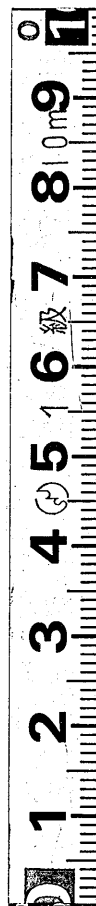


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A
DIALOGUE
ON THE
REVENUE LAWS.

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0288

A
DIALOGUE

ON THE
Revenue Laws,

BETWEEN

A Magistrate, || A Courtier, and
A Lawyer, || An Anti-Courtier.

LONDON:

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M, DCC, XC.

TO
THE RIGHT HONOURABLE
LLOYD LORD KENYON,
BARON KENYON OF GREDINGTON,
IN THE COUNTY OF FLINT,
LORD CHIEF JUSTICE
OF
THE COURT OF KING'S BENCH,
&c. &c.

THE FOLLOWING TRACT
IS,
WITH THE GREATEST RESPECT
AND ESTEEM,
INSCRIBED.

“ To reduce the Laws to more brevity and certainty, that
“ the swerving penalties, which lye upon many subjects,
“ may be removed, and the Judge better directed in his
“ sentence, must be acknowledged to be of the highest
“ merit and beneficence.”

Lord BACON's Dedication to Queen Elizabeth.

“ *Vetustis novitatem dare, obsoletis nitorem, obscuris lucem,*
“ *dubiis fidem.*

PLIN. Nat. Hist.

“ That which doth assign unto each thing the kind; that
“ which doth moderate the force and power; that which
“ doth appoint the form and measure of working; the
“ same we term Law.”

HOOKE,

DIALOGUE

UPON THE

REVENUE LAWS;

BETWEEN

A MAGISTRATE, a LAWYER, a COURTIER,
and an ANTI-COURTIER.

MAGISTRATE.

I REQUEST your assistance, my learned Friend, on a matter which gives me much pain.—Retired from the world, and settled at the seat of my Ancestors, I had formed a vision to myself of being useful in

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my neighbourhood as a Magistrate, and of partaking of the comfort I meant to diffuse around me:—I expected that general regard, respect, and esteem, would, added to my own feelings in the satisfaction of doing good, be a full compensation for the loss of time, which my own particular studies, as well as a due attention to my own private affairs, would require; and for the pleasures and gratifications which I might justly be entitled to expect my fortune would afford. It is true, I find, in the execution of my office of Magistrate, the privation of enjoyment in the fullest extent; but I have miserably deceived myself in the expect-

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expectation of the equivalent. Instead of being regarded as the protector, I am deemed the terror of my neighbourhood;—instead of love I acquire hatred; and instead of extending that philanthropy and benevolence, which I know to have firm root in my heart, I dissipate happiness, and distend misery and ruin. At the same time I am more unhappy than the most unfortunate victim of the laws. I suffer like the tyrant by his own torture: but I do not suffer from crimes—from conscience: it is from humanity—from a sense of the evils I am obliged to scatter around me. The distribution of the Revenue Laws excites

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this agony to myself, and this pain to others. Still, whilst my mind is upon the rack, I sometimes think I avert some mischief; and I think it my duty to be myself a sufferer, contented to abide in a dangerous post. Is it a forlorn hope?

LAWYER.

Many of the very diffuse and complicated Acts of Parliament which you allude to, have, more from the artifices of designing men, and the misconception of honest ones, than from any inherent real cause, been the means of infinite oppression to the subject. Few Magistrates possess all the voluminous Statutes

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at Large;* and fewer have leisure to peruse them, especially to discriminate the confused mass of Revenue Laws, which seem to have for their principle, not so much the spirit of oppression, as of confusion and perplexity.

Vulgar

* Dr. Burn says, The Statutes at Large have, in process of time, become very cumbersome, and very intricate: they are not to be purchased but for a larger sum of money, nor to be understood without a greater expence of time, than a wise man would often choose to employ in that way. —Does the Doctor mean to confine Country Gentlemen to the limits of his Work? They had better regulate their practice upon the following rule:

“ Drink deep, or taste not the Pierian spring.”

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Vulgar prejudices against the Excise Laws have tended much to realize the delusion.—Nothing is more contagious than error. It has been generally apprehended by Magistrates, whenever called upon to enforce these laws, that the spirit of cruelty and arbitrary power pervaded all these acts, more than that peculiar lenity and moderation by which, upon minute inquiry, it will be found, the less modern ones, at least, are distinguished.

It has been thought an ungrateful task to enforce these laws, from the general apprehension that they were laws of a peculiar quality, steeled
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by Tyranny, and wielded by the strong arm of Oppression: Magistrates have imbibed the general error, that they were excluded from reaping the only reward accruing from their labour—the power of exercising lenity, tempering excess, and mitigating severity with moderation.—I shall be happy if this communication will be the means of conveying to you, and all Magistrates, the sense of this remedial power; which cannot but afford their feelings satisfaction, and their office the highest credit: a power which exists in such a degree, that whilst their humanity is soothed, their adherence to equity is flattered by the Legislature, which enables
them

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them to convert a penalty almost into an excise-duty, where there is "palpable inadvertence;" whilst it confides to them the care of the Public Revenue, which, it is presumed, they will see is not impaired by artifice, or design; and that they will maintain inviolate so high and important a trust.—*Opera danda est, ne quid contra æquitatem contendes, ne quid per injuriam: Fundamentum enim perpetuæ commendationis et famæ est justitia, sine quâ nihil potest esse laudabile. Cic. de Offic.*

MAGISTRATE.

I am happy to think my County, at least, can boast of able and upright

[17]

right Magistrates; who are not less conspicuous for their perfect unanimity, concord, and liberality, than their vigilant attention to the public welfare. A zeal to promote the public good, soon reconciles the sentiments of individuals; and as, in every community, example is reflected as in a mirror, the peace of a county is the natural result of the harmony of the Bench. Every effort to promote the public good is candidly received by them, and impartially considered; and the communication of the investigation you promise, cannot but be highly useful, and desirable.

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LAWYER.

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LAWYER.

Some knowledge of these abstruse Acts is necessary to all Magistrates, in order to discover that the heavy and ruinous penalties, however the levying them may be urged by the Informer, are only held out *in terrorem* against the violation of the rights of the Crown.—I trust, in the course of this inquiry it will be seen that the Excise Laws are distinguished by peculiar mercy and mildness; and, though the Legislature has held out a formidable weapon, it contains a secret, specific cure. I do not here speak of the modern Stamp Acts, which I will observe

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observe upon hereafter, and draw a line between the Stamp Acts and the Excise Laws. I mean now to confine my remarks on the general extensive Laws of Excise; comprehending an immense revenue, which, as the foundation of public credit and national affluence, demand strict regulations; but not enacting in themselves, like the Janizaries tributes, unlimited imprisonment.

ANTI-COURTIER.

The modern Stamp Acts seem to endeavour to make up, by *heavy* penalties, what the revenue will be deficient in, by the very *trifling* objects of taxation. These modern Laws of the Revenue are animated

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by a different spirit. Heavy penalties were before only threatened; they were almost fabulous and fictitious. What yesterday was story, to-day is become history: the fable is realized; the Log, which was intended as a terror only, is now transformed into a Stork.

LAWYER.

But the regions of the Stork are at present much confined; and I wish, for the present, only to lead your attention to those tracts, where equity and peace bear lenient sway.

MAGISTRATE.

Your intelligence revives my spirits, which were much affected from
the

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the following circumstance, lately occurring in my neighbourhood, and from the chance of the frequent repetition of the same cruel case.

In a remote village in this county, there was a small Public-house, to which an Exciseman naturally had access. He one day happened to observe about a dozen wicks dipped two or three times in tallow: he immediately (in which he certainly, in strictness, acted according to his duty) went, to lay an information, before the neighbouring Magistrates. The Collector attended the hearing; and the whole matter, apparently, underwent a solemn, candid, and
impartial

[22]

impartial investigation. The Informer was, as usual, examined upon oath.

LAWYER.

The Officers of Excise are indulged with a beneficial interest, which few statutes give. Nothing but the scarcity of evidence can justify any part of a reward accruing from an information going to the informer. The most penal statutes seldom give above half the penalty to the informer; and the Law, in these cases, even attends so minutely to the fallibility of human nature, where a probable interest is likely to arise, that a distinction is made
between

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between the Informer and the Evidence: the information is *not*, the evidence *is*, given upon oath. In the Excise Laws the Informer takes both the oath and the penalty: this is a peculiar privilege to the Excise Officer, very dangerous to the Subject, and should be warily guarded against as inimical to the rights and interests of society.

MAGISTRATE.

Upon the Informer thus giving his evidence upon oath, the Collector, on whom, from his general character of candour and integrity, the Magistrates placed some reliance, urged the penalty of 100 l. for the
offence

[24]

offence of having thus privately made candles ; but allowed that, by a subsequent Act of Parliament, the penalty might be mitigated to one quarter, which was 25*l.* The Defendant alledged in his defence, of which he offered to make an affidavit, that he was ignorant of any candles being so made in his house ; that they were made by his wife ; and that he never knew of any candles being made in his house before that time. The Magistrates were men of great humanity ; they immediately saw the hardship of the case ; and wished to assist the Defendant as far as the Law allowed. They joined in an application to the Commissioners of Excise, thinking they

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they were not at liberty to lower the penalty, to request that penalty might be mitigated. The answer was, through the Agent of an Attorney at Law, who had out of humanity undertaken to forward the application, “ That it had
 “ been uniformly the custom of the
 “ Commissioners of Excise, and
 “ from which they would not in
 “ any instance deviate, not to take
 “ cognizance of, or interfere in, any
 “ matter on which the Magistrates
 “ had decided.”—The Act of Geo. I. was still insisted upon, as declaring the *right* penalty for the offence, because it was the *heaviest* penalty : and, had not the Defendant been assisted by a neighbour with the 25*l.*

D a quarter

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a quarter of the penalty, which was a large sum to repay by his future industry, he must have gone to jail. From a woman's ignorance of an Act of Parliament, a good citizen and a good mechanic had been lost to society; the wife would have gone distracted for the evil she had unintentionally brought upon her husband; and an honest man and his family would have been involved in all the heart-felt agony of misery, distress, and ruin.

L A W Y E R.

A disavowal of the knowledge of an Act of Parliament, from the day it has passed, however this doctrine may be fraught with particular

incon-

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inconvenience and hardship, has, for the sake of general utility and public convenience, been held to be no excuse for any violation of such law: but, if ever any limitation to so cruel a doctrine could be allowed, it would be in the Revenue Laws, which are vague, extensive, and almost incomprehensible. It may reasonably be supposed that Excise Officers need not be excluded from the general ignorance.

The difficulties they have to encounter are, that a benefit accrues from their oath; and that such benefit increases, in proportion to the magnitude of the penalty which they point out to the Magistrate.—

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The difficulty to the Magistrate arises from the nature of such evidence upon oath, which, he has reason to fear, is ever biased where there is an interest. An interested witness is seldom competent; and never is, without the greatest care, caution, and attention, credible. The Magistrate has another difficulty too, which arises from his being in common, even with most of us Lawyers, unacquainted with the Revenue Laws, of which, as has been before observed, neither his library, nor his leisure, can afford him a competent knowledge. I will quote a short extract from an ingenious little tract written by an honest Attorney of my acquaintance, which

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which seems to distinguish well between those offences which are self-evident, and those which are only constituted so by Act of Parliament. In this latter class, the ignorant and unenlightened part of mankind claim every possible indulgence. “ I am
 “ inclined to believe there are very
 “ few, even amongst the Lawyers,
 “ apprized of the existence of many
 “ Penal Laws: and, if Gentlemen
 “ whose business and employments
 “ call upon them to know the
 “ Laws, are ignorant of their ex-
 “ istence, how much more excu-
 “ sable are those whose pursuits and
 “ engagements in life afford no time
 “ or opportunity of attending to
 “ them! I know very well, that
 “ ignorance

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“ ignorance is no excuse. And
 “ why ?—Because every man is
 “ supposed to know the difference
 “ between right and wrong. This
 “ is a very good general maxim ;
 “ but it will not hold equally good
 “ in all cases. It strikes me as
 “ relative only to those crimes
 “ which are *mala in se*, and not
 “ to the *mala prohibita*.”

[Purlewent on the Game Laws.]

The institution of the Excise
 Laws has been compared to the
 Inquisition itself. But I trust, it
 will be found the inferior Officers
 of Excise are alone subject to cen-
 sure : they may be compared to the
 Inquisitorial Officers, who found
 their

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their doctrines upon oppression.
 The practice, and not the institu-
 tions, of municipal as well as
 divine law, only, ought to be pro-
 faned : the ministers may render
 both less sacred. I trust, in the
 course of this investigation, it will
 appear that the Law is not oppres-
 sive ; but that it is the Excise Offi-
 cers who torture the Law, in order
 to torture the Subject. They endea-
 vour, and too often succeed in their
 endeavours, to impose upon the
 Magistrates, by every artifice which
 self-interest can dictate. They are
 not content to preserve, in its pro-
 per channel, the flow of public
 wealth, which diffuses national cre-
 dit and prosperity ; but, whilst
 they

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they protect with one hand, they seek to encroach with the other. An ingenious Writer observes,—
 “ Excises subject the lowest classes
 “ of people, who in the ancient free
 “ States were exempted from all
 “ taxes, not only to very heavy im-
 “ posts, but to summary arbitrary
 “ decrees, contrary to the principles
 “ of equity and humanity.”

[*Mortimer's Elements on Finances*, page 450.]

ANTI-COURTIER.

When the Bill of Exclusion was under debate in the House of Commons, an expedient was offered by the Court-Party, to prevent the danger from a Popish Successor, by certain limitations, in order to de-
 feat

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feat the Bill: upon which Col. Titus observed, that, to accept of expedients to secure the Protestant religion, after such a King had mounted the throne, would be as strange as if there were to be a lion in the lobby, and we should make a vote to secure ourselves, *by letting him into the house, and chaining him, rather than by keeping him out.* A Popish Prince cannot be more destructive to our religious rights, than an Excise will be to our civil liberties; and there is little difference between an Inquisition and a general *Excise-Office*, but as one regards our faith, and the other our estates.

[*Argument against Excises*, by Caleb D'Anvers, published 1733.]

E Hume,

[34]

Hume, in his History of Charles I. page 137, says, the Nation were very little accustomed, at that time, to the burthen of taxes, and had never opened their purses, in any degree, for the supplying their Sovereign: even Elizabeth had great reason to complain of the Commons in this particular. This Writer even acknowledges the Sovereign has encroached upon the People, in subsidies; though he says they have encroached upon the prerogative of the Sovereign.

LAWYER.

It may not be useless to state, not only the Acts of Parliament on which the Excise Officers, in the above

[35]

above case, proceeded; but also those Acts which, had they come within the knowledge of the Collector, he would, without doubt, have offered to the notice of the Magistrates: on which latter Acts of Parliament they ought to have, as they would, I am persuaded, with due notice, have proceeded.

MAGISTRATE.

Even those who have taken the trouble to investigate these Excise Laws, would wish to see an abstract of them. The great Law-Writer, Bracton, observes, "*omnia habere in memoriâ, it in nullo peccare, divinum sit, potius quam humanum.*"

E 2

Your

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Your labour will be amply repaid, by saving many individuals from oppression: much more, if, by being an incentive to the industry of Magistrates, by seeing the necessity of obtaining a knowledge of the Revenue Laws, the exercise over which it is their duty to preside, your observations may be the foundation of their accurate investigations, and may be the means of preserving many families from ruin,

LAWYER.

The Act of Parliament which was made for the convenience and protection of the Poor, and which has been frequently, much to their prejudice,

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prejudice, misinterpreted and misconceived, is as follows:

9 Ann. C. vi. f. 15.

Provided always, that this Act shall not extend, or be construed to extend, to charge the duties on Candles, herein before mentioned, on such small Rush-lights as shall be made by any persons, to be used in their own houses only, so as none of them be sold, or delivered out, or made for sale, and so as such small Rush-lights be only once dipped in, or once drawn through, grease or kitchen-stuff, and not at all through any tallow, melted or refined; any thing herein contained to the contrary notwithstanding.

The

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The Act of Parliament upon which the Officers declared they meant to proceed, is as follows :

11 Geo. C. xxx, f. 23.

“ And whereas, for want of means
 “ to discover the fraudulent making
 “ of candles, and of sufficient pe-
 “ nalties to punish the same when
 “ discovered, His Majesty is much
 “ defrauded of and in his duties
 “ upon candles, and the fair traders
 “ in candles are very much discour-
 “ aged and injured in their respec-
 “ tive trades by the fraudulent and
 “ private makers of candles ;” for
 remedy whereof, be it enacted, by
 the King’s most excellent Majesty,
 by and with the advice and consent
 of

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of the Lords Spiritual and Tempo-
 ral, and Commons, in this present
 Parliament assembled, and by the
 authority of the same, that if any
 chandler or maker of candles, other
 than and besides compounders for
 the time being for the duties of
 candles, by them respectively made,
 or hereafter to be made, shall, from
 and after the said twenty-fourth day
 of June, in the year of our Lord
 1725, make use of any melting-
 house, workhouse, warehouse, store-
 house, shop, room, or other place
 whatsoever, either for the making
 or keeping of candles, or for the
 melting or keeping of any wax,
 tallow, or other materials proper
 to be made into candles, or for
 any

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any copper, kettle, pot, furnace, or other vessel or utensil whatsoever, for the melting of wax, tallow, or other materials, to be made into candles, or of any mould or moulds, or other utensil whatsoever, for or in the making of mould candles, or of other candles, without first making or having made, with the proper Officer or Officers respectively appointed or to be appointed for that purpose, at the next Office of Excise, within the limits whereof either such melting-house, workhouse, warehouse, storehouse, shop, room, or other place shall be situate, or such copper, kettle, pot, furnace, mould or moulds, or other vessel or utensil whatsoever, shall

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shall be so as aforesaid used, a true and particular entry or entries, in writing, thereof, and of every and each of them respectively; every such chandler and maker of candles, other than compounders for the duties on candles, shall forfeit and lose the sum of *One Hundred Pounds* for every such melting-house, workhouse, warehouse, storehouse, shop, room, or other place whatsoever, and for every such copper, kettle, pot, furnace, mould and moulds, or other vessel or utensil whatsoever, so made use of without first making or having made thereof respectively such entry and entries as aforesaid.

It may admit of great doubt, whether the words *maker of candles* do

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not

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not imply the trade of chandler, notwithstanding the words *for sale* are left out in this section; but, as one part of an Act of Parliament may be held to explain another, it appears by the 29th sect. that the interpretation of the Act supplies these words.

11 Geo. I. C. xxx, s. 29.

And be it further enacted and declared, by the authority aforesaid, that if, from and after the said 24th day of June 1725, there shall be found in the custody or possession of any chandler, or maker of candles for sale, any candles not mentioned in any entry or entries of candles made by such chandler, or maker
of

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of candles for sale, and of which the officer or officers, under whose survey such chandler or maker of candles for sale shall be, hath not had any declaration or account, and that the duties thereof have not been duly charged and paid; that then, and in every such case, every such chandler, and maker of candles for sale, where such candles shall be so found, shall be deemed to be, and is hereby declared to be chargeable, and is hereby charged with, and shall pay, the duties of such candles so found; and in case he, she, or they, do not pay off and discharge the said duties, shall be liable to the double duty of such candles, unless he, she, or they, shall prove that

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the duties thereof have been before paid by him, her, or them, or that he, she, or they, bought them of some other chandler, or maker of candles for sale, who, before such buying thereof, had paid or been duly charged with the duties thereof; and shall also prove, that by the space of six hours next before the buying thereof, he, she, or they, did give to the officer or officers under whose survey he, she, or they, shall be, or at the next Excise Office, notice in writing of his, her, or their intention to buy such candles as shall be so found as aforesaid, and of whom they were, or were intended to be, bought.

But

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But at all events, this Act, on which the Excise Officers insisted the penalties should be levied, is repealed virtually as to the penalty, which herein is lowered to fifty pounds; but with such mitigation as is allowed in former Acts of Parliament.

24 Geo. III. C. xi. s. 9.

“ And whereas, by an Act made
 “ in the eleventh year of the reign
 “ of His Majesty King George the
 “ First, (intituled, *An Act for the*
 “ *more effectually preventing public*
 “ *frauds and abuses in the public*
 “ Revenues; for preventing frauds
 “ in the Salt duties, and for giving
 “ relief for salt used in the curing
 “ of

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“ of Salmon and Codfish, in the
 “ year 1719, exported from that
 “ part of Great-Britain called Scot-
 “ land; for enabling the Insurance
 “ Companies to plead the general
 “ issue in actions brought against
 “ them; and for securing the Stamp
 “ duties upon policies of insurance;)
 “ it was enacted, that if any chandler,
 “ or maker of candles for sale, should
 “ begin to work upon, dip, or make
 “ any course of making candles,
 “ not being mould candles, or, in
 “ order thereto, should make any
 “ of the preparations therein men-
 “ tioned, without first making and
 “ delivering, or causing to be made
 “ and delivered, to the officer or
 “ officers under whose survey such
 “ chandler

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“ chandler or maker of candles for
 “ sale should be, such declaration,
 “ in writing, of his, her, or their
 “ intentions to make such course or
 “ making of candles, as in the said
 “ Act is mentioned: and whereas
 “ the said exception of mould candles
 “ has been found inconvenient, and
 “ has afforded opportunities for the
 “ committing of frauds on the Re-
 “ venue, by the secret making of
 “ mould candles, without paying the
 “ duties for the same:” Be it further
 enacted, that if, from and after the
 first day of August 1784, any chand-
 ler or maker of candles shall begin
 to work upon, or make any course
 or making of mould candles, or, in
 order thereto, shall make any of the
 prepa-

preparations in the said Act mentioned, without first making and delivering, or causing to be made or delivered, to the officer or officers under whose survey such chandler or maker of candles shall be, a declaration in writing of his, her, or their intention to make such course or making of mould candles, and of the particular hour or time of the day or night when such course or making is intended to be begun, and of the true number and size of the moulds he, she, or they, intend to fill and draw, and also of the number of times he, she, or they, intend to fill and draw the same in each making or course; every such chandler or maker of candles, on every

every failure or default in all or any of the particulars before mentioned, or having, in or at such making or course, more or larger candles than shall be mentioned in such declaration, or filling or drawing the said moulds a greater number of times than shall be mentioned in the said declaration, shall, for every such offence, forfeit and lose the sum of 50*l.*; and if, after such declaration so made as aforesaid, such making or course of candles shall not be begun and proceeded upon at the hour and time mentioned in such declaration, or in three hours next after such hour and time mentioned in such declaration, then every such declaration

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shall be, and is hereby declared to be, null and void.

Se^ct. 2.—And it is hereby enacted by the Authority aforesaid, that the several and respective duties by this Act imposed for and upon all candles imported or made as aforesaid, and all arrearages thereof, shall and may, from time to time, be raised, received, levied, recovered, and secured, by such ways and means, and under such management, and under such penalties and forfeitures, and with such power of adjudging and mitigating penalties and forfeitures, and with such other powers, and subject to such allowances, drawbacks, rules, and directions, and in such

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such methods, manner, and form, as the like duties granted by an Act of the eighth year, and by another Act of the ninth year, of the reign of our late Sovereign Queen Ann, whereby certain duties are laid upon candles, towards raising her said late Majesty's supplies for the year 1710, and 1711, are by those Acts, or by any other law or statute thereby referred unto, or since made, to be raised, received, levied, secured, or recovered; and that the said Acts of the 8th and 9th years of the reign of Queen Ann, and all the clauses, penalties, forfeitures, powers, authorities, rules, directions, matters, and things therein contained,

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tained, or thereby referred unto, or since enacted for the raising, receiving, levying, recovering, securing, paying, or accounting for the said duties upon candles, thereby granted, or any arrearages of the same, are and shall be, by force of this Act, continued, practised, and put in execution, for raising, receiving, levying, recovering, securing, paying, and accounting for the duties upon candles, by this Act granted, and making allowances out of the same, and all arrearages thereof, as fully and effectually, to all intents and purposes, as if they were particularly and at large recited in this present Act.

This

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This Act repealed the penalty of the 8th Ann, which was only fifty pounds.

8 Ann. C. ix. f. 6.

And it is hereby enacted by the Authority aforesaid, that all and every person and persons whatsoever, who, on or before the first day of May, in the year of our Lord 1710, shall make any candles for sale, or not for sale, shall, on or before the same first day of May, 1710, give notice in writing, at the Office of Excise next to the place where such candles shall be made, of any melting-house, workhouse, warehouse, storehouse, shop, room,
and

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and other place, by him, her, or them respectively made use of for the making or keeping of such candles, or for the melting or keeping any wax, tallow, or other materials proper to be made into candles, and also of all coppers, furnaces, moulds, or other vessels by them made use of for the melting of wax, tallow, or other materials to be made into candles: And that, from and after the said first day of May 1710, during the continuance of the said duties upon candles, no maker of candles shall erect, set up, alter, change, enlarge, or make use of, any melting-house, workhouse, warehouse, storehouse, shop, room, or
other

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other place, for the making or keeping of candles, or for the melting or keeping any wax, tallow, or other materials proper to be made into candles, or use any copper, furnace, moulds, or other vessel for the melting of wax, tallow, or other materials, to be made into candles, without first giving notice thereof in writing, or unless notice thereof shall have been before given in writing, at the next Office of Excise: And, if any maker of candles shall erect, set up, alter, enlarge, or make use of any melting-house, workhouse, warehouse, storehouse, shop, room, or other place, for the making or keeping of candles,
or

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jefty's Courts of Record at Westminster, for or on account of any thing done, or omitted to be done, contrary to this Act, in the part and parts of Great-Britain called England, Wales, or town of Berwick upon Tweed, or in the Court of Exchequer in Scotland, for or on account of any thing done, or omitted to be done, contrary to this Act, in that part of Great Britain called Scotland; and that one moiety of every such fine, penalty, and forfeiture, shall be to the use of His Majesty, his heirs and successors, and the other moiety thereof to him or them that shall sue or inform for the same.

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22 & 23 Car. II. C. v. f. 6.

Provided nevertheless, that it shall and may be lawful to and for the Justices of Peace, Commissioners of Excise, or any two of them, or their Sub-commissioners respectively, from time to time, where they shall see cause, to mitigate, compound, or lessen any fine, forfeiture, or penalty, which shall be incurred by reason of any offence committed against this Act, or against any other Act of Excise,

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cise,

cise, now in force, as they in their discretion shall think fit; and that every such mitigation, and payment thereupon made, shall be a sufficient discharge of such penalties and forfeitures, to the persons so offending, so as by such mitigation the same be not made less than double the value of the duty of Excise, which should or ought to have been paid, besides the reasonable costs and charges of such officer or officers, or others, as were employed therein,

therein, to be allowed unto them by the said Justices, or Commissioners; any thing in this Act contained to the contrary notwithstanding.

12 Car. II. C. xxiv. s. 46.

Provided nevertheless, that it shall and may be lawful to and for the said respective Justices of the Peace, where they shall see cause, to mitigate, compound, or lessen, such forfeiture, penalty, or fine, as in their discretion they shall think fit; and that every such mitigation, and payment thereupon accordingly made, shall be a sufficient discharge of the
said

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faid penalties and forfeitures, to the persons so offending, so as by such mitigation the same be not made less than double the value of the duty of Excise which should or ought to have been paid, besides the reasonable costs and charges of such officer or officers, or others, as were employed therein, to be to them allowed by the said Justices.

10 Ann. C. xix. s. 173.

Provided nevertheless, that it shall and may be lawful, to and for the said respective Justices, where they shall see, cause to mitigate or lessen any such penalties as they in their discretion shall think fit; the reasonable costs and charges of the officers.

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cers and informers, as well in making the discovery as in the prosecution of the same, being always allowed, over and above such mitigation, and so as such mitigation do not reduce the penalties to less than double the duties, over and above the said costs and charges; any thing contained in this Act, or any other Act of Parliament, to the contrary notwithstanding.

These mitigating powers also extend to the penalties upon those who assist in making Candles.

25 Geo. III. C. lxxiv. s. 31.

And in order to deter persons from assisting in the private and fraudulent

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lent making of Candles in unentered places, be it further enacted, by the authority aforesaid, that, from and after the said first day of August 1785, when any officer or officers of Excise shall discover that the making of candles is carried on in any private workhouse, room, or place, whereof no notice has been given at the next Office of Excise; and shall at the same time discover, in the workhouse, storehouse, room, or place, where such private making of candles shall be so discovered, any person or persons knowingly assisting, or any ways concerned in carrying on such private making of candles; every such person or persons so discovered shall forfeit and
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lose the sum of 20%. over and above all penalties and forfeitures that the proprietor or maker of such candles shall be liable to.

S. 32.—All the powers of mitigating penalties contained in 12th Car. II. f. 24, or any other law relating to Excise duties, shall be applied in executing this Act.

5 Geo. III. C. xliii. f. 20.

And be it further enacted by the authority aforesaid, that from and after the first day of June 1765, in case any officer or officers for the duties upon Soap and Candles, or either of them, shall have cause to suspect that soap or candles is or
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are privately making in any place or places whatsoever, or that any soap or candles is or are lodged or concealed in any place or places whatsoever, with an intent to defraud His Majesty of his duty; then, and in every such case, upon oath made by such officer or officers, before the Commissioners for the duties upon soap or candles, for the time being, respectively, or any one or more of them, or before one or more Justice or Justices of the Peace, residing near the place where such officer or officers shall suspect the same to be privately making, or to be lodged, or concealed, setting forth the ground of his or their suspicion; it shall and may be lawful,

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to and for the said Commissioner or Commissioners, Justice or Justices of the Peace, respectively, before whom such oath shall be made, if he or they shall judge it reasonable, by special warrant under his or their respective hands and seals, to authorize and empower such officer or officers, by day or by night, (but if by night, then in the presence of a Constable, or other lawful Officer of the Peace) to enter into all and every such place or places, where he or they shall so suspect that any soap or candles is or are so privately making, lodged, or concealed, and to seize, and carry away, all such soap or candles as he or they shall find there so privately making; to-

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ther with all the materials, of what kind soever, that shall be then ready, or preparing, for the making either of soap or candles; and likewise all such soap or candles as they shall find so lodged or concealed in any place or places whatsoever, as forfeited, together with all and every the boxes, or other packages, wherein such soap or candles shall be contained: and the person or persons that shall be found so privately making either soap or candles, or the person or persons in whose possession any soap or candles shall be so found, unless he, she, or they, do make it appear that the duty has been paid for the same, shall respectively forfeit and pay the sum of One Hundred Pounds.

S. 46.

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S. 46.—And be it further enacted by the authority aforesaid, that all fines, penalties, and forfeitures, inflicted by this Act, and for which no other directions are before particularly given, shall be sued for, recovered, levied, or mitigated, in the manner following; that is to say, for all offences committed against any of the provisions herein before contained, with respect to the duties under the management of the Commissioners of the Customs, by such ways, means, and methods, as any fine, penalty, or forfeiture, is or may be sued for, recovered, levied, or mitigated, by any law or laws relating to the said duties; and for all offences committed against any
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of the provisions herein before contained, with respect to the duties under the management of the Commissioners of Excise, by such ways, means, and methods, as any fine, penalty, or forfeiture, is or may be sued for, recovered, levied, or mitigated, by any law or laws of Excise; and for all offences committed against any of the provisions herein before contained, with respect to the said duties on Salt, by such ways, means, and methods, as any fine, penalty, or forfeiture, is or may be sued for, recovered, levied, or mitigated, by any law or laws relating to such duties: or that all or any of the said respective fines, penalties, and forfeitures, may be
sued

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sued for, and recovered, by action of debt, bill, plaint, or information, in any of His Majesty's Courts of Record in Westminster, or in the Court of Exchequer in Scotland, respectively: and that, in all cases where it is not otherwise directed by this Act, one moiety of every such fine, penalty, or forfeiture, shall be to His Majesty, his heirs, or successors, and the other moiety to him or them who shall discover, inform, or sue for the same.

The above section of the said Act mitigates the penalty according to former Acts of Parliament.

This being a recent Act, it ought, of course, to have been proceeded upon

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upon in preference to the prior Act of Geo. I; but in the 11 Geo. I. C. xxx. f. 39, it is expressly stated, that one moiety of every such fine, penalty, and forfeiture, shall be to the use of His Majesty, his heirs, and successors, and the other moiety thereof to him or them that shall sue or inform for the same.

Former Acts have varied considerably in the mode of distributing the penalty.

By Statutes 12 Car. II. C. xxiii. f. 24, one quarter of the penalty only goes to the informer, the rest to the King; but by 15 Car. II. C. xi. f. 25; one third goes to the informer, one other third to the
King,

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King, and the other third to the Poor of the Parish where the offence shall be committed.

24 Geo. II. C. xl. granting duties upon Spiritous Liquors, contains the same clause of reference to the other Laws of Excise, as the Acts upon Candles do.

24 Geo. II. C. xl. f. 29.

And be it further enacted and declared by the authority aforesaid, that all fines, penalties, and forfeitures, imposed by this, or any other Act, relating to the duties of Excise, or other duties under the management of the Commissioners

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of Excise, shall be sued for, levied, recovered, or mitigated, by such ways, means, and methods, as any fine, penalty, or forfeiture, is or may be recovered, or mitigated, by any Law or Laws of Excise (not otherwise directed by this Act) or by action of debt, bill, plaint, or information, in any of His Majesty's Courts of Record at Westminster, or in the Courts of Exchequer in Scotland; and that one moiety of every such fine, penalty, or forfeiture, shall be to His Majesty, his heirs, and successors, and the other moiety to him or them who shall discover, inform, or sue for the same.

23 Geo.

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23 Geo. II. C. xxi. s. 38.

Provided nevertheless, that it shall and may be lawful, to and for the said Commissioners and Justices, where they shall see cause, to mitigate or lessen any penalties and forfeitures, in such manner as they shall think fit: the reasonable costs and charges of the officers, as well in making the discovery, as in the prosecution of the same, being always allowed over and above such mitigation, and so as such mitigation do not reduce the penalty to less than one fourth part thereof, over and above the said costs and charges; any thing contained in this Act to the contrary notwithstanding.

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The 23d Geo. II. C. xxi. f. 38. was here brought to prove that the penalty could only be mitigated to one fourth: but this Act clearly only extends to candles imported. However, therefore, it might have the appearance of mercy, it was the only Act which could be found wherein there was so high a penalty. The very Act of Geo. I. which made the penalty 100%. by its reference to former Acts, gave a discretionary power to the Justices; but, by coupling this Act of the 23d Geo. II. which was totally foreign to the subject, that power of mitigation was surreptitiously avoided.—Ignorance of Acts of Parliament may be reasonably supposed; but where the officers happen to point

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point out those Acts which best suit their purpose, the excuse of ignorance can no longer be alledged.

A Publican cannot be deemed a maker of candles for sale; but for all such the penalty is only 10%. and even that sum subject to future mitigation.

10 Ann. C. xxvi. f. 106.

And for the more effectual preventing the frauds of the chandlers, and makers of candles for sale, whereby Her Majesty's duties upon candles are very much lessened, be it further enacted by the authority aforesaid, that every chandler or
maker

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maker of candles for sale, who, from and after the first day of August 1712, shall make any candles for sale, shall, before he begins to make or dip any making or course of candles, declare to the officer or officers appointed to take an account of the same, the number of sticks which he designs to make at such making or course, and also the sizes of the candles whereof each stick is to consist; and if such making or course is intended to be of mould candles, then such maker shall declare to such officer or officers, before he begins to fill any of the said moulds, how many moulds he intends to fill at such making, and how often he intends at such making
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to draw the said moulds; and in case any chandler, or maker of candles for sale, shall neglect or refuse to make any such declaration as aforesaid; or shall, after such declaration made, make any increase of his number of sticks, or of the sizes of his candles, in such making or course, over and above the number and sizes so declared as aforesaid; or, in the case of making of mould candles, shall fill a greater number of moulds, or draw such moulds oftener, than shall be declared, as aforesaid; or, in case any chandler or maker of candles shall, after the weighing of any making of candles, by the officer or officers appointed
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to take an account of the same, increase the weight of such candles so weighed, by re-dipping the same, or otherwise; then, and in any of the said cases, such chandler, or maker of candles for sale, shall, for every such offence, forfeit and lose the sum of Ten Pounds, to be recovered, levied, and mitigated, by the same ways, means, and methods, as any penalty or forfeiture can or may be recovered, levied, or mitigated, by any of the Laws of Excise; and to go one moiety thereof to Her Majesty, her heirs and successors, and the other moiety to the person or persons who shall inform, or sue for the same.

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There are also other very small penalties on makers of candles for sale.

8 Ann. C. ix. s. 18.

And it is hereby enacted by the authority aforesaid, that during the continuance of the duties upon candles hereby granted, no person or persons whatsoever shall use or cause, procure or suffer to be used, in the inside of his, her, or their dwelling-house, any lamp or lamps, wherein any oil or fat (other than oil made of fish within Great-Britain) shall be burnt for giving light, under the penalty of forty shillings for every offence therein; and that no persons, during such continuance

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of this Act, shall expose to sale any candles, unless it be in his, her, or their shops or workhouses, publicly used for that purpose, or in some public fair or market, under the penalty of five pounds for every offence in so doing; any law, custom, or usage to the contrary notwithstanding.

9 Ann. C. vi. f. 16.

The principle of these Laws is very well and equitably explained in the Preamble to the following Act of Parliament, and should be a guide in enforcing similar Acts.

“ And whereas several people who
 “ have made candles for their own
 “ private

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“ private use only, have, through
 “ ignorance or inadvertency, contrary to an Act made in the 8th
 “ year of the reign of Her present
 “ Majesty, intituled, *An Act for*
 “ *laying a duty on Candles*, neglected
 “ giving due notice, in writing, to
 “ the next Office of Excise, as the
 “ said Act requires, and as they
 “ ought to have done;” Be it
 therefore enacted by the authority
 aforesaid, that all and every such
 person or persons, shall be, and are
 hereby freed and discharged, of and
 from all and every the pains, penalties,
 and forfeitures of the said Act,
 not recovered before the 26th day
 of February 1710: provided that
 such person or persons, having so
 L 2 neglected

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neglected and offended, as aforesaid, do, before the 1st day of May 1711, pay, or cause to be paid, (unto the proper officer, as the said Act directs) the duty which by him, her, or them, respectively, ought to have been paid, by virtue of that Act; and in default thereof, such person or persons, respectively, shall lose the benefit of the indemnity granted by this Act.

The above is an equitable rule, which should serve as a guide for all Magistrates, who might, in the above case, had they been aware of all these Acts of Parliament, have shown to the Excise Officers that they were aware of imposition; and that

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that they never would be circumvented by iniquity, ignorance, or folly. It is evident, the very Act on which these Excise Officers proceeded, had a clause of reference to other Acts, which render the penalty only double the value of the duty; instead of which, by coupling another Act, of a different import, and which had nothing whatsoever to do with making candles, it was contrived to appear, that the penalty could be reduced to not less than Twenty-five Pounds. Upon the whole, this was a triumph of interest, art, and design, over ignorance, innocence, and equity; I may add, too, law, which it is the Magistrate's duty to understand in favour of the oppressed.

Every

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Every thing, says Puffendorf,* which causes a sorrow or loss, is not properly punishment: it is a *misfortune* to be reduced to poverty by a crime which caused the Magistrate to set a large fine upon the Father of a Family—but not a punishment. This doctrine is confirmed also by Grotius. In a word, this equitable provision in the Revenue Law, is well described in the admirable Treatise on the Law of Forfeiture, where it is said, “ If we consider it with
 “ a general view to the everlasting
 “ rules of truth and justice (which
 “ differ in name rather than in
 “ reality, the one being in specu-
 “ lation

* L. viii. c. 3. f. 30.

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“ lation what the other is in prac-
 “ tice), it seems consonant to all
 “ our natural and best-grounded
 “ notions—it is peculiarly fitted to
 “ the British Constitution: it is,
 “ without intricacy or cruelty, not
 “ formed on slavish or exotic mo-
 “ dels, but on truth, justice, po-
 “ licy, and freedom.

C O U R T I E R.

Having taken this review of the Excise Laws, with the golden clauses of reference which imply mercy and mitigation, you will favour us with your further opinion, as you have promised, upon the Stamp Duties; which are neither vague, multifarious, nor incomprehensible.—

Kearsley's

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Kearfley's Almanac contains them all. And, unlike the Excise Laws, which few comprehend—unlike the tyrant's decrees, which were out of reach of human fight—these are plain and distinct: and, unlike the case of the poor ignorant woman you relate, these are inserted in every female pocket-book.—Hats, gloves, and perfumery, are at least optional: they are at least as productive as births and burials; and a line should be drawn between cases of necessity, and of choice.

ANTI-COURTIER.

To draw a line between the Excise Laws, and the Stamp Acts, is to discriminate between lenity and tyranny:

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tyranny. They differ from each other as much as light and darkness, and even not more than the Stamp Acts differ from themselves. It will, upon minute examination, be found, however a consanguinity may be pretended, their features and character totally differ; and they are as separate, distinct, and as free from each other, as earth from heaven.

COURTIER.

The first Receipt Act passed under the *Opposition* Administration; and the Collectors of the Marriage, Birth, and Burial Tax, though allowed two shillings in the pound for their trouble, cannot live upon

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their pay: they have lately been obliged to adopt a new mode to assist their collection; they carry about, at the same time, a dead fox, an hedgehog, or a young owl; and the tax on curiosity supplies the deficiency of that on the calls of nature.

This tax passed during your *favorite* Administration: it seems to abound as little in sense and reason, as it does in money. The Chancellor of the Exchequer of that day was evidently an enemy to matrimony; which he proves by his own example: our Minister since has encouraged it, by laying a much heavier tax on the luxury of celibacy.

MAGISTRATE.

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MAGISTRATE.

The tax on marriages is merely nominal, and is no allay to the day of festivity and happiness: that on births is more frequent; and the least diminution from the comforts and subsistence of the helpless mother, and her family, who often are without raiment, and even roof, is sensibly felt. With the labouring people there should be a separate coin. The Legislator, probably, does not consider, when he lays the tax of threepence, he lays a tax of many hours labour in a day. Something harsh and unkind, too, enters into the payment of this tax, demanded in the moments of tender-

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ness and love. It is laid also, not on increase of domestic ease, but on the increase of domestic care. In more affluent ranks, nothing remains but an ideal new tax. Mankind are, however, governed more by idea than reality; and "the straw in the path" is not, with many, without its weight. The immense taxes to be paid by every family, were, before, sufficient obstacles to establishments; and female graces, and beauty, for which this Country has ever been peculiarly signalized, and which have been its boasted ornaments, become the innocent objects of the heaviest taxation. The tax upon burials is unprecedented, and entirely of a new nature.

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ture. The first, and best taxes, are upon articles of luxury; the next are upon what are called the necessaries of life. Still the idea of option prevails in the purchase of a necessary. A few window-lights are allowed without taxation; and shoes and hats it is possible to dispense with.—The burial tax is, in my apprehension, contrary to all rule, and comes under the class of "inevitable;" it is not only untechnical, but inexpedient; it is even cruel. Grief and affection fly palaces, and take up their abode with poverty: and we see this tax paid at once by the trembling hand of penury and sorrow.

COURTIER.

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COURTIER.

Philosophy and utility have been, till of late, at variance: modern writers have lately connected them. They are become synonymous, and form a fashionable creed, even at Court. Your Ministers had drawn their systems from the Greek school; and have endeavoured to establish that sect who deemed it a sin to perpetuate misery, by the propagation of mankind; at least that no encouragement should be given to commit matrimony: when a motley progeny ensues, it cannot at least be objected by your friends, that the Administration are not the Representatives of the People.

LAWYER.

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LAWYER.

It is bad policy in the Government of a country, to heap taxes on the man with the largest family. An Englishman, except in the instance alone of the Militia ballot, does not enjoy any exemption from office, any favour, or any civil advantage whatever, from being burthened with a large family: at a time when every tax falls the most heavily upon him, the more numerous his children are. Instead of giving every encouragement to population, this bad policy renders propagation a public offence. What crime is so great in this Country as a want of money?

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money?—The Law inflicts perpetual imprisonment on the insolvent debtor, which is inflicted on no other crime.

ANTI-COURTIER.

This tax, I confess, appears, at first sight, impolitic and cruel; but it is rendered so by the mode of collection. The motive of the tax was laudable, though the revenue is paltry: but it was meant to be so, more so than even it is at present. As if, however, it was intended to censure the Administration with which the tax originated, the money is taken, and the motive deserted.

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An elephant can discover a pin's head, but has also powers of very distant perception. You, no doubt, are aware of the extensive view of this measure: it had the inquiry into population for its object. The accurate knowledge of the strength of the nation, of the annual increase of subjects during the quiet and repose of peace, of the decrease and consumption during a war—this was to be the criterion how far we might depend upon the fleets and armies, for the support of the Empire; of resorting to negotiation, or risking future glory.

An effectual method is adopted to put an end to all possible utility
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from these annual returns, by the omission of much the most populous part of every parish, the paupers, in some parishes; whilst the hardship remains, by the insertion and payment of paupers, in others. Those who have families, must naturally be the most poor, and the most burthened. Paupers should be returned in the annual parochial lists, accordingly, as paupers, unable to pay; but not one should be omitted. It was not the intention of a humane and generous Minister to multiply distress and poverty with the people. The deficiency of the tax is, therefore, in vain urged as a demerit; and its want of production is the greatest proof of its wisdom.

I allow,

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I allow, in the present practice of it, the tax had better never have been laid, both on account of the private and public inconvenience it produces. Hardship to individuals I admit; and such imperfect returns of births and burials are made, our Rulers are misled in their idea of the population of the Country: that, instead of obtaining knowledge, which could not but have accrued from the Act, it produces what is worse than ignorance—misinformation and deception.

MAGISTRATE.

The able Sir James Stewart, in his Political Economy, says, “ If
“ it be the duty of a Statesman to
“ keep

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“ keep all his people busy, he cer-
 “ tainly should acquire the most
 “ exact knowledge possible, of the
 “ numbers and propagation of those
 “ of every denomination.”

COURTIER.

The use of this tax may be possi-
 ble; but its inconvenience is very
 certain. The Rector collects his
 tithes with infinitely less cavilling
 than the poor Curate his pence on
 the doleful and joyful occasions of
 a funeral or birth. Instead of main-
 taining the dignity of deportment
 consonant to his profession, from
 being accustomed to promulgate the
 Law from the pulpit, he is reduced
 and

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and degraded to all the importunity
 of a tax-gatherer; and his sterling
 sense and knowledge are employed,
 in all the wrangles of a public-house,
 about the goodness and worth of
 pence; sometimes to the indignity
 of being told, when sixpence is
 tossed to him, That he may keep the
 change himself.—

Hæ nugæ in serâ ducunt.

To return the compliment of an
 elephant's eye, I will allow, you,
 Sir, penetrate beyond the surface,
 with the sharpness of a serpent's
 tooth: but in Courts, we know the
 utility of superficial pageantry as
 well as manners.

ANTI-

ANTI-COURTIER.

That cannot be excellent which is at once brought to perfection. Ministers are but men : let it suffice if they are good men. It is not sufficient to plant the tree ; it must be grafted, and pruned, to bear fruit. The trifling obstacles you alledge, would soon have ceased, the weeds would soon have been removed, if any hand had fostered this useful plant. Mandeville observes, the filth of streets will always accompany trade and commerce : but, with attention, even these inconveniences are removed, and the streets present cleaner walks than a country village. — Richelieu knew the

the necessity of having a successor to carry his plans into execution. There is the same necessity for pursuing good, as well as evil measures. The able Colbert was not unmindful to take every necessary hint from the honest Sully.

What the King of Prussia says about Courts, is applicable to Ministers : “ Nothing can better teach us the character of Courts, than remarks made on the various modes by which their policy acts on the same subjects. Their passions, their subtleties, their arts, their vices, and their good qualities, will thus be all discovered.”

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“ vered.” My favorite author, Junius, observes, in speaking of a Bill which was then passing through the House of Commons, “ the features
 “ of the infant are a proof of the
 “ descent; and vindicate the noble
 “ birth from the baseness of the
 “ adoption.” This Bill he alludes to, was relative to parliamentary privilege: and, though it was otherwise adopted, it had originated in the House of Cavendish. It is true, that the first Stamp Acts, as well as the before-mentioned Act, passed during the administration of the Duke of Portland and Lord John Cavendish: and though all the Stamp Acts are generally deemed synonymous, and the latter Stamp Acts may

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may be wished to have a shelter under the former ones, in order that the dates of their existence may not be marked; you will observe, upon a perusal of the Statute Book, that all the Stamp Acts which passed during this Administration, contain all the features of mildness and beneficence, all the powers of mitigation, which can be wished by every honest and impartial mind, unbiassed by party or prejudice;— whilst the latter Stamp Acts comprehend virulence, rancour, and ruin. Public acts are the only true mirrors. We are instructed by Scripture, “ by their deeds you shall
 “ know them;” and “ there be
 “ that turn judgement into worm-
 “ wood.”

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MAGISTRATE.

It is earnestly wished by the retired philosopher, that no party invective can be fixed, that no personal allusion can apply. Political representations he must regard more as caricaturas than just images.—Possibly, my good Friend, you mistake practice for principle. There are, I doubt, too many expounders of the English Institutes, who do not follow Lord Bacon's rules: “ *Qui fortiter emungit, elicit sanguinem*; “ Judges must beware of hard “ constructions, and strained in- “ ferences; for there is no worse “ torture than the torture of the “ Laws, especially in case of Penal “ Laws. They ought to have care “ that

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“ that that which was meant for
 “ terror, be not turned into rigour;
 “ and that they bring not upon the
 “ people that shower, whereof the
 “ Scripture speaketh: *pluit super eos*
 “ *laqueos*;—for Penal Laws pressed,
 “ are a shower of snares upon the
 “ people.” The words of Shakespear
 should be the rule of conduct for
 every individual endued with power.

The quality of Mercy is not strain'd;
 It droppeth, as the gentle rain from Heaven,
 Upon the place beneath. It is twice blessed;
 It blesteth him that gives, and him that takes:
 'Tis mightiest in the mightiest; it becomes
 The throned monarch better than his crown:
 His sceptre shows the force of temp'ral pow'r,
 The attribute to awe and majesty,
 Wherein doth sit the dread and fear of kings;
 But Mercy is above this sceptred sway;
 It is enthroned in the hearts of kings;
 It is an attribute to God himself—
 And earthly power doth then show likest God's,
 When Mercy seasons Justice.

The

The following letter, written by Sir Walter Raleigh, describes, with much feeling, the necessity of mercy, and the cruelty of implacable justice. It is to be hoped this forcible and harmonious style will still find its way to modern hearts.

Sir W. RALEIGH to King JAMES,
before his Trial.

IT is one part of the office of a just and worthy Prince, to hear the complaints of his vassals, especially such as are in great misery. I know not, amongst many other presumptions gathered against me, how your Majesty hath been persuaded, that I was one of them who were greatly discontented, and therefore

therefore the more likely to prove disloyal: but the great God so relieve me, in both worlds, as I was the contrary: and I took as great comfort to behold your Majesty, and always learning some good, and bettering my knowledge, by hearing your Majesty's discourse. I do most humbly beseech your sovereign Majesty, not to believe any of those in my particular, who, under pretence of offences to kings, do easily work their particular revenge. I trust, no man, under the colour of making examples, shall persuade your Majesty to leave the word *merciful* out of your style; for it will be no less profit to your Majesty, and become your greatness no less, than the word *invincible*.

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invincible. It is true, the Laws of England are no less jealous of the Kings, than Cæsar was of Pompey's wife: for, notwithstanding she was cleared for having company with Claudius, yet, for being suspected, he contemned her. For myself, I protest, before Almighty God, and I speak it to my Master and Sovereign, that I never invented treason against him; and yet I know I shall fall *in manus eorum a quibus non possum evadere*, unless by your Majesty's gracious compassion I be sustained. Our Law, therefore, (most merciful Prince) knowing her own cruelty, and knowing that she is wont to compound treason out of presumptions and circumstances,
doth

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doth give this charitable advice to the King, her supreme: *Non solum sapiens esse, sed et misericors, &c. cum tutius sit reddere rationem misericordie quam judicii.* I do therefore, on the knees of my heart, beseech your Majesty, from your own sweet and comfortable disposition, to remember that I have served your Majesty twenty years, for which your Majesty hath yet given me no reward: and it is fitter I should be indebted unto my Sovereign Lord, than the King to his poor vassal: save me, therefore, most merciful Prince, that I may owe your Majesty my life itself, than which there cannot be a greater debt. Limit me, at least, my so-
vereign

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vereign Lord, that I may pay it for
your service, when your Majesty
shall please. If the Law destroy
me, your Majesty shall put me out
of your power, and I shall have none
to fear but the King of Kings.

WALTER RALEIGH.

It has been lately observed, by
one of the learned Judges in the
King's Bench, in passing sentence
upon Mr. Withers, " That the
" liberty of the press was among
" the greatest privileges of a free
" state; but nothing contributed so
" much to endanger it, as a licen-
" tious temper in the use of it; that
" the liberty and the licentiousness
" of the press were as different from
" each

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" each other, as light and darkness:
" that in a free country it was the
" privilege of individuals to ani-
"advert upon public measures,
" and their minds might be well
" employed in so doing; but it
" should always be done with de-
" cency."—This doctrine of law
and good manners should always
enforce the practice of every one
who forms his systems of life on
public utility: it matters little to
him, who govern. Private party
gives way in his mind to public
views: he pretends to no ingenuity,
to bias the mind; nor sophistry, to
corrupt the heart: he wishes to draw
every sentiment from the pure source
of beneficence, and universal bene-
P volence,

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volence, unfulled by interest, delineated without art, but clothed in all the native simplicity of candour and truth.

It has often been urged, by those whose office it is to draw and superintend Bills, before they pass into Laws, that the framers of those Bills commit so many errors, it requires more than common leisure and attention to correct them. It is, on the other hand, asserted (and Mr. Hargrave's accuracy, so visible in all his publications, can scarcely be doubted) that the Bills, if not perfect, are at least not absurd and inconsistent, when they enter the Committees; but there these

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these Bills are so much altered, that, instead of comprehending a plain, clear, right rule of conduct, where the principle is plain, and the practice easy, they come out a chaos of perplexity and confusion.

ANTI-COURTIER.

To whom are we to look up for redress, but those who have the government in their hands, who have all the assistance of the greatest experience, parts, and learning, at their call? And, however unconstitutional it may be alledged to be, to make Ministers responsible for acts of the Legislature, yet those which are passed for the protection

P 2

and

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and supply of the Revenue, fall more immediately within their province; and however illiberal the mode of collection must appear, however tedious and incomprehensible the detail to a great mind, the principle of these Acts must be presumed to emanate from the spirit of the Minister. The features bear resemblance, and the defects become synonymous.

MAGISTRATE.

Great inattention will naturally prevail in passing these Bills, where the flowers of oratory will not vegetate; where the subject is unluxuriant, dry, and barren—except
to

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to the Exchequer. It is much to be lamented, that in all parts of the House, more merit is sought for, as well as given, from the splendid display of abilities, in personal invective, or general questions of party, than in a benevolent attention to utility.

*Nous admirons l'éclat, vains juges que nous sommes :
Le véritable honneur, est d'être utile aux hommes.*

The community, in politics, seems to be too confined a subject; and seven eighths of the people are excluded from the care and protection of those who are gifted with the greatest abilities, and born for the use of mankind. Vulgar praise is generally directed to objects,
which,

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which, like lantern-kites, are most admired the farther they are distant. The luminary, "*serpens bumi*," is of use to those whose fate leads them to walk in the dark, and "do not see their way;" but it becomes useless when it soars, and the seeming celestial appearance tends but to deceive.—Splendour, and not utility, is the ruling principle of the age, in works of nature, as well as art. Splendid acts of munificence are admired, whilst charity and humanity are despised. The lake confers more reputation, and creates more envy, which deprives every cottage of its spring, than if, by being conducted into various channels, it diffused comfort and convenience

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convenience amongst innumerable families. The philanthropist, the patriot, and the public-spirited, must persevere in a system of self-denial, and self-praise. They cannot perform their duty without rejecting the dictates of vanity, flattery, and interest; without, according to the words of your friend, my friend, the friend of all mankind, the great Edmund Burke, upon the duty of a public man, "even incurring enmities." Where vulgar praise governs, knowledge, and that enlightened understanding which is an honour to human nature, tend to the prejudice, instead of the good of mankind.

LAWYER.

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LAWYER.

No views to party, politics, or power, should bias the Magistrate, or tempt him to swerve from the line of truth, or the necessary attention to his duty, in guarding the general interests of humanity. Candour obliges me to add, that the Stamp Acts are founded upon a principle of innovation, subversive of that spirit of remedial regulation, which, like a golden vein, used once to enrich former laws, and which is now no more. This peculiar characteristic and ornament, more valuable and brilliant than the mines of Mexico and Potosi, cannot be boasted of after the year 1783. A
fertile

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fertile soil is become barren and waste; and, instead of yielding assistance and comfort, it is cultivated with labour and sorrow. It must be painful to the magistrate, also, to see himself regarded as the legislator. The people are not apt to distinguish between unremitting law and unremitting severity. It has been well observed, they resemble a dog who bites the stick with which he has been struck, instead of biting him who holds it.

MAGISTRATE.

It matters little to the community in general, who are the ministers of the day. Though private
Q vate

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vate emoluments may change, the public profits seldom vary. But rights and privileges may not equally be protected. Remissness, or design, in governors, are equally fatal to the governed. Inattention of friends towards the weak, is more prejudicial than declared enmity towards the strong. The principle of laws is to be considered alone by the retired abstracted magistrate: it does not matter to him, nor does it come within his province to know, by whom laws are passed. The following paragraph appeared lately in a news-paper; which is a specimen of the personal animadversion the magistrate should ever wish to avoid. Evil to the administration, more than

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than good to the public, seems here to be aimed at.

“ The exertions of the present
 “ Administration, in behalf of their
 “ Country, with respect to *pecuniary*
 “ matters, far *surpass* any of their
 “ predecessors. As an instance, a
 “ *poor Pensioner* of Greenwich Ho-
 “ spital is now confined, at the suit
 “ of the Crown, for a debt, in
 “ Maidstone jail. The circum-
 “ stance is truly pitiable, as the man
 “ has a mother 103 years of age,
 “ who depended on her son for
 “ support.”

ANTI-COURTIER.

It is the duty of the magistrate to declare his sentiments, in a free and

Q 2

manly

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manly manner, where he finds, from practice, the principle of any law he is to execute, is wrong in theory, and founded in oppression. It is a matter of indifference to him that the men are fair, if the deed be foul. It comes more within his cognizance, than of those who make the laws, to know the effect of laws, when made, upon those for whom such laws principally were made. The hardship and constraint may be militated against, by those who do not feel the pressure, and never knew the anguish. Are not such as much an object of ridicule as Moliere's Cordonnier, who insisted his shoes gave no pain, when the wearer protested he was in the stocks?

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stocks? But it is hoped the framers of these modern laws may have been actuated more by ignorance of what they omit, than by enmity in what they insert. The effect is, however, equally fatal; and, whether it arises from accident or design, to the unhappy subject, like the frog in the fable, ruin and destruction equally ensue.

MAGISTRATE.

The admirable definition of Law by Hooker, should be the criterion of every civil as well as criminal institute. "Of Law there can be
 " no less acknowledged, than that
 " her seat is the bosom of God; her
 " voice, the harmony of the world :
 " all

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“ all do her homage;—*the very least,*
 “ *as feeling her care;* and the greatest,
 “ as not exempted from her power.”
 It ought ever to be the invariable
 rule, not only of moral action, but
 of political government, to protect
 innocence, when humbled and op-
 pressed; and to distinguish where
 the guilt is unpremeditated, and the
 crime unknown;—to distinguish,
 as that wise and humane statute of
 Ann says, inadvertence from pre-
 meditated and conscious offence.

I do not take for my motto—
 “ *Crudelitas parcens, lenitas puniens.*”

For rank and riches may render
 the act more atrocious, and the
 example more pernicious; but can
 give

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give no sanction to offences, nor
 ought ever to give impunity.

ANTI-COURTIER.

The extension of the Penal Sta-
 tutes, constitutes a material dif-
 ference in the happiness of the
 community. Acts of Parliament,
 like symbols, faithfully represent
 the features and temper of those who
 govern. This can alone account
 for so sudden a change in the Penal
 Statutes; and the change of mea-
 sures can alone have proceeded from
 the change of men.

If we take a review of the Eng-
 lish Constitution, we shall find, no
 such sudden and immediate change
 has

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has ever been effected by prerogative and power, as the vicissitude of the present day. However harsh the times, the laws retained a degree of temper, colours were varied by gradual shades, and the hue became, without perception, changed. Manners and commerce must invariably have an effect upon every government, as time and years insensibly operate upon the human constitution. The sun does not immediately withhold its influence; we are prepared, by its gradual retreat, for its loss. Freedom may be compared to this bright luminary; and if we have not total darkness, we may surely complain of a sudden and unforeseen eclipse.

MAGIS-

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MAGISTRATE.

I will request the favour of my learned Friend to refer to the clauses when this sudden change took place, which so materially affects the property and liberty of the subject; the Acts which make such confusion in our laws, and such a chaos in our history. The Spanish visionary's plan of invading this country, by drying up the sea between Calais and Dover with sponges, becomes less improbable, when we see this wonderful attack, which connects us with the rest of Europe. We are told by Lord Bacon, in his Life of Henry VII, that when that Prince had drawn great sums of

R money,

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money, by taxes and other impositions, from his people, he used to remunerate them by good and wholesome laws, beneficial to liberty, and of a popular nature, which were evermore his retribution for treasure.

LAWYER.

The 22d Geo. III. which was the first Act making bills of exchange subject to a stamp duty, comprehends all the powers of mitigation of penalties included in former Acts.

Sect. 7.—“ And be it further
 “ enacted, that all powers, provi-
 “ sions, articles, clauses, distribu-
 “ tions

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“ tions of penalties and forfeitures,
 “ and all other matters and things
 “ prescribed and appointed by any
 “ former Act or Acts of Parliament,
 “ relating to the Stamp Duties on
 “ vellum, parchment, and paper,
 “ shall be of full force and effect,
 “ with relation to the duties hereby
 “ imposed; and shall be applied,
 “ and put in execution, for the
 “ raising, levying, collecting, and
 “ securing, the said New Duties,
 “ hereby imposed, according to the
 “ true intent and meaning of this
 “ Act, as fully and effectually, to
 “ all intents and purposes, as if the
 “ same had severally and respectively
 “ been hereby enacted, with relation
 “ to the said New Duties hereby
 “ imposed.”

The

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The next Act passed was 23^d Geo. III. C. 49, intituled, an Act for charging a Stamp Duty upon inland bills of exchange, promiffory notes, or other notes payable otherwise than upon demand.—In this Act we also find the following provision.

Sect. 21st.—And be it further enacted, that all powers, provisions, articles, clauses, distributions of penalties and forfeitures, and all other matters and things prescribed or appointed by any former Act or Acts of Parliament relating to the Stamp Duties on vellum, parchment, and paper, shall be of full force and effect, with relation to the Duties hereby imposed; and shall be applied,

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plied, and put in execution, for the raising, levying, collecting, and securing, the said New Duties, hereby imposed, as fully, to all intents and purposes, as if the same had severally and respectively been hereby enacted, with relation to the said New Duties hereby imposed.

This protecting clause refers to the 10 Ann. C. xix, s. CLXXIII. Provided nevertheless, that it shall and may be lawful to and for the said respective Justices, where they shall see cause, to mitigate or lessen any such penalties, as they in their discretions shall think fit (the reasonable costs and charges of the officers and informers, as well in making

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making the discovery, as in the prosecution of the same, being always allowed, over and above such mitigation); and so as such mitigation do not reduce the penalties to less than double the duties, over and above the said costs and charges; any thing contained in this Act, or any other Act of Parliament, to the contrary notwithstanding.

But the explanatory Act, passed the ensuing year, totally takes away any effectual power of mitigation.

ANTI-COURTIER.

These two Acts, which you have stated, passed whilst the Duke of Portland was at the head of the
Treasury,

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Treasury, and Lord John Cavendish was Chancellor of the Exchequer; and, without assuming mercy, without making any ostentatious show of mitigation, are full of commiseration. The subsequent Act, openly, to appearance, but insidiously, inserts the power of lessening the penalty: but this power is so limited, as to counteract the declared purport; and, like the stroking of the executioner's hand, whilst it professes lenity, and soothes resentment, it enforces hardship.—My learned Friend has adverted, and referred me, to this clause:—24 Geo. III. C. vii.
“ Provided, nevertheless, that it
“ shall and may be lawful, to and
“ for the said Justice, where he shall
see

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“ fee cause, to mitigate and lessen
 “ any such penalties as he shall think
 “ fit (reasonable costs and charges
 “ of the officers and informers, as
 “ well in making the discovery, as
 “ in prosecuting the same, being
 “ always allowed, over and above
 “ such mitigation); and so as such
 “ mitigation do not reduce the pe-
 “ nalties to *less than a moiety* of the
 “ penalties incurred, *over and above*
 “ *the said costs and charges.*”—Thus
 a moiety of the penalties is substi-
 tuted for double the duties; and,
 however this alteration may found
 in favour of the subject, it threatens
 him with imprisonment and ruin.

COURTIER.

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COURTIER.

Trufler informs me that, in the
 very next year, all the powers and
 provisions of former Stamp Acts,
 are extended to the Act imposing
 duties upon gloves.

ANTI-COURTIER.

The penalty is, however, the same
 as in the Receipt-tax; and the mi-
 tigation equally amounts to one half.
 Here, therefore, we again find an
 insidious beacon, and false aid:
 where the mitigation is only to half
 the penalty, over and above costs
 and charges, the reference to former
 Acts, like that of Gay's poor hunted

S hare,

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hare to former friends, will be of little avail, and cannot be in favour of the injured subject. It can only be compared to the compassion, charity, and generosity, of the mountebank ; who gives *gratis* the golden pill, provided the patient liberally pays for the paper of prescription.

We also see in the following Acts an instance of liberality and benevolence, but a speedy political repentance and recantation ensue.

The 24th Geo. III. C. xl, laying duties upon printed linens, contains full powers of reference and mitigation : but the very next year, either by accident or design, we see
pains

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pains and penalties multiplied tenfold upon the subject.

25th Geo. III. C. lv. s. 23.— Provided nevertheless that it shall and may be lawful to and for the said Justice, where he shall see cause, to mitigate and lessen any such penalties as he shall think fit (reasonable costs and charges of the officers and informers, as well in making the discovery, as in prosecuting the same, being always allowed, over and above such mitigation) ; and so as such mitigation do not reduce the penalties to *less than one moiety of the penalties* incurred, over and above the said costs and charges ; anything contained in this Act, or any other
Act

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Act of Parliament, to the contrary notwithstanding.

MAGISTRATE.

Independent of all party prejudice, the Legislature has, at this period, imposed a very irksome task upon Magistrates, in levying penalties often upon honest, undefining men, always upon neighbours. The Explanatory Receipt-tax of 1784 even expressly says, the penalty is to be levied by a *neighbouring* Magistrate, who, unless he advances the penalty himself, is doomed to send an industrious, petty shopkeeper to jail, for having been drawn in, by an artful informer, to
give

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give a receipt without a stamp, or a receipt for above 20/. upon a two-penny stamp; in which latter case the penalty cannot be mitigated to less than 10/. besides all costs and expences. Magistrates are now reduced to this unfortunate dilemma; either to relinquish being of any utility to the public, or to commit daily violence on their sensibility, by complying with the Acts of Parliament; or being subject to the insolence of an informer, and the threats of an information in the King's Bench. How vain it is to endeavour to convince people you act right, if their interest is affected by your conduct! Morality, affection, gratitude, all the ties of society,
ciety,

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ciety, are expected to give way to their wishes, and to be swallowed up in the great vortex of self-interest. If once the office of a Magistrate becomes loaded with this sort of disagreeable duty, the Country will be deprived of an useful set of men: the only men in the kingdom who voluntarily execute a troublesome and expensive office, without reward, and without patronage; whose time is too much occupied in the service of others, to admit, as in political life, the purpose of gratifying private interest and ambition. The Politician thinks of *nobody's* interest but his own; the Magistrate thinks of *every body's* interest—but his own.

Their

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Their useful services seem, however, to be neglected, like the useful elements which daily afford us comfort and health, for those animals whose inferior labours supply our daily wants. Are we so far lowered beneath the scale of human creatures, that fashion, cabal, and intrigue, are to be estimated beyond benevolence and charity?—The Magistrate pays attention to the most indigent objects he can meet; the Politician only looks up to those who can serve him: their visual organs are so differently constructed, that the one only sees objects above, and the other those below him. Which is the greatest friend to mankind? Is arrogance a better quality than
humility?

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humility?—selfishness, than charity? Is acrimony more valuable than mildness?—ambition, than content? Is duplicity more to be esteemed than candour?—falsehood, than truth?—flattery, than sincerity?—sarcasm, than humanity? Are wit and eloquence to be admired, which plant daggers in the heart, more than benevolence, whose business it is to remove them?—The Politician will say, Yes. Surely the Divine Being, who rules and sees all, will say, No. Selfishness is the grand spring of action in the polite world. Each great man is placed like the point around which many circles are drawn; but nothing touches him. Yet those must have
great

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great philanthropy and patriotism, who let the Public be their debtors for a long series of years. The public opinion is too apt to lead us: though *it* is lame, most of *us* are blind. Perseverance in *right* approaches divinity, when reward and distinction are given only to *wrong*. But Philosophy instructs, that the eloquent politician resembles the fly whirled round by a string, and goaded with a pin:—the idiot crowd admire, and despise the useful silent insect creeping upon the earth.

ANTI-COURTIER.

It is much to be wished that
private as well as public manners
T tended

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tended more to the order and peace of society. One is an emblem of the other. We see the effect of politics, even among the lowest class of society. The chain is of the same quality: each link is made of the same stuff: those which are of a more valuable quality cease to be connected; they are separated, and lost for ever. The magistrate, like the ingenious alchymist, is to discover the value of the unknown metal; and though his labour may seldom be rewarded, the discovery is not of the less price from its being more rare. Manners are more esteemed in society than virtues: though the one are artificial, like false brilliants; and the other pure,
like

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like real jewels. Virtues and vices, though fixed and immutable in their nature, are used as relative terms, and made to bend to the state of society and manners, in an age like the present, when virtue and simplicity of manners are laughed out of every company which sets the fashion to inferior ranks. Modesty operates as a vice;—it is disagreeable in company, and ruinous to the possessor. We seem to have transplanted into America, not only the virtue of the English constitution, but its congenial, manly character, infused into the minds of its supporters. Our manners are become corrupt, luxurious, and effeminate. Dignity and independence meet with

T 2

no

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no more encouragement in this soil, than in the Turkish land of slavery; where, we are told, Mr. Howard was received at Constantinople, by a Noble and fair Countrywoman, in a manner by no means consonant to the peculiar esteem and respect due to his illustrious character, because his dress was plain, and his stature and obeisance low. This giddy female, intoxicated with beauty, flattery, and admiration, headed a troop of five-and-twenty French women, buzzing round her, as volatile as the wind, to drive, with folly, noise, and laughter, out of the gay and perfumed assembly, the most virtuous citizen upon the earth. This is a picture of the times,

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times, and shows the superficial manners of the age: yet the greatest wonder is, that the fair Author should herself represent it, and that in the sober morning of reflection she should make atonement by civility and politeness. In polite circles of this metropolis, the same arrogance and contempt would have been shown—but without the same compunction or remorse. And yet I never could understand why it was so great a matter of ridicule for a person, accidentally admitted into a fashionable circle, to be unknown, when almost every one of the set envy, hate, or despise each other. Do they fear that honesty and virtue will be contagious? Prejudice is always an over-

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overmatch for reason ; but the man of integrity, who possesses that spirit which virtue alone can give, finds a recompense in his own breast, for the frowns of fortune, and the contempt of the world. We hold in too high estimation the natural gifts of others ;—the good they do to society is the only criterion by which they should be judged. If great talents are converted to the purposes of private ambition, and great riches to the purposes of avarice, such a perversion of what belongs to the public, heaps infamy and contempt, instead of honour, on the unworthy steward. The love of fame, in a virtuous age, cannot be too much cherished ; it is the spring of noble actions :—

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actions :—in a vicious age, men should be taught to despise it, as the source of every thing in conduct that is mean and disgraceful.

MAGISTRATE.

The office of magistrate is unobjectionable, on account of obtaining fame. There is a malignant disposition, in the lower rank of people, to turn every thing into ridicule, at least to put a bad construction on the most meritorious actions : judging by themselves, they ascribe a right rule of conduct to far other motives than those of charity, tenderness, and humanity. Still he should persevere in his duty. If virtues and vices are, as you describe, thus blended

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blended amongst the higher ranks of society; it cannot be expected that, amidst the illiterate and vulgar, justice should not be mistaken for severity; equity, misinterpreted into partiality; public benefits, misconstrued into caprice; charity, to overabundance; and beneficence, to encouragement to idleness and vice. It is more for the interest of the cause of humanity, in which the magistrate engages, that he should be the object of every point—that he should be the target for any shaft of malice, and envenomed ill-will, than that his breast should be callous, and his heart of sufficient hardness, that every ball should rebound upon the assailant. There are few passions,
or

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or affections, which do not carry some inconvenience behind them. It is the duty of men to take their share of the public burthens, in return for the comforts and conveniences they receive from the public industry and labour. There cannot be so just an equipoise, as that every individual in the State should bear an equal proportion of weight. Some suffer in body, others in mind: the lower class must undergo labour; the higher class must endure pain.

It does not much matter in what dress, or what rank, we pass through this toilsome world. The rich have advantages; but feelings are the source of discontent and misery to
U many

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many of those who are refined by education, and softened by improvement. Unhappiness generally arises from our desiring impossibilities, and ascribing to any particular situation in life, or place, that moral and physical evil which is to be found every where, but mostly in our own minds.

If a man listens to indolence, and indolent men, he may hear reasons enough to dissuade him from any undertaking whatever; and he will find, in the end, that love of ease is a sure forerunner of its own destruction.

The Magistrate should not only remember that activity is virtue,
but

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but philosophy should teach him to curb his passion. He should incessantly invoke Wisdom to enlighten his understanding, to inspire knowledge, to remove prejudice, to eradicate rancour and resentment, and to correct and amend his heart: he should make truth revered by those it detects, and justice amiable even to those it punishes. He should be the man described by the learned Warburton, *qui scelus fraudemque nocentis possit dicendo subjicere odio civium, supplicioque constringere; idemque ingenii præsidio innocentiam judiciorum pœna liberare; idemque languentem labentemque populum aut ad decus excitare, aut ab errore deducere, aut inflammare in improbos, aut incitatum in bonos mitigare.*

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The

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The ingenious tract called the Irenarch well defines the character of a Magistrate, as well as the justice to be observed by him. “ The
 “ utmost care is to be taken that
 “ nothing be contended for, against
 “ equity. Justice exercised too ri-
 “ gorously is often found, amidst
 “ the various windings and entan-
 “ gled combinations of human af-
 “ fairs, even to border upon injus-
 “ tice, infomuch that the civilians
 “ have established it into a maxim,
 “ that *extreme justice is extreme in-*
 “ *justice—summum jus summa in-*
 “ *juria*: and therefore the good
 “ quality of moderation is necessary
 “ in a magistrate; that is, he must
 “ be governed, as often as he can,
 “ by

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“ by the *spirit* rather than the *letter*
 “ of the laws; for in the Law, as
 “ well as in the Gospel, *the letter*
 “ *frequently killeth*. The office of
 “ Magistrate, therefore, should be,
 “ in fact, a kind of a petty chan-
 “ cery, a court of equity, as well
 “ as a court of justice; where a
 “ man, although he is pursued by
 “ law, may yet be redressed by
 “ equity, as often as the case will
 “ admit of it; and that will be
 “ as often as the *spirit* of any law
 “ or statute shall be found to clash
 “ with its *letter*.

“ If, peradventure, it seems hard
 “ that men should thus devote their
 “ time and labour to their country,
 “ without

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“ without the least consideration of
 “ advantage to themselves, all I can
 “ say is, That if the respectableness
 “ of the office itself, the esteem and
 “ confidence of all honest men, and
 “ the consciousness of being perpetually
 “ employed in *doing good*, be
 “ not thought by any person reward
 “ sufficient, I would advise such
 “ by no means to undertake it; and
 “ I advise this also for the sake of
 “ the public, being thoroughly persuaded
 “ that men who have not
 “ greatness of soul, liberality of
 “ spirit, and delicacy of sentiment,
 “ enough to feel the sweets of such
 “ a reward, will never execute this
 “ office with that dignity, credit,
 “ and authority, which must always
 “ accom-

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“ accompany a due and proper discharge
 “ of it. In the mean time,
 “ what must become of this respectable
 “ office? Why, thus neglected,
 “ and, as it were, slighted, it will
 “ oftentimes fall into mean and
 “ unworthy hands; into the hands
 “ of men who have neither wit nor
 “ honesty enough to discharge it
 “ laudably; into the hands of men
 “ who make merchandise of it,
 “ who trade with it; of men, in
 “ short, who are so far from executing
 “ it with dignity and credit,
 “ that they are, in reality, nothing
 “ better than mere contemptible
 “ and scandalous tools of office; and
 “ then the extensive power of this
 “ magistracy (of which, subordinate
 “ as it may seem, Lord Coke says,
 “ the

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“ the whole Christian world hath
 “ not the like, if it be duly exe-
 “ cuted) will be prostituted to the
 “ low, vile purposes of ambition,
 “ avarice, or even personal resent-
 “ ment.

“ Those we call Trading Jus-
 “ tices, went by the name of Bas-
 “ ket Justices in Queen Elizabeth’s
 “ reign:—men who could do no-
 “ thing without a present; yet who,
 “ for half a dozen chickens, would
 “ dispense with a whole dozen of
 “ penal statutes.”—*D’Ewes.*

It would seem that the Legislature
 regarded modern Justices in this
 light, by giving them no power of
 dispensation whatsoever. The “*Mi-*

“ *nistri*

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“ *nistri Legum*” are deprived of the
 richest jewel in their robe, of the
 prerogative of their office; “ the
 “ ministering to a mind diseased:”
 they must no longer “ *love mercy.*”
 Inadvertence, time, occasion, cir-
 cumstances, age, character, which
 used to be objects of consideration
 and attention in the magistrate, now
 give way to the iron rule. Know-
 ledge of law and equity, as well as
 of men and manners, is become
 totally useless.

Magistrates are metamorphosed
 into a set of men well described by
 Terence—

*Qui neque jus, neque bonum atque æquum sciunt,
 Melius, pejus, profit, obfit, nil vident nisi quod lubet.*

X

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They are no longer men of so much dignity, that Lord Coke thought that Act of Parliament which gave wages to the Justices, derogatory from the credit and honour of their office. The maxim of an ancient writer is adopted, that a Judge should not “ seem “ more humane than the Law”—
φαινεσθαι φιλανθρωπότερον τῶ νόμῳ.

ANTI-COURTIER.

Great labour and pains seem to be used, in order to reduce the practice of a Magistrate to one rigid rule alone; clear, easy, and adapted to every comprehension: education, study, and reflection, no longer become necessary for the just performance

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formance of his duty. The science of a Magistrate is now comprehended and confined in one plain, simple rule, which is not to be deviated from, either to the right, or to the left. This rule exceeds the ingenuity even of the famous master of defence, who reduced all the multifarious principles, and rules of practice, in his art, into *two*, which rendered all other knowledge unnecessary: “ one was, to hit the “ adversary—the other, to defend “ yourself.” Do Legislatures wish to inherit all the knowledge, equity, and humanity of Magistrates, by their annihilation; as if these celestial attributes were, like costly ornaments, transferable? Those

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laws must be cold as the hearts
 which made them, which will bear
 no deviation—which ever remain
 contracted in the genial warmth of
 benevolence.—Iron itself stretches
 in the rays of the sun.

MAGISTRATE.

Blackstone observes, “ when we
 “ consider the various and almost
 “ innumerable branches of the Re-
 “ venue, which may be, in their
 “ turns, the subjects of fraud, or
 “ at least complaints of fraud, and
 “ of course the objects of a sum-
 “ mary and arbitrary jurisdiction,
 “ we shall find that the power over
 “ the property of the people, is
 “ increased to a very formidable
 “ height.

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“ height. The backwardness to
 “ act as Magistrates, arises greatly
 “ from the increase of summary
 “ jurisdiction. This trust, when
 “ slighted by gentlemen, falls, of
 “ course, in the hands of those who
 “ are not so, but the mere tools of
 “ office : and then the extensive
 “ power of a Justice of the Peace,
 “ which even in the hands of men
 “ of honour is highly formidable,
 “ will be prostituted to mean and
 “ scandalous purposes ; to the low
 “ ends of selfish ambition, avarice,
 “ or personal resentment ; and from
 “ these ill consequences we may
 “ collect the prudent foresight of
 “ our ancient lawgivers, who suf-
 “ fered neither the property nor the
 “ punishment

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“punishment of the subject, to
 “be determined by the opinion of
 “any one or two men. *And we*
 “*may also observe the necessity of not*
 “*deviating any farther from our an-*
 “*cient constitution, by ordaining new*
 “*penalties to be inflicted, upon sum-*
 “*mary convictions.*” If there was
 a backwardness in respectable men
 acting as Magistrates at this period,
 how much more formidable is the
 office *now*—loaded with additional
 duties, of the most painful sort, and
 without the power of affording
 relief!

By these Acts the Magistrate is
 thrown into a curious dilemma: if
 he executes the laws, he is deemed
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the tool of power; and whatever
 violence he may commit on his own
 feelings, he obtains the character of
 being cruel and despotic. If he does
 not comply with the Acts, an in-
 formation is moved for against him,
 in the King's Bench; and he is
 accused of prejudice and partiality.
 At best, what is not very creditable
 in a Magistrate, ignorance is his
 only refuge. The laws with regard
 to Magistrates seem, it is acknow-
 ledged without intention or design,
 but in their consequences to exceed
 the ingenious device of Procrustes,
 the celebrated tormentor: he in-
 vented a bed of torture for all who
 did not pay just tribute; if they
 were

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were too long, they were to be lopped—if too short, they were to be stretched. This bed would, indeed, fit some few, who might be “honourable men:” but the above dilemma is inevitable to those, and calculated only for those men, who have conscience and humanity. The toil is wrong set: they only who are caught, ought to escape; whilst those who escape, ought to be the only victims of torment. Where any fit the measure, and are not annoyed by the bed, they are a disgrace to those who cannot, without compunction, conform to the strict letter of the law. It is a discouraging doctrine, that a Magistrate,
if

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if he does not discredit his office, must be either cruel to himself and his family, or to others. If a Magistrate does not feel; if he regards only his own personal safety, and, in indolence and affluence, comforts himself with the rule, that the Law is to take its course; he is utterly unworthy of the high and important charge over the property, character, and liberty of others, with which he is intrusted. This sentiment of Terence has ever delighted me—

*Nimum ipse est durus, præter æquumque et bonum;
Et errat longe, meâ quidem sententiâ,
Qui imperium credat grave esse, aut stabile,
Vi quod fit.*

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ANTI-

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ANTI-COURTIER.

By a late Act of Parliament, intitled the Tobacco Act, there is a singular omission in favour of Justices, which would have been a favour to them in the above Acts of Parliament. An oath is to be taken by every retailer of tobacco; and no person whatsoever is empowered to administer the same. The consequence is, that the Justices of the Peace act optionally and voluntarily; and many have imbibed so great a prejudice against the Excise Laws, that they refuse to act at all.

MAGISTRATE.

A new mode of extortion has been lately invented by informers.
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They treat tradesmen with cruelty, more characteristic of tyranny than of that freedom, the blessings of which we so amply enjoy. They obtain penalties by fishing informations, when there is any doubt of the proof being sufficient, or of any illegal act being really committed at all. The informers will privately accuse tradesmen of selling goods without stamps: the tradesmen, in the hurry of business, which in the country is generally transacted once a week, on a market-day, and for which purpose they are obliged to borrow assistance where they can, must be ignorant whether twopenny stamps may not have been given instead of threepenny, or whether

Y 2 any

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any other unintentional inaccuracy may not have happened.* He is therefore very willing to compound occasionally with an informer, for any sum less than one of those penalties,

* The following observation lately appeared in a modern publication. “ It has always been a maxim of Law, that ‘*Ignorantia Juris non excusat*’—Ignorance of the Law will not excuse any one;—and the propriety of the doctrine shall not be disputed.—But some of our Penal Statutes have gone a step further, and even make *ignorance* of the FACT to be no excuse: for, by the 15th and 16th Geo. II. C. xxviii, a man is liable to a year’s imprisonment for passing a BAD SHILLING; and thus, unless his optic nerve be uncommonly strong, or his judgement in metals be equal to that of the Birmingham artists, his impotence, or his ignorance, may procure him twelve months residence in the cells of Newgate.”

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nalties, which may easily have been incurred by others in his shop:—a new mode of white-washing, every tradesman is happy to adopt; and he becomes clear of all demands which may be made against him. It reminds me of that period when dreams, and even words spoken in sleep, were to be compounded for by the scrutinizing injunction of a confessor.

LAWYER.

It fortunately happened, one of these compounders was convicted, in Trinity term 1789, of thus compounding a penalty. Thomas Kelly extorted the sum of 8*l.* from Amos Bolt, by menacing him with
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an information for felling gloves without stamps; and was convicted of the same. It is more to be wished than hoped, that this conviction may be an example to these profligate, dissolute men, who are too callous to take warning by any punishment but their own. In Michaelmas term 1789 he was ordered, by the King's Bench, to stand twice upon the pillory, for two hours each time, at Brentford, on two market-days. The event is well known: the populace were so exasperated at such villainy, that, had not the Sheriff taken him away before the expiration of the time, he would inevitably have been killed.

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The discouragement given to all these abuses, by one of the most enlightened and upright Chief Justices of the King's Bench that ever lived, will soon prove an effectual remedy against the iniquity of which you complain.

MAGISTRATE.

An evil, too, not less prejudicial to the peace of the community, and the observance of good manners, than to the character and private fortunes of individuals, arises from the heavy penalties accruing to the informer, as directed by the Stamp Acts. A new race of people, called Travelling Informers, now infest every
every

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every country. They live at the public-houses of a village, in a riotous and dissolute manner; spending, in extravagance, what they got with ease and expedition; whilst their dissipation is supplied by the necessities of many poor, deserving families. This race of men, who are the pests of society, travel about with all the pomp of Eastern luxury. As it is necessary there should be informers, and witnesses, who should agree in the same facts, they carry about with them females, who have lost all the compassion and tenderness of their sex; and who are versed in every art, to delude the honest shopkeeper, in the hurry of a market-day, into incurring a penalty.

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This ill-gotten wealth enables these vagrant Informers to lead an abandoned life, which is a scandal to themselves, and pernicious in example to the whole neighbourhood. They daily violate the laws of decency, integrity, and morality, whilst they enforce those of the Revenue. They render those laws odious, which it is their profession to protect; and these avowed friends of Government, render Government itself hateful and contemptible.

LAWYER.

The accompaniment of these Sybils has lately been the subject of conversation in one of the Courts in Westminster-hall.—*Mary Pace*

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and *Ann Parker* applied to be released from suits, wherein their names had been used, for prosecuting Lottery Officers; particularly in *qui tam* actions against Edward Johnson. For some reason or other, they chose to desist from these prosecutions; upon which the principal, who was in fact the real informer, indicted them both for a conspiracy and perjury. Parker was apprehended, and committed to Newgate. These unfortunate females were, in fact, so much involved in distress, that they applied to the Court for relief. The words of honest Judge Gould, upon the subject of these suborning informers, were remarkable. "Surely" said he,

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he, "the constitution of this Country cannot be *so narrow*, but that there must be some method of bringing such bold and hardened delinquents to justice."—It was there observed, that the fortunes of many were at the mercy of that vulture, that locust in human society, a common Informer—a being who, however detestable to human nature, is nevertheless necessarily protected by the Law; and must be attended to, whenever he wishes to exhibit his *qui tam* action.

It is a common argument, used by many, that innovation is dangerous; that every thing should remain as it is, merely because they

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themselves happen to have no necessity for any alteration. It is observable, that these arguments are urged only by those who have great reason to be satisfied with their own condition. There are many obsolete Penal Statutes still in being, which the industry of these creatures may find out; and when they do, we shall be convinced of the necessity of reviewing these Statutes, and of repealing a great number of them, in spite of the rule, that we will have no innovation.

ANTI-COURTIER.

Another evil consequence arises from these Laws; which is, the increase of spies. This sort of secret intelligence,

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intelligence, is an engine of Government almost unknown before in this Country; an exotic of foreign growth. The revenue which is raised from so corrupt and infamous a source, comprehends nothing solid or productive;—as the Republic of Venice, entirely supported by spies, has no claim to freedom but the name.

Dr. Campbell observes, “ The
 “ public revenue must always arise
 “ from the system of public policy;
 “ and, therefore, both in its nature,
 “ and in the mode of levying, be-
 “ comes a very material and a very
 “ characteristic mark of that policy
 “ from which it arises, and upon
 “ which

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“ the stability of Government, and
 “ of course the safety and happiness
 “ of the subject, must depend.”—
Campbell's Political Survey.

Secret intelligence, like vitriolic acid, destroys without allay. The race of spies may well be compared to reptiles: like mites in cheese, they leave nothing but an hollow superficies, and live upon what sustains them. The cheese maintains its name—and this is still called a Free Country.

MAGISTRATE.

This race of men seem most to regard the indulgence of private
 revenge,

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revenge, spleen, and malignity. From their encouragement, all domestic order becomes subverted: masters become in the power of their servants, when there has been the least inadvertence, or accidental negligence:—servants faults are, in turn, overlooked; encouragement is given to idleness and vice; disorder reigns in families, and the greatest mischief accrues to society. Sir James Stuart observes, that “ when
 “ Excise Duties increase to a considerable degree, the collectors will
 “ oppose frauds to frauds; that there
 “ will be separate classes of people;
 “ and that all discord hurts a state,
 “ as it does a private family.”—The penalties obtained by these sorts of
 informations,

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informations, are not less subversive of industrious habits, than the money which is obtained by gaming, or any other evil course. The laborious peasant will become as idle and dissolute as the common informer: till the money he receives from a penalty is spent, he will not return willingly to work: with an habit of intemperance and excess, and, with their consequence, impaired health, he will not any longer be encouraged to activity, by the esteem and good-will of his neighbours, to whom the character of an Informer is ever odious.— Thus, from having brought up his family in comfort, his sudden affluence will be the cause of bringing them

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them to ruin; he will seek new and easy modes of obtaining a livelihood; having become more callous to reproach, and insensible of loss of character, he will, in the end, seek every dishonest means of gain; and, from being an useful member, he will become an outcast of society.

ANTI-COURTIER.

What has been said in a celebrated pamphlet, intitled “Authentic Specimens,” is very applicable to this species of laws, which may be intitled, more properly than *Excise Laws, Stamp Acts*. “Where the Excise Laws are extended, the condition of the country is altered for the worse: notwithstanding

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the extension of commerce, and a spirit of industry, apparently unconquerable; the necessity of collecting high and numerous imposts, requires exactness and severity: the odious authority of excisemen is augmented; the magistrates become insensible to complaints; and the usual encouragements of agriculture, the operations of ingenious diligence, and the efforts of invention, are gradually extinguished.

“ The listlessness and apathy with which Ministers have been suffered to extend the Excise Laws, is a melancholy symptom. The prisons have long been filled with wretches, whose first knowledge of their offence,

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fence, is in the punishment: one class of subjects is perpetually watching and warring against the other; and snares are laid for those who are devoted to wretchedness from their birth, and who are martyrs to the wants of the moment.”

“ A prince of any benevolence,
 “ or humanity, loves and cherishes
 “ the people that are fallen under
 “ his dominion, in common with
 “ the rest of his subjects; and leaves
 “ them in quiet possession of their
 “ former customs and privileges:
 “ so that, if they cannot thrive and
 “ flourish, like those that are perfectly free, yet they do not absolutely
 “ sink into ruin, like others that are in
 “ downright slavery.—Machiavel.

The King of Prussia observes,
 “ Princes should resemble the spear
 “ of Achilles, which gave the
 “ wound, and afforded the cure:—
 “ they bring evil upon nations; and
 “ the evil they cause, it is their
 “ duty to redress.” *Princes in
 foreign countries, are Laws here—*
 what is said of one, applies to the
 other.

Legislators and Ministers will do
 well to redeem the character of
 these more modern Acts, by insert-
 ing a clause of reference to the Act
 of Charles the Second, which, with
 so much caution and vigilance,
 watches over and guards the rights
 of the subject; and deserves, no less
 than *Magna Charta*, and the *Habeas-
 Corpus*

Corpus Act, to be written in letters
 of gold: they have omitted to infuse
 “ the sweet and pleasing antidote,
 “ to cleanse all perilous stuff.”—
 These Acts do more than threaten:
 the wand of authority is not here
 held out only *in terrorem*; it does
 not contain, like Sancho's staff, any
 hidden gold: it may produce, in-
 deed, a few penalties to the Ex-
 chequer, but more pains and impri-
 sonment; and has nothing of in-
 trinsic value. The Excise Laws,
 more like the box of Pandora than
 the bag of Plutus, issue nothing but
 evils to the subject; and, unlike
 those I have before cited, they leave
 no power to Magistrates to mitigate.
 Inadvertence, ignorance, blindness,
 and age, are here inexcusable, and
 are

are equally blended with wilful deception. Modern Acts, alas! only strike—they do not hear.

MAGISTRATE.

It is a maxim, that people who live with one another, should give each other credit for opinions apparently wrong and ill founded. By the credit being mutual, nothing is lost by it: if it is bad, it will at least produce confidence and good-humour. Time will, however, show that many of these opinions are founded on judgment and reason; whilst truth, improvement, and cheerfulness, will have arisen from that credit, which contradiction and criticism would have destroyed.

We

We are met for the purpose of revising laws, not of reviling measures or men. The increase of Commerce, the rise of the Funds, the protection of the liberties of Holland, our firm and extensive Alliances, discover peculiar attention, application, and ability, in our Statesmen. The object of this discussion of the Laws, is, to know, whether, consistent with the welfare of Government, the Laws can be enforced with more lenity, and the Magistrate can execute his office with a better conscience, and with more peace of mind? With the increase of public debt, there must be an increase of taxes, to be collected at the least expence; and there

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there must, I doubt, be more rigour in the exaction: but I trust in the wisdom and humanity of Legislators to correct any omissions in Laws, which produce unremitted hardship and distress; that they will listen even to "the fly on the cart-wheel." The Magistrate, in the routine of public affairs, may be compared to an insect, which has its station on the earth, and is still not without its use. It may, from necessity, be crushed to atoms: but generosity and clemency will spare—even sensibility.

People are apt to draw true conclusions from the particular circle they have fallen into, which are
false

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false when applied in general: hence a general communication and consideration are as necessary to the truth of reflections on politics, as a great variety of experiments is to the knowledge of natural philosophy. No government can be well administered, when the acts of that government are treated with disrespect. Our prosperity, and ultimately our happiness, depends upon our consulting the propriety of every measure, not the agreeableness of it.

In the words of that enlightened and deep politician, Sir James Stuart,
" I keep constantly in view those
" virtuous statesmen, who think of
" nothing but the good of their
B b " subjects;

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“ subjects : taxes and impositions,
 “ in their hands, are the wealth of
 “ the father of the family ; who
 “ therewith feeds, clothes, pro-
 “ vides for, and defends, every one
 “ within his house : the increase
 “ of taxes, on this supposition, is
 “ national economy. Frauds are
 “ the thefts of servants, impairing
 “ the public good, and particu-
 “ larly the means of self-defence
 “ against the encroachments of am-
 “ bitious neighbours. In this na-
 “ tion, public faith stands upon the
 “ solid security of an honest Par-
 “ liament, and upon that responsi-
 “ bility which is fixed upon those
 “ who are trusted with the exertions
 “ of the Royal Authority.” No
 man out of power, does himself or
 his

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his country any good, by pretending
 to be wiser than the Laws. Liberty,
 the noblest possession of mankind,
 differs as much from licentiousness,
 as hypocrisy does from religion. It
 is not an exemption from Law, but
 a certainty of Law ; and any people
 who are governed by certain Laws,
 agreed on in common, and pre-
 scribing the bounds of every civil
 action, not capable of being altered
 or repealed by the over-ruling dic-
 tates of one or more men, are truly
 free ; not from those Laws, but by
 them. This is a sentiment of the
Examiner.

Patriotism has its best foundation
 on private economy ;—liberty, on
 public credit :—innovations are, at

B b 2

least,

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least, as necessary to preserve freedom, as to support despotism. Machiavel observes, that a free government, in order to maintain itself free, hath need every day of some new provisions in favour of liberty.

Liberty is in its ascendant when we enjoy it in as much perfection as circumstances admit.

Lord Somers was, in the bitterness and extravagance of faction, accused, though one of the ablest and worthiest that ever this, or any nation, produced:—with all his virtues and abilities—with all his public spirit—with all the integrity and success of his administration, he did not escape reproach and opposition;
so

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so far otherwise, that he was most virulently assaulted and vilified, and forced to retire.

May not the abuse of public measures sometimes proceed from the want of comprehending them? May not the faults originate with us? And may not we view colours with a jaundiced eye? It is ludicrously said in the play, “It must be a libel, “because we don’t understand it.” I will not say, *mutato nomine de te fabula narratur*; but I will apply the following lines to myself:—

*Homine imperito nunquam quidquam injustius,
Qui, nisi quod ipse facit, nihil rectum putat.*

This is a sentiment of Terence’s philanthropic character of Micio;
who,

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whom, in the language of Sterne, I love more, and would go further to pay a visit to, than the greatest hero of antiquity.

ANTI-COURTIER.

Sterne, whom you quote, ridicules your political doctrine, which is founded on an opinion of Sir Robert Filmer's, " That the plans and
 " institutions of the greatest monarchies, in the Eastern part of
 " the world, were originally all
 " stolen from that ancient pattern
 " and prototype, of this household
 " and parental power, which, for
 " a century, had gradually been
 " degenerating away into a mixed
 " government; which seldom produced
 " duced

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" duced any thing but sorrow and
 " confusion."

An arbitrary government renders men submissive, and the mind acquires an habitual acquiescence in every event. I found my principles on no such maxims; nor on the mildness of your favourite character, Micio. The zeal of patriotism, the fire of party, and the passion of public spirit, are not to be warped by rule, nor subdued by philanthropy. *Amicus Plato, amicus Socrates, sed magis amica veritas.* Demea's acrimony pleases me more than Micio's amenity. I will add, in the words of Demea,

— *Derides? fortunatus, qui isto animo fiet,
 Ego sentio.*

MAGISTRATE.

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MAGISTRATE.

Ab! pergisne?

ANTI-COURTIER.

Jam desino.

MAGISTRATE.

*I ergo intro; et cui rei est, ei rei
bilarem sumamus diem.*

T H E E N D.