease us of the Difficulties we now labour under.

As we were hereby led to consider the artful Methods, by which some designing Persons have attempted to redress the Grievances of some, by making void their Contracts, relating to the Third and Fourth Subscriptions, taken in by the *South Sea* Company, you were pleas'd to take Notice of the Indignation I express'd against such Proceedings, which had so plain a Tendency to destroy Honour, Credit, and good Faith, in every honest Bargain.

But

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But being then interrupted in offering you my disinterested Thoughts of that dishonest and unreasonable Scheme, I do now presume to present them to you in this manner, for the Consideration of others, as well as your own. I flatter myself that what may be here said, will be instrumental to engage abler Hands in the Cause of Honesty; and that my upright Intention will atone for the Defects which may be discovered herein: And I am perswaded, that at our next Meeting, I shall find you fully convinced, that what you mention'd, as the Reasons which the Purchasers of those Subscriptions advanced, in Order to destroy their Contracts, are Inconsistencies in Reason and Fact, make the Equity the stronger that they ought to perform them, and, at best, do only point out Advantages to the Knave, and Lawyer.

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One of the Pretences which you represented as made Use of in Favour of the Purchasers of those Subscriptions, to avoid their Contracts, was, (*viz.*) That the Compliance with them, would be ruinous, because the *Præmium* was from 100 *l.* to 300 *l. per Cent.*

This, you know, is a Way of Reasoning that is directly opposite to the Maxim receiv'd among all honest Men, (*viz.*) That Conscience is never to be sacrificed to private Interest.

And whatever ill Practices may be found among the Stock-Jobbers in *Exchange-Alley*, it must be acknowledged in their Favour, that even those Magicians never practised this *Black Art*, but have turned the Broker out of their Regiment, as it were by Beat of Drum, who denied his Bargain.

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All that can be said in the Case of those who have such Bargains depending, and thro' the Change of Affairs will be ruinous to them, is, that it is a compassionate One, and ought to be suitably reliev'd by the Seller, as far as is consistent with his own Preservation. Surely, then, Composition ought here to take Place, as well as in other Cases.

But how insufficient will this Pretence appear to be, among the many Instances of well-meaning Persons, who, for ready Money, have sold their said Subscriptions, at 50 *l.* to 80 *l. per Cent.* under the then Market Price, and disposed of the Money in *South Sea* Stock, at 800 *l.* to 1000 *l. per Cent.* with a View of its being supported by the said Subscriptions, and others which were expected; and so are ruin'd that Way.

Would not the Attempt to cure the imaginary Evil of some, in

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such

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such Cases, bring double, greater, and more real Grievances on others? Can such a Procedure be reconcil'd to any Colour of Justice, Honour, or Reason, unless those who sold the *South Sea* Stock, at high Prices, to such Disposers of the Subscriptions, be compell'd to refund the Money too?

This Plea will further appear to be insufficient in other Cases, where many have sold their Subscriptions, to receive the *Præmium* at the Delivery of the Receipts, and are less able to bear the Loss of such a Bargain, than those who were Purchasers are to make them good.

Whilst I'm considering this new scandalous Method of saving from Ruin, I can't but mention, that Justice does more require the refunding of Money paid for *Præmiums* on the First and Second Subscriptions, which were more
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than double to those on the Third and Fourth Subscriptions, though for less Money paid in; and, upon Examination, the Ruin will appear greater to innocent Persons, from the former, than from the last Subscriptions; and the Gain greater thereby, to the Directors, and their Friends. And I can't but think, that when an eminent Gentleman intimated, at the late General Court, that it might be necessary for a Commission to be granted, by a proper Power, to assign every Man's Right, in Reference to Contracts, that he meant the Redress to be general, and did not intend thereby, that, upon such Enquiry, a real Grievance should be brought upon a Person, who had receiv'd the *Præmiums* for his Third Subscription, and laid it out, at high Prices, in *South Sea* Stock, for the Base of a lesser Evil of the Purchaser.

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But I now proceed to examine another evasive Pretence, which is made on the Part of the Buyers of the Third and Fourth Subscriptions, which is, That they are reduced from 1000 *l.* to 400 *l.* *per Cent.* and, therefore, this Alteration makes void the Contracts relating thereto. Reason will here appear to be sacrificed to Self-Interest; If it's considered, that the Subscriptions did subsist at 1000 *l.* *per Cent.* when they were sold, and the Tenor of such Contracts, could be only on the Part of the Seller, that he would deliver Receipts for so much Money, paid in on a Subscription taken in at 1000 *l.* *per Cent.* and as he could not further engage, so he could not be, justly, a Sufferer by any future Alteration thereof, because he had no Right in it, after sold; neither did, nor could covenant, that it should not be altered; nor was obliged by the

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the Purchaser to receive back the Subscription, if any Alteration should pass upon it.

I would further observe, That as the Purchaser would certainly have claim'd all Advantages attending the Subscriptions he bought, so the Seller could not be subject to any Loss that might attend any Alteration thereof. And here it will be necessary to add an Advantage that the Company (when in a flourishing Condition) proposed to these Subscriptions; which was, allowing them a new Subscription of 20 *l.* *per Cent.* And, it's undeniable, that those who were entitled to these Subscriptions, by Purchase, or otherwise, were only to be interested in this, as well as any other future proposed Favour to such Subscriptions.

Besides, it may be further argued, to explode this Pretence, That this Reduction from 1000 *l.*
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to 400 *l.* was at the Request, and design'd for the Advantage of the Purchasers: And every reasonable Being must be prejudiced against the Person who would make this a Foundation to evade an honest Bargain. And I venture to assert, That he who declares, that in case the Subscriptions continued at 1000 *l.* would rather have comply'd with his Contract, is not to be credited.

I would here take Occasion to mention, that there have been *Præmiums* given from 10 *l.* to 30 *l. per Cent.* for every 100 *l.* Lottery Annuity, to be subscribed into the Capital Stock of the *South Sea Company*; and though the Terms are altered, I don't hear of a Purchaser, on such Account, who does plead the Dissolution of the Bargain; because the last Terms are made better for them than the first. And this is the very Case with

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with the Alteration of the Third and Fourth Subscriptions, that it is for the Advantage of the Purchasers.

And I may now add, That if the Directors do deliver (conformable to the Resolution of the last General Court) the Receipts for the Third and Fourth Subscriptions, by mentioning that the several Sums were received on a Subscription of 1000 *l.* but reduced to 400 *l. per Cent.* then this enforces the Performance of Contracts relating thereto, according to the Letter, as well as the Equity of them. Nothing but Fear can prevent them herein.

I pass on further to consider another Refuge which such Purchasers take Sanctuary in, and hope thereby to avoid their Contracts, (*viz.*) That it was the Sense of the last General Court, and some of the Directors, who have
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fold such Subscriptions, do not expect the Performance of such Bargains. But how little to the Purpose are such Pleas, when every one must acknowledge that the Determination of Contracts, does not belong to such Courts; and much less can any Thing be urg'd to give a Sanction to Right or Wrong, from what passed there, on that Subject, where it was evident that Noise and Clamour were triumphant, and that some of the Directors were frightned to say or comply with any Thing, relating to such Contracts, to pacify and calm the Fury of many who were exasperated with their Losses. How can any considerate Person plead any Thing from the Transactions of that Day, when Threats, Insults, Hissing, and every rude Behaviour, hinder'd the bare Proposal of any important Matter? And much more
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prevented the Consideration thereof. On such Accounts, the Steps there taken to palliate the making void such Contracts, may be interpreted as the Effects of Fear, rather than of Reason and Equity.

And, surely, the Actions of some of the Directors, are no Rule to an indifferent Person, who when they had the Veneration of the People, presum'd to act Extravangancies, and now they have lost that Prop, and the Scene is chang'd, are yielding to contrary Extremes, and shew the Example of a mean Spirit. The Reasons are plain enough why some are willing to refund Part of their exorbitant Gains, but they no Ways invalidate what I have offered, to prove that in all good Conscience and Equity, every honest Bargain, relating to the Third and Fourth Subscriptions, ought to stand, as
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well as those which have related to Stock, at high Prices, or the First and Second Subscriptions, at higher *Præmiums*. I can't but here remark, That the *Director* who made the Motion for destroying such Contracts, is so far from deserving the universal Thanks of all *Britain*, as the fulsome Flatterer suggests, in a Letter to a Friend in Vindication of the *South Sea Company*, &c. P. 22. that, in my Opinion, he falls under the Censure of every honest Man, unless this strange Concession is expected to be made, that good Faith, and Honesty, have lately suffered a Change in their Natures, in Order for him and his Friends, more quietly to enjoy their extravagant Gains on the First and Second Subscriptions.

Upon the whole, it is apparent, that the Buyers of the Stock, and of the First and Second Subscriptions,

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tions, at high Prices, have the best Foundation to expect the Dissolution of their Bargains, if the Nature of Contracts should fall under the Consideration of a *British* Parliament; because the last subscribed Annuities, and the Third and Fourth Subscriptions, (being their best Supports) are so much altered to their Disadvantage.

I would now only observe, that I might have argued the evil Tendency of this Doctrine of making void Bargains, to introduce false Dealings among Tradesmen, to depreiate Publick Credit, and even the Company's Stock; and have pleaded the Force of that universally receiv'd Rule, that every one ought to do as he would be done by, to strengthen what I have advanced: But I have already enlarged beyond my Design.

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And

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And before I take my Leave of you, I declare, that I'm sorry if the Thread of my Thoughts has led me to express any Thing, disrespectfully of any of the Directors, or should be interpreted a Slight upon many of them, who are known to deserve the good Opinion of all true Lovers of their Country. I hope to be justified, in part by them, when it appears, that One of my Designs is here plainly levell'd against those, who make illegal and unjustifiable Attempts on some of their Persons, in Order to frighten them to a Compliance with unreasonable Demands.

The obtaining of such a Spirit, in order to make void losing (but honest) Bargains, should be opposed by all true *Britons*. And I am, on this as well as other Accounts, in Hopes, that the Legislative Power, will consider the
Conse-

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Consequences of Things, and not give into any Law to humour such dangerous Members of the Community, to remedy Evils for some, which may Occasion greater Miseries to others. But every Well-wisher to a Publick Good will rejoice, if any Law is enacted to prevent such Practices for the future, and, in the mean Time, an Obligation to perform Contracts, on the Part of the Purchasers, will be an effectual Remedy, to prevent themselves, and others, from running into the same extravagant Actions again. I remain in Expectation of our Agreement in these Matters, at your next Meeting with,

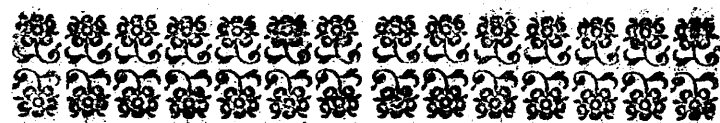
London,
Oct. 18,
1720.

S I R,

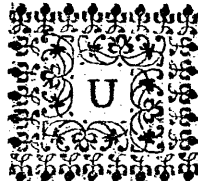
Your most humble Servant.

P O S T

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POSTSCRIPT.


U P O N concluding this Letter, I had the Curiosity to attend the Assembly, call'd together by Advertisement, at *Salter's Hall*, to consider of Matters relating to their Interest in the *South Sea Company*; where I found Mr. *B---g---ll* in the Chair, attended by some others, who gave just Reason to suspect, That One of their Designs was, to make some further Attempt to vacate their late Bargains; and for that, and other mischievous Ends, some of the *Secret Committee*, proposed to sign

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sign a Paper in Mr. *B---g---ll's* Hand, to call a General Court, without giving a Reason for such a Step, tho' they were call'd upon to do it. Others were for choosing a Committee for *Schemes* and *Projects*; but many who were sensible of the evil Tendency of such Proceedings, opposed these designing Persons.

You may be sure Mr. *W---lk---r* was a great Man in this confused *Assembly*, and exerted his usual *Talents*, in hopes, no doubt, of being One of the proposed *Committee*. But such a *Cabal* of *Sh---p---s*, and their *Adherents*, (Expressions which I found in a late printed Speech of that Gentleman's) were prevented by the seasonable Appearance of One of the Sheriffs, to disperse the whole Body.

I was there put in Mind, by some other masterly Strokes, to be found in the said quoted Speech,

That

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That *Newmarket Heath* wou'd have been fitter for the designing Men in this Assembly, than any Place in this *City*; where they might, by the Direction of the Speech-maker, have form'd the *Troop of Horse*, he particularly referr'd to.

But my chief Design in giving you an Account of this Meeting, is, further to convince you that those who endeavour to bring Dishonour in Bargains into Fashion (and such, I'm inform'd, were the Promoters of this Meeting) will even venture to take Methods which tend to create Riots in this *City*, in order to accomplish their monstrous Designs.

F I N I S.