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**TRIAL**  
OF THE  
*Information ex Officio*  
**THE KING**  
*versus*  
**JOHN LAMBERT AND ANOTHER,**  
ON A CHARGE OF  
***LIBEL***  
ON  
**HIS MAJESTY'S PERSON**  
INSERTED IN  
***THE MORNING CHRONICLE.***

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LONDON:  
EDITED BY JAMES PERRY, AND PRINTED BY JOHN LAMBERT, STRAND,  
FOR  
JAMES RIDGWAY, BOOKSELLER, PICCADILLY.

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1810.

PREFACE.

THE interest which is felt in every thing that regards the Liberty of the Press, makes it my indispensable, but cheerful duty to publish the substance of the Trial on the Information *ex officio*, the King against John Lambert and myself.

It is intitled to public consideration, both in respect of the admissions made by his Majesty's Attorney General, and still more of the clear, intelligible and sound rules laid down by the Noble and Learned Judge, which have defined, fixed and established for ever the just legal boundaries of the press, and allowed it limits sufficiently broad, liberal, and safe. The Attorney General, so far from maintaining the dangerous and impracticable doctrine that any discussion in print, which should tend to bring his Majesty's Ministers into disrepute, was a libel, fairly admitted, that a vigilant and direct censure of mal-administration was within the lawful province of the English press; and essential to the preservation of our rights and liberties as a people. The Noble and Learned

Judge confirmed this declaration by his judgment; and added, that as it was not given to finite beings to be perfect, an erroneous view of a particular subject or topic might be innocently ascribed to any living person, provided that no immoral or corrupt motive was assigned or insinuated thereto. This I conceive to be ample latitude for the liberty of the press; and this scope has been given to it, and determined under the direction of an upright Judge, by the verdict of an independent Jury. It is a sensible satisfaction to Mr. Lambert and myself, that we have been the instruments of procuring for the press of England this constitutional definition of its rights.

Indeed it before happened to us to be accessory to the settlement of a controverted right, which we considered at the time as most material to the legal security of Englishmen, when brought under prosecution by the Crown.

In 1793, an Information was filed against us for an address from the town of Derby, published as an advertisement in the Morning Chronicle. It was the first trial of a case of libel, under the short and simple Statute, which was digested and introduced into parliament by the most illustrious Statesman of the age, in council with the most eloquent Advocate. Our defence was conducted by the latter on the clear principles of his own bill; and upon that occasion he claimed for the subject, that *the first Jury, struck and reduced ac-*

*ording to law, should be the Jury to try the cause, however long, and however often the trial might be postponed, a rule without which no Defendant could be safe; for as the law officers of the Crown may put off the trial of a cause from term to term, and even from year to year, it would be intolerable if they could also change the pannel, until they found a Jury that they might regard as favourable to their views. But under the auspices of the present Lord Erskine, we obtained the final settlement of this important point; and it is now the established principle in practice, that the Jurors cannot be changed. We feel a degree of pride therefore in the reflection, that in the two instances in which our conduct of a daily paper has been called in question in a court of law, we have not merely been delivered from the charge of libel by a verdict of our countrymen, but have been the means of obtaining substantial benefits for our fellow labourers in the periodical press.*

Indeed the consideration of the hardships of various kinds under which we have been made of late unjustly to suffer in public opinion, was a part of my inducement for appearing personally in Court on the late trial. The motives operating on my mind, as peculiar to the cause itself, I took the liberty to explain in my address to the Jury. It would have been impertinent in me to detain the Court with the other motives that almost equally contributed to the step I took; but I may be here allowed to say, that

the anxiety I felt to repel the illiberal obloquy thrown out on the periodical press in general, and on all persons connected with it, did embolden me to meet the censure in an open Court, and to put upon record my public vindication of the body to which I belong. The cruelty of the odium pressed upon me with peculiar force from the quarter in which it had received a degree of countenance; and as one of the oldest of the periodical Editors, I felt it to be an obligation imposed upon me to vindicate the body from indiscriminate aspersion.

God forbid that in such vindication I should attempt to palliate the enormities of those who prostitute the press! It would not be necessary in order to illustrate the character of any profession to find apologies for the exceptions to its general purity. It is no disparagement of the honourable part of a community that miscreants may have found admission among them; and it is my sole desire to represent to my fellow subjects the propriety of consulting their own understandings, and of exercising their own judgment in deciding on the merits of an undistinguishing prejudice excited against any order of persons whatever. It is allowed that the periodical press is the most convenient organ of communication to the public that human ingenuity can devise; and it is felt, with very few exceptions, that among a free and enlightened people, jealous of their rights, and eager to transmit the blessings they enjoy to their children, it ought to be che-

rished and protected as an inestimable good. What then can be the sense and discretion of those few persons who would stigmatize the instrument which is so generally acknowledged to be necessary? It surely is not the most likely means of correcting any indecorum, that may be complained of in the press, to raise a clamour that shall have the effect of driving every man of delicacy from the profession. If a general opprobrium is to be flung out, and they are to be considered as a race proscribed, would it be wonderful if the press should fall into the most degenerate hands, who would not scruple to prey upon the community that degrades, and yet endures them? What must be the condition of men doomed to live under contumely and without hope? If there be any means more likely than another to correct the licentiousness, and to polish the manners of the press, it would be to give to its writers the sentiment of a personal interest in the maintenance of public morals, and in the duty of inculcating a just deference to all the orders of the State. It would seem, indeed, as if it were in the eyes of some a thing to be coveted, that the periodical press should not sympathize in the distinctions of our well ordered community; but should have its heart cankered by expulsion from the field of honour. Is this political? An honest man may resist corruption, and a firm nature may despise intimidation; but there are few who would not

feel the complacencies of attention, if understood to proceed from the admission of an identity of interest. There may be a rare example of constancy under neglect, but it is too much to expect in these times, that the practice should be general. Those indeed who wish to annihilate the press, take the surest means of gaining their end by decrying the profession of a writer. If they could once vilify the agents, they would speedily create a necessity for abolishing the thing; since, if every man who respects the decencies of life, or who is actuated by the pride of principle, were to be withdrawn from the press, it would become too licentious for endurance, and Society must abolish it in their own defence.

If there be in this country any considerable number of persons, who really desire the overthrow of the established frame of government, they would rejoice to see the press put at variance with the orders which it is their object to extinguish. The members of the periodical press are as sentinels placed on the outworks of the national fortress, which we are daily told is besieged and in danger of being undermined. If the countersign, when at their post, were to be—*exclusion*—from all rank in the garrison to which they are yet expected to give the alarm, would the assailants wish for a more favourable picquet to watch their approaches?

But it is the glory of the Constitution of England that it has no *exclusions*. The most exalted

situations under the Crown are held out by the beneficent testament of our forefathers, as the birth-right of all its sons, who, by their attainments, talents, and services, may entitle themselves to advancement under its sanctions. The road to honour in England is like the path to Heaven; which, though it may be difficult of access, is yet not shut to the most humble and obscure. Every thing is within the possible reach of merit, and therefore every distinction is dear to an Englishman, because it may be his own, or may be attained by his posterity. He is thus stimulated to a contest in which emulation produces excellence, and service to the country a title to its honours. This was, with great modesty on his part, emphatically stated by the present Lord Eldon in the course of our former trial, to which I have alluded, in 1793. Upon that occasion, the noble Lord, in his reply to Lord Erskine, speaking of the equal protection and favour, which the English Constitution holds out to all, thus expressed himself:

“ Let me intreat him (Lord Erskine) to reflect on the situation in which both of us are now placed, and which, if twenty years ago, any person had told me I should have attained, I should have regarded it as madness. If we by our industry, (my friend, indeed, with the advantage of his superior talents) have acquired a degree of distinction which we could not reasonably have looked for, let us be thankful to that government to whose

protection and favour we are, in a great measure, indebted for our success. And do not let us, by any rash attempt upon our constitution, (he might have added *by any illiberal proscription*) put it out of the power of our children to rise to similar situations, or deprive them of those blessings which we have ourselves so signally experienced."—The case of Libel, *The King v. John Lambert and others*, 1794, p. 54.

How can the resolution of an honourable and learned Society, which has recently been alluded to in Parliament, be reconciled with this animated appeal to a most distinguished Member of their own body? Every community must have the power of purifying itself: and they cannot be made answerable for their determination, upon any individual case, in which they may exercise their *nobile officium*; but to pass a sentence of eternal civil reprobation on a whole class of the King's Subjects, and to excommunicate them from the pale of the Constitution, is a measure which I am sure requires only to be revised to be annulled; and which, I am told, was passed, in the words in which it stands, through mere inadvertency\*. If it were a resolution which tended to preserve the dignity of a profession essential to the pure and equal admi-

\* The following is the resolution of the Benchers of Lincoln's Inn, but which has not been acceded to by all the other Inns of Court, and it was passed at a meeting of only *five* members of that honourable Society:

"No person who has written for hire in the Newspapers shall be admitted to do exercises to entitle him to be called to the Bar."

nistration of justice, all men would applaud it; but it is not so. If the Law in England is in danger of being degraded from a profession into a trade, it is not from the Newspapers, nor from any person ever engaged in them, that pollution is likely to be received. In truth I know of no means, subject to the power of discrimination, that belongs to the Law Societies, so favourable to a preparation for the bar, as the employment of a part of the time, required for study, in reporting the debates of Parliament. It is a school in which their minds are likely to be enlarged by the instructive and moral observation of the triumphs which learning and eloquence never fail to obtain, but which are always the most splendid and complete when exerted in the cause of freedom, justice, and humanity. Indeed my experience enables me to say that the impressions made on the minds of the young men who have frequented the gallery of the House of Commons (whether they did so from curiosity or as a resource) have had an animating influence on their future lives—which has fairly entitled them to the distinctions they have obtained in the Church, the Courts of Law, and the State. For men of talents rarely devote themselves to reporting as a pursuit in life. The recollection of the fate of all those who actually did look for fortune to their talent in this respect, would deter men of education from entering into it at all, if it were not a fair road to a more promising course.

And when it is considered that the occupation requires a previous consummate education—that the persons have all, therefore, been liberally bred, that they are chiefly the sons of Clergymen, or of other professional men, who have perhaps made many sacrifices to endow their minds with knowledge and talents that may qualify them to aspire by honourable ways to advancement, it will be owned that there is nothing in itself to taint the character with reproach. There is nothing in it which tends either to sophisticate the understanding or to vitiate the heart. Take from the sons of persons, in the middle sphere of life, whose means may have ceased with the vigour of their faculties, or with the close of an industrious life, or whose homes are at a distance from London, the opportunity of writing for remuneration, and what is left for a youth in his progress from school to the bar? Oh no, not all writing for hire is denied them! for if they are men fit to be Reporters, they may become Special Pleaders, and may deal in Opinions, Pleas and Demurrers, which it is perfectly consistent with honour to retail at five shillings a piece! I do not mean to insinuate any thing against this species of employment; but I wish to keep open the larger source of provision which it is now attempted to shut, and which, I think better calculated to elevate the mind of a youth to a just contemplation of the rights and duties of a British subject, and to make

him (coupled with legal study) what I conceive to be one of the noblest characters in life, a constitutional English Lawyer.

If it were not that it might be regarded as a trespass on decorum for me, in this place, to attempt to illustrate the character of our Courts of Judicature, I should only have to refer to the following pages for an example of the splendor that surrounds an English Bench of Justice in the dispensation of the Laws, which protect the blameless as effectually as they serve to punish the guilty. The direction of the noble and learned Judge in this cause will be held in reverence as long as the just and proper Liberty of the Press shall be dear to Englishmen.

I am sure that I shall be pardoned for intruding on the public this notice of the proceeding of the Benchers of Lincoln's Inn—I am moved to it by no personal consideration. I am arrived at a period of life when the resolution, if it should endure, could not affect me; but my knowledge of the talents and integrity of many of the persons who have been engaged and who are still engaged in the periodical press, makes it a duty incumbent upon me to exert myself in procuring the repeal of a sentence so inimical to justice. I can truly say that there have been both of former and of later years, engaged in my own and other Journals, persons who are now employed, in various situations, professionally and politically, with credit and honour to themselves and with advantage to



the public. I could name several gentlemen, inferior to no equal number, that might be selected out of any rank of Society, in intellectual endowments or in moral character. I do not desire any particular favour for the periodical press. I demand only justice. Withdraw this opprobrious bar, and they will vindicate their own claims to employment. Mine is not a prayer for indulgence—It is a petition of right.

I must say, however, that I am confident it will not be denied; and I feel singular satisfaction in being able to say that I have heard but one feeling expressed by all considerate men either as to this particular case, or as to the declamatory abuse thrown out against us by one or two Members of Parliament. And in truth I never knew an instance of real enmity to the press but from persons whose views were not public. Vain however is the attempt of any man who looks for political importance, to shelter himself from the scrutiny of the press. The spirit of inquiry, by which the nation is quickened, has given a spread to light and information unexampled in any former period of our history, and which cannot fail to be most favourable to the best interests of the realm. It is working a progressive improvement by the most quiet and therefore the most effectual means. The value of the free press is thoroughly understood; and the recent instance of the reception which a right honourable Gentleman (whose chief title to reward was his alacrity in the execution of a ministerial

mandate against it) met with from the enlightened Freeholders of Cambridge, will have a suitable influence on the conduct of others. He now talks of a conspiracy of the press against individuals, as he before talked of a conspiracy of the people against the House of Brunswick! This is very ridiculous, but no doubt he wishes to assign over the newspapers to wretches even lower in the scale of being than grubs—to creatures who would not turn when trampled on; but this sentiment belongs to a very few indeed; and I am happy to be able to justify all men of real consideration from the reproach.

Nothing can be more unjust than the attempt to implicate the Whigs in the charge of an affected disdain of the press, or of a cold disregard of the people—The reader must have witnessed the insinuations which are thrown out, “of their avoiding to use an intelligible language—that they absent themselves from popular meetings—that they speak with acrimony of the public indifference to our danger, while they do nothing themselves to conciliate their esteem or to rouse their activity; and that in short they seem to have imbibed the conviction, which it has been the tactic of the age to bring into fashion, that parties must look to another quarter only for support.” This is said, for the purpose of making the public and the press their enemy, and has been so often repeated, that many people give credit to the slander; yet nothing can be more unfounded. In my very humble station it



becomes me only to state the result of my own observation—And I must declare that I think the very abstinence of the Whigs from all communion with the violent Innovators of the day, is a proof that they are steady to the faith of their ancestors, and that they are persuaded of the speedy return of the nation to a just confidence in the more prudent course of reform, which they have advised. They are convinced of the necessity of that reform, since the unbounded increase of the expenditure demands proportionate securities to the people against the influence which it creates. They must be very inconsiderate observers of the public temper indeed, if they did not see that no effective Government possessing, as it must possess, both the confidence of the Crown and of the people, can be established without a salutary and effectual correction of the abuses that have crept into the system. The feeling of the necessity for this reform is universal, and the real constitutional friends of liberty know that the people look for it—that they will give their confidence to no party, who shall not pledge itself honestly to accomplish it—and that they look for it, not through the means of disorder, but of representation; and that this they hope to obtain, not through demagogues, but by the press.

Since writing the above, a discussion on the subject of the obnoxious resolution has taken place in the House of Commons, on the motion

of that uniform and zealous friend of the Press, Mr. Sheridan—Strangers were withdrawn at the instance of Mr. Windham, but the following brief account of it has been transmitted to me.

HOUSE OF COMMONS, 23d March.

Mr. SHERIDAN said, of all the people in that House, he least expected the enforcement of the Standing Order for the exclusion of the public from the Right Honourable Gentleman who had come forward on this occasion. He expected he would have eagerly seized this opportunity to recant the false doctrines which he had formerly so unguardedly uttered, and become a convert to the true faith of the freedom of the Press. He expected this candid and conciliatory proceeding, particularly as the Right Honourable Gentleman had been so very zealous in the correction of his speeches, so very anxious as to the stress of his emphasis, and the modulation of his voice, and so studiously inquisitive as to the happiest attitudes for giving his sentiments a pantomimic effect. He was led, indeed, still more strongly into this expectation, which had been so fatally disappointed, from the information that he had made amicable advances to Mr. Cobbett, and entered into a fair treaty of conciliation. These hints he merely threw out for the consideration of the Right Honourable Gentleman. Mr. Sheridan then professed his intention of not troubling the House at any length, which, indeed, could hardly be necessary, after the observations he had made respecting the subject of his present motion on a former night. He could assure his Right Honourable Friend, Mr. Windham, that he should not indulge himself, as that Gentleman had feared, in any declamatory invectives against the Honourable Benchers of Lincoln's Inn, or any glowing panegyrics on the Gentleman who

had just left the Gallery. The case that he wished to bring before the House was one which seemed to him well to deserve the interposition of Parliament; yet he should have been better pleased to have obtained his object, as he expected to have done, by the voluntary act of the Honourable Benchers, of whose bye-law he complained. He understood that the law was made unadvisedly, on a sudden application to them after dinner, when but a few Benchers were present, and he believed that even those who made it were well disposed to repeal it, on further consideration of the subject. He knew that out of term they could not, in the regular course of their proceedings, meet for the purpose, but the matter in his opinion was weighty and urgent enough to call for an extraordinary meeting. At all events, he could not reconcile himself to any further delay in submitting it to the consideration of the House. The bye-law, which had been placarded by the order of the Benchers in the Common Hall of the Society, where the Court of Chancery sits, proscribed a whole class of men, and fixed a stigma upon them, by declaring them to be unworthy of being admitted into an honourable profession. It was declared, that no man who had ever written in a newspaper for hire, should be allowed to perform his preparatory exercises, in order to his admission to the bar. If such a rule had formerly prevailed, it would have excluded from the bar many men who had been ornaments to their profession, and distinguished Members of that House. He had a long list of such characters in his hand, but would not read it, least it should seem indelicate or invidious; since the Benchers of Lincoln's Inn, it seems, thought the case disreputable, though in his own eyes it was the reverse. He might, however, without any danger of exciting any contemptuous feelings in the mind of His Right Honourable Friend (Mr. Windham), mention a man whom he rather more

than idolized, Dr. Johnson, as one who had written for periodical publications for hire, and had even written Parliamentary debates, though without coming into the Gallery to hear them. Here Mr. Sheridan related a well known anecdote of Dr. Johnson, which had occurred at the Literary Club. Two speeches of the *late* Lord Chatham, or, to avoid the turn of a certain waggery that had been used, he would say, the great Lord Chatham, had been compared to the orations of Cicero and Demosthenes; but the question was, which of them resembled the Greek, and which the Roman Orator; and this was referred to Dr. Johnson. The answer was, "I do not know; but this I well remember, that I wrote them both." He might also, without offence, mention another departed character, lately high in the esteem of the House, and of his Right Honourable Friend in particular, the late Dr. Lawrence, who also would have fallen within the present proscription, if it had formerly existed. He did not know whether the authors of this bye-law confined their dislike to daily newspapers. Did it extend to weekly ones also? If so, why not to Monthly Magazines and Quarterly Reviews? If it reached so far as Annual Registers, their principle would stigmatize even Mr. Burke, who had written for a periodical publication of that kind, and been remunerated for his trouble. Of about twenty-three Gentlemen who were now employed in reporting Parliamentary Debates for the newspapers, no less than eighteen were men regularly educated at the Universities of Oxford or Cambridge, Edinburgh or Dublin, most of them graduates at the Universities, and several of them had gained prizes and other distinctions there by their literary attainments. He again repeated, that he could mention a long list of public and professional characters of great respectability, to whom this illiberal proscription would strictly apply, but that he abstained from it for the reason already as-

signed. After several other forcible remarks, Mr. Sheridan concluded by moving, that "the Petition of Mr. Farquharson should be referred to the Standing Committee of Courts of Judicature."

The ATTORNEY-GENERAL opposed the motion, not on the merits of the case, from the consideration of which he professedly abstained, but because there was a legal remedy by application to the twelve Judges; to prove which he read a case from Douglas's Reports, and, therefore, the interposition of Parliament would, in his judgment, be premature and improper.

Mr. WINDHAM rose to use the short monosyllable "No!" to every assertion made about him, except as to the correction of his speeches. Above all, he never had descended to any advance, or the slightest conciliation with Mr. Cobbett. He would now leave the subject to those who came for the purpose of discussing it. (*He shortly after left the House.*)

Mr. STEPHEN said that his connection with the Society of Lincoln's Inn, of which he had had the honour of being a member for thirty-five years, might alone have led him to take a part in the debate; but a particular consideration, known to many Gentlemen around him, and of which he should probably put the House in possession before he sat down, called on him more strongly to express his sentiments on this occasion.

He hoped nothing that might fall from him would be construed into any disrespect towards the Benchers of Lincoln's Inn; he felt for them collectively, and as far as their characters were known to him, individually too, the most unfeigned respect. Among them, he could reckon some of his earliest and most intimate professional friends; and he believed that men of more liberality of sentiment could not easily be found. But he must nevertheless freely avow his concurrence in the views of the Right Honourable Gentleman who made this motion, and declare

that he thought the regulation in question highly illiberal and unjust. He doubted not it must have proceeded from some hasty feelings, and would on due consideration be revoked.

To fix a stigma upon a whole class of men, by shutting against them indiscriminately, the door of a liberal and honourable profession, open to all the rest of their fellow subjects, was in his judgment quite unjustifiable, unless there were something in the common description which belonged to them, that implied of necessity a universal unfitness for that profession; or unless their exclusion by any other and fairer criterion could not be attained. Now it could not be alleged, in the case of admission to the bar by the law societies, that there was no power of ascertaining the qualifications of students applying to be called, and inquiring, if it were thought fit, into their past character and conduct. Already the standing regulations required, that every Gentleman, before he could perform his exercises, or if he remembered right, before he even entered into Commons, must produce a certificate from a practising Barrister of the society, that he was qualified in point of character for the profession of the Bar: and prior to his being actually called, he must have a like testimonial from one of the Benchers themselves. If these precautions were not sufficient, further and stricter ones might be framed, so as to scrutinize effectually into the moral and intellectual character of every individual candidate for admission, without branding the class of fellow subjects to which he had belonged. There was not in this case, therefore, such an apology, as necessity or strong reasons of public convenience might afford, for a general rule of exclusion. Was it then the principle of this regulation that persons who had at any time written for a periodical press, and not written gratuitously, were, as such, universally unworthy of admission into an ho-

nourable profession? A reproach in which Johnson and Hawkesworth, Steele and Addison, would have been included, was surely more likely to reflect disgrace on its authors than its objects. He was at a loss for the distinct views on which such a prejudice against persons writing for newspapers could be founded. Was it supposed that persons of that description were always destitute of education and liberal sentiments, or were, in point of origin and connections in life, if those were material circumstances, unfit for the society of gentlemen? Without admitting that writing for the periodical press, though a man's original occupation, and however long persevered in, would constitute any disparagement; cases might be put, in which, from accidental circumstances, a gentleman, originally destined to the profession of the law, might have been driven to engage in such an employment as a resource for his immediate subsistence, and continued in it, perhaps, but for a brief period, without much interruption of his professional studies; and yet by this harsh rule his return to his professional path would be for ever cut off. I will, for instance (said Mr. S.) suppose a young man by family and education a gentleman, and from his earliest years designed for the legal profession, to be a member of Lincoln's Inn; regularly prosecuting his studies as a lawyer, and to have arrived at within a year and a half of the proper standing to entitle him to be called to the Bar; when by the death of his parents and previous family misfortunes, he finds himself totally deprived of all present means of support. The resource which he might have found in the aid of near relations is pre-occupied by fellow orphans, who from their sex and tender years are more helpless than himself, or perhaps he finds his heart too delicate or too proud for dependency. He has confidence enough in himself to think that when the time comes that he can put on the gown, he shall find in it an ample

resource. But what expedient can he possibly explore in the mean time for his subsistence? In this emergency, a literary friend, a man of character and honour, connected with one of the periodical prints, proposes to our young law student that he should undertake, as a temporary expedient, to conduct, for a liberal remuneration, one of the departments of his newspaper in which there happens to be a vacancy. He proposes, for instance, that of reporting the debates of this House: can it be doubted, Sir, that if the rule now in question had not existed, such an offer would be joyfully accepted? Let us suppose it, then, to be so. During one Session, our young student reports the debates of this House, and performs what he finds an arduous duty, with satisfaction to his own heart; recording honestly and impartially the deliberations of Parliament, for the information of his country. At the end of a single year, he finds himself enabled by the death of a relation, and its consequences, to resign this employment, and resume his professional path; and he is grateful to Heaven for an intermediate occupation which had not only rescued him from dependence and want, but improved his qualifications for future success at the Bar.

But when he petitions the Bench of this Society to be called, how sad would be his disappointment, how cruel would be his humiliation and distress, to find that this inexorable rule of the Society has given a death-blow to his new born hopes! How would his mind be stung when told that the expedient which he had regarded with self-complacency, as his honest refuge from dependency and distress, had covered him with indelible disgrace, and for ever barred against him the door of an honourable profession?

Sir (said Mr. S.) I can conceive better than I can express what would be the anguish, and what the indignant feelings of such a man as I have described on such an occasion. But I may be thought, perhaps, to have stated an imagi-

nary and highly improbable case. No, Sir, it is not so. The case that I have described, is not imaginary: it really did exist; all but the rejection, which did not take place, because no such rule as that in question had then been made. In other respects the case is real. Thirty years ago, it was the case of the individual who has now the honour to address you. (*Repeated cries of Hear! hear!*)

When the cheers of the House subsided, Mr. S. proceeded to say, "I feel, Sir, not at all abashed at this avowal. It is an incident of my life, which I am much more disposed to be proud of, or let me rather say, to be grateful for, to a kind disposing Providence, than to blush for. I should indeed blush to be supposed to be ashamed of it. I do not believe, that any Gentleman in this House, or in my profession, will think meanly of me on this account; but should there be such a man, I hope I shall never hear of it, for I should be tempted to hold him in more contempt than it is allowable for us frail beings to feel for any of our fellow mortals."

Mr. S. went on to state, that his own case was by no means too favourable a specimen of the class of persons who were his contemporaries in the same employment. He could recollect about eight or nine of them, and of these he did not know one, whose subsequent conduct in life reflected any discredit on his former occupation. He believed only one of them still continued connected with any periodical press, and that was a Gentleman to whose character his testimony was not wanted, as he was well known and esteemed by many Members of that House; and reckoned among his friends one of the first characters of the country. He meant the Editor and Proprietor of *The Morning Chronicle*.

Of the rest, five or six had been called to the Bar; and he never heard that any of them had been supposed at all to discredit his profession. One had been since very

eminent in the Courts of our sister island; another had made a fortune in the Colonies, and had since held a situation of honour and confidence under the Crown; a third had retired from the English bar on the acquisition of a private fortune, before his very eminent talents, natural and acquired, had time to be known in his profession. He was now, alas! no more; but this he would say of him, that no man he ever knew in his very varied walks in life possessed a nicer sense of honour and integrity. The last he should notice of them, and whom he might without impropriety mention, was long a Member of that House, and the very intimate friend of the Right Honourable Gentleman who made this motion; he meant the late Mr. Richardson. He must add, with gratitude, that to his kindness, under Providence, he was indebted for that seasonable resource in misfortune, to which he had lately adverted.

Mr. S. added, that, with a single exception or two at the most, he did not know who the Gentlemen were that now conducted that department of the Newspapers, in which he and the friends he had alluded to were once employed. He could not speak, therefore, from any private partiality to them, and was confident that such Members as took the trouble to observe how his speeches had in general been reported, would not think he was much in their favour; but it was the profession or employment itself, not the individuals who now or at any other time filled it, that he thought it his duty to defend against an unjust proscription; and it could be hardly thought that there was any thing essentially degrading in the employment itself after the facts which he had mentioned, in addition to those which had been alluded to by the Right Honourable Mover of this question. For his part, indeed, he could not see, what there was more disparaging to a gentleman, or a man in a liberal profession, in reporting the proceedings and

debates of the Legislature, than in reporting the judgments of a Court of Law.

Mr. STEPHEN then proceeded to argue against the regulation in question, on grounds of public and constitutional policy. To fix a stigma on any class of men, and degrade them below their fellow subjects, by exclusion from a common privilege, was the surest way to make them disaffected to the State. Such, at least, must be the case, when the ground of exclusion was an impeachment of their moral or honorary character. But if such oppression was to be introduced in this land of freedom and equality, at least we should take care not to select, as the victims of it, a set of men who had so much political power in their hands as the conduct of the periodical press. The military profession was every where held honourable, and to degrade it would be felt by every body to be in the last degree imprudent and dangerous; but he would be bold to say, that the military had not more the fate of the country in their hands under despotic Governments, than the conductors of Newspapers had in this kingdom. Against their united and systematic hostilities, the Constitution could not long stand. To sanction an innovation therefore, that would tend to raise an *esprit du corps* among them universally against our public establishments, would be to aggravate greatly the dangers of the country. As a friend to the liberty of the Press, he deprecated such a precedent; for the Press would soon become dangerous and obnoxious, if it was to fall into the hands of degraded and disaffected characters. It was in this view chiefly, that he thought the interference of Parliament justifiable, if the perseverance of the Benchers should make it necessary, notwithstanding the arguments of the Attorney-General. It was not a private or particular case, to be redressed by appeal to the Judges, but a case of general and public mischief, fit for the presiding wisdom of Par-

liament, as the guardian of the public weal, to notice and correct.

He regarded such stigmas on a particular class or cast of men, in any society, as cruel and mischievous in another view. If they did not find men worthy of contempt, they would soon make them so. Degrade any portion of society, and you will infallibly reduce its moral character, till it seems deserving of the ignominy to which it has been unjustly subjected. He had lived long in a part of the world which furnished a striking proof of this remark; and there was nothing more odious in a contemptuous oppression, than its corrupting effect on the minds of its unfortunate victims. If this were so when the badge of degradation was the colour of the skin, or some other subject of public contempt which the individuals derived from nature or some other unavoidable source, how much more when entering into the degraded cast, was matter, not of necessity, but choice. Men would not choose an employment proscribed as dishonourable, unless their moral character were already corrupted. Were we prepared, then, at once to maintain the liberty of the Press, and to say that its conductors should hereafter be men so low in moral and honorary sentiments, as to choose an ignominious employment?

Mr. STEPHEN further argued, that to select the popular, open profession of the bar, as the only subject of this degrading disfranchisement of a portion of the Commons of England, was peculiarly improper and strange. That profession was in a pre-eminent manner the patrimony of the people at large; and to it indeed, they owed, more than to their Parliaments, that general equality of rights, and exemption from all aristocratical oppression, which it was their distinguishing happiness to possess. The Courts of Law, by their liberality, had abolished that distinction of casts, which, in the times of Villanage, de-



graded a great majority of our ancestors, and excluded them from liberal professions. It was a blessing which the people of England owed to their lawyers, and it was singular that a departure from the principle of constitutional equality, should in these days begin in the same profession. He could not help suspecting, in this regulation, a latent principle of aristocratical pride and contempt for poverty, as such; for why otherwise should the restriction apply only to those who wrote for emolument? If the act of writing for the newspapers was immoral or dishonourable, he did not see how the doing it gratuitously could redeem the act from reproach. Certainly, it was presumable, that those who exercised such an employment for gain, were not in affluent circumstances; but if poverty or humility of origin were to become reproachful in the Inns of Court, many a proud scutcheon, which now ornamented their walls, must be taken down. In other professions, as the Church, or Army, hereditary claims or fortune might facilitate preferment; but at the Bar, a profession which was a much more frequent road to rank and fortune, no such extrinsic advantages were of any avail. On the contrary, it was proverbial, that a necessity arising from poverty in the early part of life, was almost the only source of splendid success at the bar. It was the most amiable and valuable fruit of our happy Constitution, that every path of honourable ambition was open to talents and industry, without distinction of ranks; but in the Law, especially, the strongest examples of the happy effects of this equality were to be found. On the whole, therefore, if we were to begin to form proscribed and degraded casts in this country, he thought we should, at least, not begin the innovation in the profession of the Law, and against those who were in possession of the great organs of public information, the conductors of the periodical Press.

Mr. S. concluded by saying, that he should vote for the practical course proposed by his Right Honourable Mover, merely because it had been proposed by him, and was the only remedy at present suggested. Had Mr. Sheridan moved for leave to bring in a bill, declaring such disfranchisements of any class of British subjects, by the Inns of Courts, unconstitutional and void, he would also have supported that measure, or any other that might be more proper to be taken for the same just and necessary end.

Sir JOHN ANSTRUTHER, as a Bencher of Lincoln's Inn, greatly regretted that the regulation in question had ever been adopted, and professed his entire concurrence in all the sentiments which the last speaker had so eloquently expressed. The character of the Honourable and Learned Gentleman was as convincing an argument as any that he had used. No man who considered what the profession and the House would have lost, if that Gentleman had been excluded from the Bar, by a rule of this kind, could hesitate to pronounce it both unjust and unwise, and one that ought not to be suffered to exist. In fact, the regulation had been suddenly adopted by a very small Board of Benchers, after dinner, on a suggestion from some Barristers in the Hall. Though it might surprise the House, the Barrister whose name was at the head of those who signed the proposition was no other than Mr. Clifford (*Hear, hear!*)—and the Bencher in the chair, about four only being present, was the late Lord Chancellor Erskine. (*Hear, hear!* but this was not so.) Sir J. Anstruther added, that knowing the opinions of several of his fellow Benchers on the subject, he had no doubt that when the return of term gave a proper opportunity for the purpose, the regulation would be withdrawn, and he hoped therefore the Right Honourable Gentleman would not press his proposition, which he deemed an improper and unneces-



sary interference with the Benchers in the government of the Society; especially as an appeal might bring the particular case to the revision of the Twelve Judges.

The SOLICITOR GENERAL thought himself bound in candour to confess, that he was one of the few Benchers who, on the suggestion of eight Barristers, had hastily adopted this regulation, which he would not undertake to defend. He paid very high compliments to Mr. Stephen, both on the score of his talents and personal character; and said, that like Longinus, he had illustrated by his own example, his own tenets on this subject. His own character was the best proof that such a rule ought not at least to be indiscriminate. He strongly maintained, in opposition to Mr. Sheridan, that the Twelve Judges had a jurisdiction, not merely to redress the individuals aggrieved by the rule in question, but to reverse the rule itself; and, therefore, the interference of Parliament would, at least, be premature.— The petitioner came *per saltum* to the House, before he had pursued the regular course to obtain legal redress. The Solicitor-General, however, professed his confident expectation, that the Benchers of Lincoln's Inn, now that the merits of the question had been discussed, and were better understood, would see cause at least to revise and alter the regulation, if not wholly to revoke it.

Mr. CROKER in strong terms termed the regulation illiberal, impolitic, and unjust, and thought that the credit of the Honourable Society demanded its repeal. He also professed the highest respect for the character of Mr. Stephen, and the manly manner in which he had conducted himself on this occasion. To say more would only be to repeat the arguments of that Gentleman, in all of which he heartily concurred. But he trusted that the Right Honourable Gentleman, on seeing that his object was likely to be attained in a more satisfactory way, would withdraw his motion. Should the event be different from what such

respectable Benchers of the Society as had expressed their opinions, expected, he pledged himself to support a future application to Parliament to the best of his power.

Mr. SHERIDAN, in a brief and neat reply, declared he could not hesitate, under such expectations as were held out to him, to withdraw his motion. His object was always to attain his end when he could, without disputing needlessly on the means. He could not, however, regret having brought forward the question, as he doubted whether otherwise the matter would have been brought sufficiently to the attention of the Benchers to induce them to revoke their rule; and especially since his motion had been the means of gratifying the House with the very manly and eloquent speech of the Honourable and Learned Gentleman whose case furnished so decisive an argument in his support.

The motion was accordingly withdrawn.

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Sir John Anstruther took occasion afterwards to correct his statement with regard to Lord Erskine. The noble Lord was not present when the Bye-law was resolved on by the Bench of this Society. It ought to be known also, that the Benchers of the Inner Temple and of Grays Inn refused to concur in it.

I have no doubt it will now be expunged from the Journals of Lincoln's Inn. I am truly grateful to the Honourable Members, who have so liberally vindicated the fair claims of Journalists, and particularly to Mr. Stephen, for his most handsome recollection and mention of me personally.

Strand, 27 March, 1810.

J. P.

## TRIAL, &c.

COURT OF KING'S BENCH,

Saturday, February 24,

BEFORE LORD ELLENBOROUGH AND A SPECIAL JURY:

THE KING V. LAMBERT AND ANOTHER, FOR A LIBEL  
ON HIS MAJESTY'S PERSON AND GOVERNMENT.

*The following were the names of the Jurors sworn.*

William Lewis, Esq.	John Irwin, Esq.	
Charles Jones, Esq.	Henry Woodgate, Esq.	
James Heath, Esq.	Mr. John Horseman	} Tales- men*.
Thomas Jeffries, Esq.	Mr. John Brown	
Thomas Wright, Esq.	Mr. Thomas Swift	
George Parkinson, Esq.	Mr. Isaac Ayres	

COUNSEL FOR THE CROWN—The Attorney General,  
Mr. Garrow, and Mr. Richardson. SOLICITORS, Messrs.  
Litchfield.

SOLICITOR FOR THE DEFENDANTS—Mr. Lowten.

Mr. Richardson for the Crown stated that this was an In-  
formation by His Majesty's Attorney General, against John

\* Seven of the Common Jurors out of eleven names, taken from the box,  
were challenged by the Crown, *sub silentio*; a practice which I trust it is  
only necessary for me here to mention, to procure its discontinuance. *Ed.*

Lambert, Printer of the Morning Chronicle, and James Perry, the Proprietor, for a Libel on His Majesty's Person and Government: to which the Defendants had pleaded Not Guilty, and upon which issue was joined.

The Information was as follows :

INFORMATION.

MICHAELMAS TERM, 50th GEO. III.

MIDDLESEX. Be it remembered that Sir Vicary Gibbs, Knt. Attorney General of our present Sovereign Lord the King, who, for our said Lord the King, in this behalf prosecuteth in his proper person, cometh here into the Court of our said Lord the King before the King himself, at Westminster, on Monday next after the morrow of All Souls in this same Term, and, for our said Lord the King, giveth the Court here to understand and be informed, that John Lambert, late of the Parish of St. Paul, Covent Garden, in the County of Middlesex, Printer, and James Perry, late of the same place, Gent. being seditious, malicious, and ill-disposed persons, and being greatly disaffected to our said present Sovereign Lord, George the Third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, and to his Administration of the Government of this Kingdom, and most unlawfully, wickedly, and maliciously, devising, designing, and intending, as much as in them lay, to bring our said Lord the King and his Administration of the Government of this Kingdom, and the persons employed by him in the Administration of the Government of this Kingdom into great and public hatred and contempt among all his Liege Subjects, and to alienate and withdraw from our said Lord the King the cordial Love and Affection, true and due Obedience, Fidelity, and Allegiance of the Subjects of our said Lord the King, on the 2d day of October in the 49th year of the Reign of our said present Sovereign Lord the King, at the Parish of St. Paul, Covent Garden, in the County of Middlesex; did unlawfully, seditiously, and maliciously, print and publish, and cause and procure to be printed and published, a certain scandalous, malicious, and seditious Libel of and concerning our said Lord the King and his Administration of the Government of this Kingdom, to the Tenor and Effect following, that is to say: *What a Crowd of Blessings rush upon one's Mind, that might be bestowed upon the Country in the Event of a total Change of System! Of all Monarchs indeed since the Revolution, the successor of George the Third (meaning our said present Sovereign Lord the King) will have the finest opportunity of becoming nobly, popular. To the great Scandal, &c. &c.*

MR. ATTORNEY GENERAL.

GENTLEMEN OF THE JURY,

I have felt it my duty to bring this Information against Mr. Lambert, the Printer, and Mr. Perry, the sole Proprietor of the Morning Chronicle, for a Libel on His Majesty's Person and Government, which appeared in the shape of a paragraph in that paper, on Monday, the second day of October last. It is not unusual to treat all efforts to check publications of this kind, as direct attempts to break in on the liberty of the press, and to check the course of free discussion; I, therefore, beg leave to say a few words upon the subject. A free, fair, and full inquiry into the measures of Administration; and into the conduct of public men in the administration of public affairs, I consider to be not only lawful, but useful; and I do assure you that no endeavour shall ever be made by me to curtail it. Such an attempt upon my part, or on the part of any person standing in my situation, would be highly improper, dangerous, and unjust.—The constitution itself—the liberty of the subject, and many of the best privileges, which were originally obtained by our ancestors, we owe to the freedom of the press; and to the free exercise of that right we are indebted for the preservation of them to this day; and, I trust, will be indebted for the preservation of them to the latest posterity. It is not for any discussion of or animadversion upon the measures of Government, that the present Information is brought. I admit that a free discussion of such subjects, and generally of all fair subjects, should be allowed; and even though, in the exercise of this right, a person should allow himself to be carried beyond the bounds of discretion, I should be backward to bring such a case under the cognizance of a Jury. Those who know my

practice will do me the justice to say, that I never took advantage of any case of this kind, where it could be supposed to have proceeded only from indiscretion or inadvertency. I am perfectly ready to say that the discussion of public affairs, the arraignment of Ministers, the examination and censure of their measures, and the free discussion of all topics connected with the administration of public affairs, or of matters interesting to the country or to mankind, are not only allowable, but ought to be held sacred: and I repeat it, that if in such discussions the writers should, in their warmth, be carried even beyond the bounds of just decorum, I should be very loath to bring such cases into question; and accordingly I have never brought any such case into a Court of Justice. I admit the liberty of discussing such subjects with fairness, and I think such liberty is perfectly consistent with decency and propriety. But, as on the one hand, there should be a full and free discussion of every public measure, if conducted with decency, and confined within proper bounds; so, on the other, it is necessary that decorum should not be entirely violated; that due regard to the relations between the Sovereign and his people should be observed; and, above all things, it is essential that it should not be in the power of any man to tell the public that there are blessings which they might enjoy, but which were withheld from them by their Sovereign, and to the possession of which they could not look forward till the accession of the successor of him who now held the Throne. No body who sees such language held, can doubt that it must have a manifest tendency to alienate and destroy the affections of the people towards their Sovereign, and to break down that link of love which ought to connect the Sovereign and his people in the tenderest ties. That such is the tendency of the publication in question no person can read it and deny. The publication is extremely short, and you can hardly miss the

sense of it at a single reading. It is in these words—“What a crowd of blessings rush on one’s mind that might be bestowed upon the country in the event of a total change of system.” So far the publication is political, and, therefore, though I cannot agree with the Defendants in their idea of the benefits to be derived from a total change of system, I do not feel myself entitled, consistently with what I have already stated as to the right of free discussion on all political subjects, to quarrel with them for their opinion. It may be honestly their opinion that a total change of system would bestow a crowd of blessings on the country, though it is not mine; for I am to understand by a change of system, a change of plan merely, and a change of ministers—and though I do not think of ministers as it appears they think of them, yet, according to the just latitude of discussion which the press ought to enjoy, I cannot quarrel with them for this branch of the record. The paper, however, then proceeds thus:—“of all Monarchs, indeed, since the Revolution, the successor of George the Third will have the finest opportunity of becoming nobly popular.” In other words—No prospect of the attainment of these blessings which thus rush on one’s mind, opens to us during the reign of our present Sovereign; they can only be looked for on the accession of his successor to the Throne; his present Majesty and his life are the barriers which stand between his people and the attainment of the blessings alluded to—thus fixing the æra for the enjoyment of these blessings to be the death of his present Majesty. If the Defendants had contented themselves with saying that a crowd of blessings would be bestowed upon the country by a change of system, it would have been a mere political opinion which any man has a right to maintain; but when they say that this is only to be expected at the demise of his present Majesty, it becomes personal and dangerous—It stirs up

and influences the minds of the people against the King's person, and is in other words (joining the two parts of the sentence together) neither more nor less than this, that a total change of system would bestow a crowd of blessings on the country; but this is not to be expected, except by the removal of his present Majesty. I am sure I have consumed more words than are necessary to convince you, Gentlemen, that this is a direct libel on the person of the King. You have only to read the words to be convinced of it.

Mr. GARROW then rose, on the part of the Prosecution, to prove the printing and publishing of the paper in question.

Mr. PERRY, one of the Defendants, addressed the Court, and begged leave to say, that if it was the intention of the Learned Counsel to prove the publication, he would, with his Lordship's permission, save the valuable time of the Court. As it had ever been the rule of the Defendants to hold out an unequivocal responsibility for the conduct of the Paper, he desired to be understood to admit, that Mr. John Lambert was the Printer of *The Morning Chronicle*, that he himself was the Proprietor, and that the paragraph stated in the record did appear in the *Morning Chronicle* of Monday the 2d of October last.

Lord ELLENBOROUGH said, that it was perfectly allowable for Mr. Perry to make this admission for himself; but was he also empowered to make it for the other Defendant?

Mr. PERRY said, that the other Defendant stood at his side.

Mr. LAMBERT begged leave to declare, that he admitted the fact charged in the record, that he was the Printer of *The Morning Chronicle*. The publication was therefore admitted to be proved.

Mr. ATTORNEY-GENERAL then desired that the Para-

graph in *The Morning Chronicle* of the 2d October last, as set forth in the record, might be read. It was read, and is as follows:

“What a crowd of blessings rush upon one's mind, that might be bestowed upon the country, in the event of a total change of system! Of all Monarchs, indeed, since the Revolution, the Successor of George the Third will have the finest opportunity of becoming nobly popular.”

Here Mr. ATTORNEY-GENERAL said he closed his case.

Mr. PERRY then stated, that there were some other passages in the same paper bearing upon the record, and tending to explain the meaning of the Defendants in its publication, that he presumed he had a right to have read either now or in the course of his defence. And he respectfully applied to the Court to know whether he were so entitled.

Lord ELLENBOROUGH said, that undoubtedly, if there were any other parts of the same paper upon the same topic, and appertaining to it, the Defendants had a right to their being read; but certainly he could not admit that passages and paragraphs totally foreign to the subject of the record should be read, or could be in any way made applicable to their defence. If there were passages of the same paper, clearly and manifestly tending to shew the intention and mind of the Defendants as to this specific paragraph, Mr. Perry had a right to have them read either now or in the course of his Defence, as he might think the one course or the other most advantageous to his argument.

Mr. PERRY respectfully thanked the Court, and said he would take occasion to refer to the passages in the course of what he should have to offer in justification of his friend Mr. Lambert and himself.

## DEFENCE.

Mr. PERRY then addressed the Court and the Jury to the following purport :

*My Lord, and Gentlemen of the Jury,*

In presenting myself personally to you this day, I am moved by various considerations ; some of them growing out of the nature of the cause itself, and peculiar to it ; some of them of a more general nature, but bearing with a heavy weight on my own feelings. I am sure that if I could faithfully describe the motives of both kinds that press upon me to this unusual course, they would be duly appreciated by the Noble and Learned Lord on the Bench, and by yourselves. By the very nature of this cause, and by the line of argument and inference which I anticipated in my own mind that his Majesty's Attorney-General would take, I felt a degree of delicacy and embarrassment in requesting the assistance of the Honourable and Learned Gentleman who holds a retainer for me, and who, by his place within the bar of this Court, would have had the conduct of our defence. I am confident that in the just and manly spirit of the British Bar, the Learned Gentleman would have flung aside every feeling but that of his professional duty—and I am sure, also, that in the estimation of every fair and honourable mind he would have been able to exert the full vigour of his splendid talents, with a perfect and consistent regard to the discharge of his political duties.

Of this truth, that no personal considerations are ever suffered to interfere with the professional exertions of the Learned Gentlemen of this bar, I am in the sincerity of my heart convinced, and I have always admired the just eulogium that was passed upon them by a great and illustrious Lawyer who was once their ornament, and is still,

thank God ! their model—I mean Lord Erskine, who, when Mr. Stockdale, a perfect stranger, and a person adverse to him in political opinions, applied for his assistance in a cause in which he had given offence to Mr. Erskine's own political friends, the eloquent Advocate expressed himself in the following words :

“ A trust apparently so delicate and singular, vanity is  
“ but too apt to whisper an application of to some fancied  
“ merit of one's own ; but it is proper for the honour of  
“ the English Bar that the world should know such things  
“ happen to all of us daily and of course.

“ Happy, indeed, is it for this country, that whatever  
“ interested divisions may characterize other places, of  
“ which I may have occasion to speak to-day, however  
“ the councils of the highest departments of the State  
“ may be occasionally distracted by personal considera-  
“ tions, they never enter these walls to disturb the ad-  
“ ministration of justice : whatever may be our public  
“ principles, or the private habits of our lives, they  
“ never cast even a shade across the path of our profes-  
“ sional duties.

“ If this be the characteristic even of the bar of an  
“ English Court of Justice, what sacred impartiality  
“ may not every man expect from its Jurors and its  
“ Bench !”

Such was the just and noble eulogium of that distinguished orator, who was in himself a shining example of the impartiality he ascribed to all. I subscribe to every word of it ; and it does not belong to the learned profession only, but is to be found in the heart and practice of every one of the liberal professions of England. I may be permitted to state a most honourable instance of the same feeling which I had from the lips of an immortal hero, who, by the most affectionate testimonies of his regard down almost to the last hour of his glorious

life, did me the honour to call me his friend. When Lord Nelson received from the First Lord of the Admiralty, his last commission "to conquer, burn, sink, and destroy, the fleets of our enemy," which he executed to the letter, the book of the Captains of the British fleet was put into his hands by the Board to chuse his officers. It was a proper deference on their parts. It was nobly answered upon his. He returned the book unopened, and told them to chuse whom they pleased; for, "though there might be distinctions as to experience and endowments, since in the order of Providence we were not all made alike; yet, in point of gallantry, of promptitude, of zeal, and of self-devotion, there was not a Captain of the British fleet with whom he would not cheerfully sail, and in whom he would not safely confide, not only his own honour, but the glory of his Sovereign and the security of the State."

If, therefore, Gentlemen of the Jury, I had thought myself justified in a cause, in which the record charges the other Defendant and myself with an attempt to bring the sacred person of the King into disrepute, to apply to my Counsel in the particular situation in which he stands (Mr. Jekyll, Solicitor-General to his Royal Highness the Prince of Wales), I am confident that the Learned Gentleman, and my other most able and esteemed Counsel (Mr. Raine) would have arduously, honestly, and much more successfully than, I fear, I shall be able to do for myself, have defended Mr. Lambert and me this day. But I felt that I could not with propriety make the application; and neither the rules of this Court, nor the rules of honour, that have always actuated my conduct, would permit me to overlook my engagement; and the respect which I bear for the honour, the talents, and the integrity of this Bar will ever prevent me from going to other Courts to look for assistance here.

But, Gentlemen, I should not have ventured to present myself to your attention if there had been any thing in the cause of an intricate or of a complicated nature—if there had been any inuendoes to be disputed—any special pleading to be encountered—any question of law to be argued—any witnesses to be cross questioned—or, indeed, any thing but a plain, naked, simple proposition, which it is only necessary for me to shew you, was innocently published. I am not come here with the impertinent design of attempting to make a speech, in which I should only succeed in displaying my presumption and my folly—in which I should only more surely incur, because I should more richly deserve, the ridicule to which the man who pleads his own cause is always subject—and which, I assure you, I have myself suffered in no ordinary degree, even in the streets, from my friends, and from strangers, since my determination was known; and which in some instances would have affected my spirits, if any thing could have shaken the steady purpose of my mind, when supported by the conscious rectitude of my heart. But there is nothing, Gentlemen, that I mean to try so little as to captivate your understandings by the affectation of eloquence, that would, even if I had the gift or the practice of speaking, be out of place; since nothing can be more unseemly than for a person in my situation to usurp a province to which he does not belong: for after all, man is like a plant, which when transplanted into a soil foreign to its habits, will feel the change, will shrink into itself, will droop, will bend the head, until the mildness of the climate, and the cheering influence of the sun shall revivify and freshen whatever native vigour it may possess.

And, Gentlemen, even with all the simplicity of the cause, and with the simplicity which it is my resolution to observe in treating it, I should not have come here if it had been of any kind or quality but what it is. If it



had been a pretended libel on an individual, of which I trust I am also incapable, but which in an hour of negligence, or by accident, (for it could happen by no other means), had gained admittance, we should have suffered judgment to go by default; for we shall be ever as ready to acknowledge a fault as we are careful to avoid one. If it had been an attack only on the King's Ministers, which I often assume the right to make, I should with confidence, and so would my inseparable co-adjutor and friend Mr. Lambert, have left our vindication to the Learned Gentlemen who would have done us the honour to exert themselves in our protection; but when it is charged on the record, that we had "unlawfully, wickedly and maliciously devised and intended to bring his Majesty's sacred person into great and public hatred and contempt"—we feel that nothing can deliver us from the horror of such a charge but by exposing ourselves fairly to you, in the face of our country, that you may observe, examine and try us with all the intelligence, all the acuteness, and all the authority that belong to you in this public tribunal.—Oh that you had the power of God, as you have the power of the Country, to look into our breasts, and to search our hearts, to see whether there lurks in any part of the bosom of either, any dark, malignant, traitorous feeling, that would dispose us to use, if we could with safety, the powerful instrument in our hands to bring even into disrepute the sacred name of the Sovereign, under whose beneficent reign I have myself lived during the whole period of my conscious existence! This divine power of truly searching the heart is not given to man; but it is something on our part to expose ourselves, nakedly and alone, without guile, without aid, without Counsel, to the critical observation and scrutiny, which twelve discerning men, Freeholders of the County in which we live, interested in preserving the blessings we enjoy, skil-

ful and experienced in the characters of their fellow-citizens, may feel it to be their duty, and may be able by their intelligence and penetration to detect, if the crime alleged against us be covered under the most artful disguise. Gentlemen, you will have, under the direction of the Noble and Learned Judge on the Bench, to exercise your faculties in discovering the mind and intention with which we published the words charged in the record—by the whole tenor of our lives—from the general sentiment and character of the Paper that we publish—and particularly from the contents of the Paper in which the solitary paragraph complained of appears, and which, if you should have occasion to quit that Box, you will receive, and will have an opportunity to read.

I am sure, that after having looked at the context which the Noble and Learned Lord has been so indulgent as to permit me to desire to be read in its proper place, you will be satisfied and convinced that the interpretation put upon it in the record, and still more in the speech of his Majesty's Attorney-General, is not the true sense, nor that which can be borne out by any fair, legitimate or sound deduction.

Let me state, Gentlemen of the Jury, the record, and the sense put upon it by the Honourable and Learned Attorney-General.

It charges Mr. Lambert the Printer, and myself the Proprietor of *The Morning Chronicle*, as "being seditious, malicious, ill-disposed persons, greatly disaffected to our present Sovereign Lord, George the Third, and to His Administration of the Government of this Kingdom—And that we did, unlawfully, wickedly and maliciously, devising, designing and intending as much as in us lay, to bring our said Lord the King and His Administration of the Government of this Kingdom; and the persons employed by Him in the Administration of

“ the Government, into great and public hatred and con-  
 “ tempt among all His liege subjects, and to alienate and  
 “ withdraw from our said Lord the King, the cordial love  
 “ and affection, true and due obedience, fidelity, and al-  
 “ legiance of His subjects, publish, &c.” This is the of-  
 fence charged, and the words set forth in the record are the  
 means we used—all the means—and nothing but the means,  
 to accomplish these tremendous purposes ! But five lines !  
 What a terrible engine must this Press be ! No wonder  
 that a Right Honourable Gentleman calls it a *Power in*  
*Europe !*

Short as the paragraph is, it is divided into two parts  
 or propositions, and His Majesty's Attorney General has  
 fairly, candidly, and ingenuously taken them separately,  
 for the sake of distinction and accuracy.

He declares that he has been induced to lay this in-  
 formation *ex officio*, because the paragraph complained  
 of, contains in his mind a direct attack upon His Majesty's  
 person ; and that this is a thing so contrary to the fair,  
 just, and full liberty of the press, that with every respect  
 for that sacred and inestimable privilege he could not,  
 consistently with his duty, overlook this monstrous de-  
 parture from it. Mr. Attorney General then proceeds  
 to explain what he means by, and what he conceives  
 to be the free and genuine liberty of the English press.  
 He declares it to be the right of free discussion in  
 print—the right of free, fair, and full inquiry into  
 the administration of public affairs—into the conduct of  
 public men in the administration of public affairs—and  
 generally and freely into the written and printed discus-  
 sion of all matters, topics, and things connected with  
 and contributory to the state and happiness of man in  
 society—provided always that such discussion shall be  
 kept within the bounds of temperance and morality ;  
 and he solemnly and honourably declares, which I firmly

believe, that he would oppose any endeavours that should  
 be made to controul it, for to that liberty and to the noble  
 exercise of it we are indebted for every blessing that our  
 forefathers obtained, and for the preservation of these  
 blessings to the present day.

Gentlemen, I subscribe to the definition of His Ma-  
 jesty's Attorney General. I accept of it as of all that  
 I desire—In my own name and in that of all the Jour-  
 nalist's of England, I accept of and recognize the bound-  
 aries which he has stated for the liberty of the press.  
 It is a scope sufficient for every good purpose of legiti-  
 mate freedom—sufficient to admit of a vigilant and un-  
 equivocal censure of mal-administration, and of inca-  
 pable, indolent, misguided or corrupt Ministers ; to  
 exercise a free spirit of inquiry on every subject of reli-  
 gion, science, and morals, that can interest a people living  
 under a Constitution of freedom, and desirous of perpetuat-  
 ing the blessings they enjoy. Oh ! that the same freedom  
 of the press were extended to every part and portion of the  
 inhabited globe ! We should then hear no more of a  
 people sitting supine while their Government was attacked  
 —of ancient Monarchies being overthrown, or of new  
 tyrannies being triumphant !

The Learned Gentleman handsomely and properly  
 follows up this definition by an acknowledgment which  
 saves me this day some trouble, and saves the Court and  
 you sometime ; for he at once admits that the first branch  
 of the text which forms a part of the record, is within the  
 scope of the liberty which he thinks legitimate. I thank  
 him for the fair and candid concession. It is worthy of  
 the high and distinguished situation which he holds ; and  
 becoming an honourable and constitutional lawyer. He fairly  
 admits that to say “ a crowd of blessings might flow from  
 “ a total change of system” is fair, because, though it is  
 not his opinion, it may be honestly mine. And if upon

an examination and review of the measures of the King's Ministers, or of any department of his Administration, a writer shall see cause for animadversion and censure, he thinks it within the fair and just precincts of freedom that he should publish his thoughts. He, therefore, does not ascribe to this branch of the sentence the epithets that are upon the record. He does not certainly think of his Majesty's Ministers as it appears that I think of them; but he gives me credit for a fair difference of opinion, and for honestly thinking what I have openly said. How the Learned Gentleman, with the conviction on his mind, of the innocence of this branch of the sentence, could put it on the record, and apply to it all the severe epithets of charge that stand against us, it is for him to explain. It is not possible for me to divine the cause, unless the Learned Gentleman should think this branch of the sentence necessary to introduce the second, as tending to its explanation.

But, Gentlemen, I thank him for exempting me from the necessity of shewing you what I meant by a change of system. It would have become me to have shewn you, who are loyal subjects of your Sovereign, that by a change of system I did not mean a change in the frame of our Constitution or of our Government—God forbid!—and even the most suspected part of the sentence would protect me from that charge, because it speaks of the regular descent of the Monarchy to a legitimate successor; but I am relieved at once and for ever from all anxiety, and from all doubt upon this point; and I should be in a most perilous situation indeed, if it were otherways; for instead of my being able to adduce the uniform tenor and practice of my life, to justify me from the imputation cast upon me for the last branch of the sentence, my whole life would be an almost uninterrupted series of transgressions under the first.

For, Gentlemen of the Jury, I do differ with the Honourable and Learned Gentleman as to the character of the Administration, and as often and as long as I have seen the Administration of his Majesty's affairs in such hands, and so conducted, I have felt it my duty to say, that a total change of system would bestow a crowd of blessings on his Majesty and on his People. It has been my creed—it has been my invariable object, to state and to instil it into the minds of my fellow subjects; and happy would it have been for us all, if I had been as successful as I have been industrious! For, Gentlemen, I have done it daily—three hundred and thirteen times a year—for three and thirty years of my life have I proclaimed, that a total change of system would bestow a crowd of blessings on the country. It was clearly and perfectly known what I meant by a change of system—that I meant a change of measures, together undoubtedly with a change of men, as a security to the country for a change of measures—and that the phrase meant no more, than to impress upon the public mind, this great undeniable Whig doctrine, that the true magnificence, solidity and power of the British Throne required that the free choice of the King in the appointment of his Government should be strengthened by the opinion and confidence of his people. Now, in the whole of the eventful period of my political life (into which there have been crowded more vicissitudes of human fortune—more awful admonitions to Princes—and more important lessons to mankind, than ever were known in any other portion of time), there never was one when the truth of the above maxim could be proclaimed with a more seasonable, a more lively, or a more urgent interest, than on Monday, the 2d day of October last, the day laid in the record for the offence.

But the Learned Gentleman says, most generously, that he does not quarrel with me as to my opinion of his Ma-

esty's present Ministers, and as to my wish for a change of system—nor as to my idea of the blessings that would flow from it. It may be my opinion, though it is not his—but that which he complains of is the time that I hold out to the country as the only period when they may hope to enjoy the blessings that would flow from such a change—and he says that I mean to insinuate that no such hope can be entertained during the life of his present Majesty—but that I proceed to state it may be expected from the Successor of George the Third. Having conjured up this phantom of an insinuation, he very properly dresses it in the garb of terror to affright your loyalty, and to impress upon your minds the most horrible images of civil discord—of the links of love that bind the Sovereign to the people and the people to the Sovereign being broken—and that the country is to be condemned to anarchy, because the King's life is set up between them and their hopes of happiness! All this is dreadful—but where does the Learned Gentleman find all this? Not in the record, for there is not an *inuendo* to that effect. It is really hard upon Mr. Lambert and myself that the Attorney General should acquit us of what he finds upon his own record, and then charge us with an insinuation that is not to be found there; and here I feel my insufficiency, for I do not know whether this be consistent with the established practice of this Court, and consistent with law—I am sure it is not to be reconciled with reason, and therefore I should think it is not law, which is said to be the perfection of reason. Surely the criminal *inference* ought to be in the record that I might come into Court prepared—When I said that there was not an *inuendo* to be disputed, I did not find an *inuendo* in the record of the nature now alleged by the learned Gentleman. Whence does he draw the inference that he now puts upon the phrase? Not from the simple words, for they contain no such meaning—and not from the context, as I shall have the honour to shew you when I call your attention to

the passages in the same paper, which the Noble and Learned Lord permits me to call for and put in as part of my defence.

But first, Gentlemen, give me leave to call back your recollection to the period of time, and to the very curious and interesting circumstances at the time of this publication. Gentlemen, it was immediately after the failure of our most notable and most calamitous Expedition to Walcheren, when almost every family in this kingdom were covered with sorrow at the woeful certainty of the loss of a husband, a son, a brother, or a friend, or with the still more agonizing apprehensions of the loss which they dreaded every post would bring them—Not losses from the fate of battle, where death even to those that are nearest in blood to the sufferer, brings with it the consolation of the glory that shines over the grave, but losses from the most cruel neglect of the means by which they might have been avoided. It was when the ruinous distraction of the King's Cabinet had broken out, after private cabal, into the scandal of public duelling—It was on the total disorganization of the King's Government, when humbled and mortified into a just but temporary sense of their own incapacity, they had made a proposition to two great and illustrious Statesmen to support their tottering frame. Gentlemen, this paragraph made its appearance on the very day when the first faithful narrative of that overture to a negotiation was communicated to the public through the medium of the Morning Chronicle.

You will of course bring back your recollection to that day, and to the state of the Cabinet on that day. Was there at that time, in any man's mind, the irrational and extravagant supposition, that the frustrated body of the Administration could stand—That its members would cling to office with the contemptuous disregard of consequences which they have shewn? And was it not then in the warm

and generous expectation of all, that a total change of system was about to be effected which would have instantly produced the blessings that the paragraph holds forth?

It fortunately happens to my friend and me, that there will be found in the columns of the same identical paper, ample proof of the mind and intention with which the paragraph on the record was inserted—for, you will please to observe, that we are not charged with the writing of it. That is no part of the imputation, for, in point of fact, it was a paragraph copied from another journal, which is the uniform practice of all Editors, when they see any thing that coincides with, or serves to corroborate their own sentiments, or that puts an idea in a new light. We are not striving to shelter ourselves from our direct responsibility for every part of the paper, written or copied, by this statement; but to account to you for a distinction which you may observe in the manner in which the passages that I shall refer you to, and this paragraph, are presented to the public eye. It is no more than a distinction which belongs to the mechanic part of the composition of a newspaper. That which is our own, or that which is new—that which is important, or that which is peculiar to ourselves, we display in space, or in a different character from that which is borrowed, and that which may be in every other paper as well as our own. With this distinction, Gentlemen, you will view the whole paper—and you will see whether the passages, to which I shall point your attention, which precede this in point of place, though separated from it—are not *bona fide* connected with it in sense, though disjoined in situation; and whether they will not lead your judgment to form a true estimate of the mind and intention with which we admitted this tailpiece to the narrative.

Gentlemen, I most perfectly acquiesce in the clear truth, propriety and necessity of the rule which his Lordship has

laid down, as to the description of matter which I may desire to be read. If I were so far to forget the respect which I owe to the Court and to you, as to desire passages quite extraneous and foreign to the subject to be read, and attempt to create an argument from them, I should be properly rebuked by the Noble and Learned Lord. But I am not so bewildered. I know that nothing would be more absurd than to join things which have no connection. If we were charged, for instance, with the insertion of a paragraph offensive to morals, or with any crime the most intolerable and abhorrent to our natures, such as blasphemy or impiety, and that we were to bring a thousand paragraphs to prove our loyalty or our patriotism, they would not, and they ought not to stand us in any stead, for we can only adduce that which is pertinent to the matter in issue. But when I agree to this, I must lay in my claim, that the mere disjunction of paragraphs, which are kindred in tenor, and appropriate to the case, shall not nullify them, nor deprive me of their benefit; for the Noble and Learned Lord will tell you that you have a right to take the whole paper into your view—That such has been the Noble and Learned Lord's own just practice, and recommendation to Jurors, when he told them in a former instance that the mind and intention of the Defendants were to be made out and ascertained from the whole tendency of the book or paper upon which the record was bottomed.

Now, Gentlemen, let me beg of you to attend to the immediate cause and reason of the appearance of the paragraph complained of in my paper of the day mentioned. There is, as I said before, a full, temperate, and faithful narrative of the offer of negotiation which had been made by Mr. Perceval and Lord Liverpool, to Lord Grenville and Lord Grey—and there is contained in that narrative a train of reasoning upon the terms of the overture that had been made, on the answers thereto, and on the result.

Having prepared and digested this paper, and delivered it to Mr. Lambert for insertion in *The Morning Chronicle*, I met with this paragraph in a respectable and well-written Sunday Paper (*The Examiner*), and finding it to harmonize with the Essay I had prepared—I took it as a fit and appropriate postscript; a just corollary from the foregoing propositions, and I directed it to be copied accordingly. I do not come here, therefore, to prate about negligence, or oversight, or creeping in by accident—No, I took it with my eyes open, in the morning, with my senses fresh, and with the entire approbation of my judgment as to its innocence. The first passage in the narrative, Gentlemen, to which I would beg leave to draw his Lordship's attention and yours, is in the second column of the second page, and is follows:—

“ Lord Grenville arrived in town on Thursday last, the 28th, at night, and, it is understood, that on the 29th he communicated to Mr. Perceval that he could not, consistently with his principles, have any interview, or enter into any discussion with him, with a view to his forming an ACCESSION to the present Administration, as he considered their measures to be most objectionable in every respect; and he could never approve the principles of their formation. It is understood that when he said this, he begged to express his most invariable and profound sentiments of respect for his Majesty; that his conduct and principles, he trusted, had always been calculated to *heal, not to foment, the divisions of the empire*, but that he could not view what was proposed *as tending to that end.*”

This will serve to shew you what was the feeling of the mind of that great and superior Statesman, as to the character and tendency of the system to which he was invited to accede, and in which his declaration is distinctly stated, that his conduct and principles had always been

calculated to heal, not to foment the divisions of the Empire, “but that he could not view what was proposed as tending to that end.” Upon this the narrative proceeds to reason; and the whole tendency, purport, and drift of the subsequent argument is to shew that by a different course of proceeding—namely, if the Noble Lords had been commanded to attend his Majesty in person, there would have been an *immediate* prospect of a change of system that would have tended “to heal, not to foment, the divisions of the Empire.” And this is particularly expressed in the next passage, to which I beg leave to draw your notice—where it is said:

“ If the question relates to prospective measures, whether of war, negotiation, commercial intercourse, or domestic economy; if in those great leading lines of Government the conduct is to be directly the reverse of that which has been pursued, who shall represent to the Sovereign the wisdom of the measures that are to be proposed, or the mischief of those that are to be abandoned? Are those whose aid are asked in the crisis and exigency of public affairs, to be shut out from this communication; and is it to be entrusted to those who have a direct interest to give the representation a false colour, and, independent of interest, have views of the question calculated to mislead their judgment?”

So much for my meaning, as to the change of system, meaning a total change of measures only, but that that total change would bring a crowd of blessings in its train *immediately and of course.*

No, says Mr. Attorney General—not immediately, for the period was to be postponed—No blessings till after the demise of our Sovereign Lord the King—and the crime of the charge is, that I postponed this happy period until that day which we all trust may be so distant. Read the paragraph which introduces that which speaks of the King,



and of the Heir Apparent, together with that paragraph itself—and then see, Gentlemen, what interpretation you will put upon my adopted paragraph. It is as follows:

“ Awful as the crisis is, and arduous as the task would be, we may conclude from their principles and conduct (meaning the principles and conduct of Lord Grenville and Lord Grey) that they will be ready to devote themselves to the service of their King and Country. But they cannot, consistently with those principles, permit Lord Liverpool and Mr. Perceval to be the persons to communicate their thoughts and views,—a rule of action which we conceive to be most correct; not dictated by any narrow-minded principles of exclusion, but resting upon those sound and well considered views of the constitution which ought to govern their conduct as statesmen in this most important and interesting matter.

“ We ought to add to this statement, that his Royal Highness the Prince of Wales has, upon this most curious and interesting occasion, taken a line which must exalt his character and endear him to his country. The sentiments of his Royal Highness on the awful crisis of the empire, and of the character of the measures which have led to that crisis, are not unknown. He feels on the subject like every other enlightened man, but more strongly, perhaps, because he has a deeper interest than any other in its welfare: but, from some unfounded rumours respecting his interference in the arrangements which were in contemplation, the Prince has thought it his duty to express to his Majesty his firm and unalterable determination to preserve the same course of neutrality which he has maintained, and which, from every feeling of dutiful attachment to his Majesty's person, from his reverence of the virtues, and *from his confidence in the wisdom and solicitude of his Royal Father for the happiness of his people*, he is sensible ought to be the course that he should pursue. We have no doubt but that this assurance of the filial respect of the Heir Apparent, in not interposing his high influence in the forming of an Administration will be most acceptable to his Majesty.”

I pause here, Gentlemen, and fairly put it to you, whether I might not safely leave my whole case, and that of my faithful friend, in your hands here, with this demonstration of my feelings, with this declaration of my opinion before you. Will any fair man say that I do not in this paragraph inculcate the duty of love and reverence for his Majesty, by stating, not merely my own ideas of his *royal virtues, of his wisdom, and paternal solicitude for the happiness of his people*, but the opinion and feeling of the illustrious personage, the highest subject in his empire—the most interested next to himself in its welfare—and whose example of reverence and devotion was so well calculated to inspire confidence and attachment in every class of the community? Gentlemen, this paragraph, so expressing his Royal Highness's sense of his Majesty's paternal wisdom and solicitude, I wrote, and I declare this day, in the presence of God and my country, that it expresses my own sentiments as one of his Majesty's most humble subjects.

Is there any thing here that talks of postponing the blessings to another reign? No, directly the reverse. There is present consolation held out to the people in the assurance of his Majesty's wisdom and paternal solicitude, and there is the cheering prospect of their being perpetuated by the description of the virtues of the Heir Apparent. I feel that I am brought here improperly, and that, instead of being charged with this as an offence, I should have received the thanks of every good friend of the Monarchy for the sentiment I promulgated.

I confess my astonishment that we should be brought here upon such a charge. And I have endeavoured in vain to find a reasonable justification for the Law Officers of the Crown in this proceeding. I cannot bring myself to believe, that they acted on the hasty and intolerant animadversion that was made upon the text by a rival Jour-



nalist the next day—an animadversion that was more than ordinarily coarse and violent; but I cannot help thinking, that the comment of the *Morning Post* has been officiously read, so as to make the impression in some quarter from which this prosecution really originates; and that it is not the well-considered result of an examination of the paper by the Learned Gentlemen themselves.

(Here the Attorney General interrupted Mr. Perry and appealed to the Court. He said, that he had remained silent longer perhaps than he ought, and suffered the Defendant to wander from the point at issue; but now that he was drawing into observation persons not in the Cause and not in Court, and even naming them, he must interfere; and say that he could not submit to the irregularity.)

Lord ELLENBOROUGH said, that if Mr. Attorney General had seen reason to stop Mr. Perry before, he might have done so—if he had himself seen any material cause for interference, he certainly should have felt it his duty to have done so—although, when a Gentleman came into the Court to speak for himself, they must not be fastidious if he did not entirely regulate himself by the established forms of their proceeding. Mr. Perry certainly must abstain from personal allusions.

Mr. PERRY said, my Lord, I respectfully submit to the rules of Court, persuaded as I am that my ignorance of its forms will not be taken as a trespass; and that under your Lordship's protection I shall not be unnecessarily narrowed in my defence. I was only endeavouring to find a motive to account for the prosecution, and I am perfectly sensible that their motives can be no justification of my conduct, if wrong.\*)

\* The following is the passage alluded to:—  
“Never, surely, was any thing more calculated to insult the good sense or horrify the pure and amiable nature of his Royal Highness, nor was ever

Mr. PERRY proceeded—Gentlemen, take the paragraph by itself, unconnected with the illustration which I have given, and see if it can be tortured into the meaning which is put upon it. It does not allege that the successor of our present Sovereign Lord is to be more popular, it states only that he has the finest opportunity of becoming nobly popular. Can these words involve even the insinuation of disrespect to his Majesty's sacred person? May they not rather be fairly construed into a most courteous and loyal compliment? Have I not a right to say that the duration of his Majesty's happy reign, the Fiftieth Anniversary of which we are now celebrating as a Jubilee, has given the finest opportunity (of which the paragraph speaks) for the Heir Apparent to learn the means by which he may make himself nobly popular? Was there ever an Heir Apparent since the Revolution—since the establishment of the Monarchy—since the beginning of the world, that did possess such opportunities as his Royal Highness the Prince of Wales? Did ever Prince study the art of Government in such a school—or did ever Prince undergo such a probation, as the length of his Royal Father's reign, and the fearful events which have passed under his eye, have afforded to his Royal Highness? Nay, after all, what is this, but what happens every day in colloquial discourse, when it is a common flattery to say to a youth in the presence of his Parent—“that you wish he may be a better

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any thing more calculated to call forth the indignation and execration of a loyal and admiring people, upon the wretch who is capable of broaching ideas so repugnant to the feelings of the illustrious Heir Apparent, and to the ardent wishes of every good and virtuous subject. To the indignation and execration of the British nation do we therefore consign this damning specimen of the abominable and infamous sentiments by which the base faction are impelled in their most unprincipled and diabolical pursuits.”—  
MORNING POST, 3d OCTOBER, 1809.

“man than his father?” Gentlemen, if I had not determined to abstain from every thing that could have the air or tone, or emphasis of elocution—that could be thought to be an attempt to engage and to work upon your feelings,—I could here adduce the most beautiful and the most tender passages from ancient and from modern writers—from the pages of the historian and of the poet, to shew that in all times and by the most sublime allusions, it has been considered the most endearing sentiment to the heart of a parent, that his virtues and his glory were to survive, and even to be transcendent in his son. But I am not come here, Gentlemen, to attempt to stir the emotions, but simply to address the understanding—And I may surely say, without disparagement of the Parent, that the Son may be nobly popular by following the example he has set; by treading in his steps; by having become so intimately acquainted with the character, with the feelings and with the interests of the people he will in due course of time be called on to govern—and what I conceive to be also most favourable, that he will be of a mature age, to chuse the persons, with whose experience, ability, and maxims of Government he has had such means of being so thoroughly acquainted, as to enable him to give to his own free choice of his Administration the confidence of his subjects.

But, Gentlemen, I am able, fortunately, to shew you, by that which must be present to all your recollections, that at the time of the publication of the paragraph in question, there was a great topic of public interest in universal discussion, the nature and meaning of which you will discover in the context to which I have drawn your regard. At that time Parliament was not sitting. Public agitation was at its height: The topic was in every mouth; and the *Morning Chronicle* was the field of discussion on one side, as rival Journals were on the other. It was per-

fectly understood what was meant by the allusion of Lord Grenville to the principles which would tend to heal, and not to foment the divisions of the Empire. And to shew you that at the time my reasoning on the subject was taken and construed to mean distinctly, that the blessings which would crowd upon us by a change of system, would arise directly, and not remotely, if the Noble Persons who had been applied to as fit and proper Ministers, to strengthen and uphold the then enfeebled, tottering, and disorganized Cabinet, had had the opportunity presented to them of impressing on his Majesty's Royal mind the conviction with which they were themselves impressed, I have only to recal your memories to the discussions of the time, and to the declarations which were understood to come from authority. Nay, I can shew you, that the reasoning of this very paper was so understood by that authority, and so answered on the very day subsequent to my publication. I presume, my Lord, I may be permitted to read as a part of my speech, a paragraph to this effect, in direct answer to my article, from a paper which was published the day after?

LORD ELLENBOROUGH said, that if it was a paper published after the appearance of the paragraph in question, it certainly could not avail the Defendants in shewing their mind or intention in the previous publication; and he informed Mr. Perry, that he could not draw any inference from any paper whatever, without putting it in and proving it regularly as evidence; in which case the Prosecutor would have the power to adduce evidence to rebut it if he should think fit.

MR. PERRY. I thank you, my Lord. Gentlemen of the Jury, I am grateful to his Lordship for the information by which your time will be saved, and by which I feel that I shall be served; for the paragraph I was going to read might have led me into a train of reasoning, which I

am sensible, upon reflection, it will be discreet for me to avoid\*.

Gentlemen, it is only necessary for me now to say, that not only from the paper of the day, but from all that I ever published, I wish you to form your judgment of my

\* The paragraph which Mr. Perry proposed to read, appeared in a very long, ingenious, and candid answer (seemingly from authority) in *The Courier*, to the article in his paper of the day before. The words were as follows:

"We had hoped indeed, that the known opinion of the King, the known opinions of the country upon this question, and the manner in which Lord Grenville had been disavowed by the Roman Catholic Bishops in the part he took in their name in the last Session but one might have induced a disposition without any pledge or any assurance being given or required, to have formed a Government with persons who are known to think, that at least during the King's life that question should be kept at rest."

*Courier*, 3d October, 1809.

It is also to be remembered, that in *The Morning Chronicle* of the 4th October, the insulated paragraph, now complained of, was declared, "to express only a fervent hope that the religious prejudices of the present reign might not be perpetual."

The train of reasoning into which I was entering was to shew that the mere allusion to a *bias*, or to a *prejudice* in the mind of a person, upon a particular topic, could not be considered as an imputation. The most virtuous and the most upright men of all ages may have entertained an honest prejudice or scruple upon a given subject of the highest moment without incurring the slightest reflection thereby; and the effects of such prejudices may have been honestly deplored as a calamity, though the motive may have been even regarded as moral—But if such allusion to the prejudices of a private Individual might be made with innocence, how much more freely when spoken of with reference to our most gracious King; who, by the very spirit, and by the practice of the Constitution, is elevated above the sphere of prejudices. It is the inestimable and sublime character of the British Constitution, that it surrounds the Sovereign with an atmosphere in which the passions that assail the common heart cannot have existence; or in which they are neutralized; for in addition to the Monitor placed by Omnipotence within, the people, from whence the kingly authority proceeds, have appointed Monitors without to guard His Sacred mind against the influence of those feelings to which the weakness of nature is subject, and the indulgence of which might be prejudicial. These constituted Monitors are responsible for every advice, and for every temptation that may approach him—and consequently the shaft of no calumny can reach the Throne—but must first strike and be intercepted by the *Aegis* which covers his sacred person. This would have brought me to the clear explanation of my paragraph; and to shew that it alluded solely to that passage in the context where Lord Grenville has objected to "the unconstitutional principle upon which the present Administration had been formed," as it tended to violate this sacred security of the King's name and person—from which it must follow as the just inference that the appointment of a Government without *pledge*, would be the total change of system stated in the record, and would be the immediate source of the blessings I had predicted. Such, upon reading the answer from authority published the next day in the demi-official Journal of Government, it would be seen, was the fair interpretation put upon my language at the time. *Ed.*

intention in this one act. It is, in my opinion, from the whole body and tenor of a volume, that its tendency is to be taken; and a journal, though the numbers are published successively, is of the same character. You must look to the style, drift, and spirit, with which it is written, and the doctrine which it strives to inculcate. Gentlemen, try us by this most faithful, but most piercing test. More than thirty-three years of my life have I been engaged either as the Editor or Proprietor of a Public Journal—more than twenty years has my faithful friend laboured by my side; and that we are both destined to persevere in the labour may be owing to the integrity we have practised in it. In all that time, the present is the second instance in which we have had a trial in this or any court on any charge of a criminal nature. And when you consider the *anomaly* that belongs to the avocation—that libel is to be judged by a severer criterion than any other species of misdemeanour is subject to—that we are made answerable for the criminal acts of others—that it is a profession (if we may be allowed to call it by that term—I know that I have acted liberally in it) which requires daily and incessant toil—to be performed at an unseasonable hour of the night, after the fatigues and exhaustion of the day, sometimes after the indulgences which man in society may be occasionally permitted—a profession subject to the arts which are too frequently practised to ensnare us in an unwary moment, or to beguile our vigilance—to partialities that may mislead the honest judgment, and to temptations that human frailty may feel it difficult to resist—it will be allowed that that honesty, that vigilance, that respect for morals must have been exemplary, which have so effectually secured us against the imputation of guilt.

Sixteen years ago, Gentlemen of the Jury, we were charged in this Court with a libel on the King's Govern-

ment, by the publication of an address from the town of Derby. It was conducted by the Noble and Learned Lord who is now the Lord Chancellor of England. He did not lay the information himself, but he found it in his office, and felt it to be his duty to bring it on. The disorder of the times had given a most serious alarm, not to Government only, but had distracted and divided the greatest political parties in the realm. It is not only painful, Gentlemen, but disgusting to speak of ourselves, and nothing but the peril in which we stand here this day can justify my own feelings, to the breach of taste which I commit, by a reference to the testimony borne by the two Noble and Learned Lords, Lord Eldon, who was the prosecutor and Lord Erskine, who defended us, to our reputation at that time. Gentlemen, I will not trust my memory with the words, but will presume to read them from the authentic document taken in short hand at the time, and which was published in the form in which I now hold it in my hand.

[LORD ELLENBOROUGH here begged Mr. Perry to stop; and, in a short address to the Jury, he said that he had his doubts whether, in a criminal prosecution of this kind, a Defendant could refer to the documents and evidences of the former part of his life, as proofs by which his mind and intention in any subsequent act could be deduced. He knew that in cases of libel, as well, indeed, as in other cases even more serious, this sort of reference to anterior testimony had been claimed and allowed; but he confessed he had his doubts as to the propriety of such allowance. On the trial of Mr. Horne Tooke, for instance, on a charge of treason, that gentleman had claimed this right, and it had been granted by the Judges who tried that indictment; but he was not prepared to say that he was of the same mind; though, of course, it was not necessary for him to say more than that if ever the case should arise before him, it would become seriously his duty to consider whether suc-

proof could be admitted. In the present case, Mr. Perry proposed only, he supposed, to read a passage or two from the report of the trial. If he meant to put it in as evidence, he thought it could not be admitted; but it was competent to Mr. Perry in the course of his argument to allude to the declarations which were made by those Noble and Learned Lords, and he would of course have all the benefit of the allusion.]

MR. PERRY thanked his Lordship.—Gentlemen, I meant but to state to you in their own words, what I shall now only mention to you in substance. Lord Eldon said, that “Considering every individual as under his peculiar protection, he felt it to be his duty to acknowledge, that in no instance before that time had we been brought to the bar of any Court to answer for any offence, either against Government or a private individual. And from all he had ever heard of the Defendants, he believed us to be men incapable of wilfully publishing any slander on individuals, or of prostituting our paper to defamation or indecency.” This was the declaration of Lord Eldon, the prosecutor. Gentlemen, on that day we had the great and distinguished advantage of being defended by that noble and illustrious Lawyer, who upon every occasion identified himself with his Client; who became as it were the brother of his blood—nay, the protecting parent to a child in danger, whose exertions in its rescue neither sword, nor fire, nor the waters could repel—the warmth and vigour, and integrity of whose soul struck to the hearts of Jurors the conviction by which he was himself so visibly penetrated, and in whom the eloquence of the advocate was rendered irresistible by the fervor of the friend. That Noble Lord spoke of us upon that occasion in terms, which it is impossible for me to repeat, but which have planted indelible gratitude in our breasts.

What we were then we are now. We never stood upon the floor of this or any other Court of Justice to receive its judgment, either for a public libel or a private calumny.

For myself I can say, that the impression first made on my mind when a youth, and when I first entered the gallery of the House of Commons by that great *Orator of Reason* (Mr. Fox) fixed my principles, and have given consistency to my life. I have never been treacherous to my first professions, nor indolent in carrying them into practice. I have never been violent in my language, but I am sure it will not be said of me that I have ever been equivocal. I never became the advocate of any cause but that which I thought honest, and never embarked in any cause for money. I have been ever found steady to the maintenance of freedom, to the cultivation of the human mind, to the preservation of morals, and to the true interests of my King and Country. Having espoused the doctrines upon conviction, of that party, the ancestors of whom placed the illustrious Family of Brunswick upon the Throne of these Kingdoms, I have acted upon their maxims, without having any other interest in their success, than that which must spring to me, in common with that of my fellow citizens, by perpetuating the blessings we enjoy. And by acting in the middle path, which the Whigs of England have ever pursued, it has been my lot to be equally assailed and vilified by the extremes of both sides.

For my faithful friend, Mr. Lambert, I can with equal sincerity say, that in his more sedentary department of my concern he is equally above reproach. I defy all mankind to say of him that he could ever be diverted or seduced from the faithful discharge of his duty to the public and to me; or that any temptation could ever make him wil-

fully to insert an article in *The Morning Chronicle* that ought to be left out, or to omit an article that ought to be made known.

Gentlemen of the Jury, I have done. I have only to thank the Noble Lord on the Bench and yourselves for the kind indulgence which you have shewn to me in a situation so new, and to which I am so unequal. I will add but one word more. The obloquy to which the humble but not unuseful profession of a Journalist has been of late so unadvisedly subjected, was a powerful inducement to my mind to appear before you in person this day; that I might bear my testimony, if it can be of any weight, to the injustice of the censure. Indiscriminate censure must always be unjust—it is unworthy of enlightened men to throw out, and in this instance it would be very unwise in Englishmen to cherish. I am sure that its influence will not penetrate these walls this day. I feel conscious that the imputation does not attach to my faithful friend nor to me; and I am sure that both the Learned Lord and yourselves are too noble and too upright in your minds to suffer it to approach you.

Gentlemen, the cause of the Liberty of the Press in England, under the direction of the Noble and Learned Judge, is in your hands this day. *The Morning Chronicle* stands now, as it did in 1793, in the front of the battle, not only for itself, but for the liberty of the press of England. The point at issue is—whether it shall continue to assert the principles upon which the Whigs have ever acted, and by which their only object is to perpetuate to His Majesty and His heirs, the Throne to which they persuaded the People of England to call His ancestors, by securing it upon that basis, which forms not only its strength, but its lustre, and which I find truly described in a recent column of my own Paper. “Nothing  
“ on earth ever equalled the magnificent and richly-



ornamented power and greatness of the kingly office in the Constitution of England, when exerted in due harmony with the influence and authority of the two Houses of Parliament in unison with the Public Voice. The boasted unity and vigour of despotism is impotence compared with the concentrated energy of such a Government. — May it be perpetual!

**THE ATTORNEY GENERAL'S REPLY.**

*My Lord, and Gentlemen of the Jury,*

The Gentleman who has now addressed you in his own defence, has stated, that many years ago, when a Noble Friend of mine filled with so much credit the situation it is now my honour to hold, that Noble Lord had passed an eulogy on the Defendant and his Paper. I have no knowledge of what passed on that occasion, but I give the Defendant full credit for the correctness of what he has stated. The Defendant seems from his gesture to be sensible of the acknowledgment I have made him, but I assure him this is very far short of the credit in other respects, which I would willingly give to the Defendant. In whatever situation I shall stand placed, I shall be happy to give to every one that credit which is due to him; and however much it may surpass the expectations of the Defendant, he shall not find me less desirous of doing him justice than the Noble Lord had done. Persons who defend themselves are often brought into circumstances of great peril; but that is not the case in the present instance. The Defendant has lamented the absence of a Learned Lord, a friend of whose assistance he had formerly availed himself in this Court (Lord ESKINE). I should also regret the removal of that Learned Lord, had he not been called to fill a higher station. With the eulogium passed on that

Learned Person by the Defendant, I, and all who have witnessed his conduct in this Court, must agree. But the Defendant certainly has not suffered by the absence of that Learned Lord, or of any Advocate whatever. He has done himself ample justice, and has proved himself fully equal to the task he has assumed. Though a Defendant who pleads his own cause is subject to inconveniences, there are also advantages which arise from the same circumstance, and there are irregularities which may be committed by persons in that situation, which it would not be worthy of Counsel who opposed them, to endeavor to correct. The Defendant has admitted that I have conceded to him as much Liberty to the Press as he wishes to contend for. I surely did concede to the Defendants the full and free discussion of public measures. But, I think, that when the Defendant indulged in such liberal abuse of all those who fill high situations in the State, he exceeded the bounds which would have been allowed to a Counsel.

[Lord ELLENBOROUGH could not say that the Defendant had been indulged in any observations which would not have been permitted to an Advocate. — If the Attorney-General had called the attention of the Court to any thing irrelevant which the Defendant was advancing, a check would have been put to it. But in the heat of argument, in such cases as the present, matter might have fallen even from a Counsel, not strictly applicable to the case, but which the Court might not feel itself called on to check. Interruptions of the kind tended to derange the ideas of the Speaker, and this must be still more applicable to a person not accustomed to address a Jury.]

The ATTORNEY GENERAL continued. If his Lordship had only heard me two sentences farther, he would not have interrupted me. I never meant that it was the duty of his Lordship to have interrupted the Defendant. All I meant to say was, that the Defendant possessed ad-

vantages from the circumstance of pleading his own cause; that he had taken a degree of licence not altogether justifiable; and that, because he was, as to us a Layman, if the gentleman will allow me the expression, I did not think it proper to interpose; but I did not mean to insinuate that it was his Lordship's duty to interfere—No, Gentlemen, it was mine; and I was only going to say why I had not done so. I saw what it would lead to—that I must bear the abuse the Defendant bestowed with so great liberty; but I thought it would be unworthy in me to enter into the contest. It may have been my duty to defend those Persons whom the Defendant so liberally attacked; but considering the situation in which the Defendant stood, I determined not to go out of my way; and as the Defendant was not accustomed to proceedings of this kind, to allow him to go as far as he chose. I thought the Defendant at one time was *feeling his way*, to ascertain how far he might proceed. He was stating what had appeared in another paper of which I knew nothing. In doing so the Defendant threw out a doubt if he was not exceeding the line of propriety. He found that he was, but not till he had named the paper; having previously spoken of it in terms of more than reprobation, and scandalous as to the author of the article to which he alluded. In the most adroit and skilful manner (I must say) the Defendant did refer, wishing to know if he was going too far, but taking care at the same time to go his full length. I did think that in naming the paper, the Defendant did go farther than any Advocate would have been permitted, and I did accordingly suggest that there were limits to the licence he was taking. The Defendant, however, has gained his point; and he certainly has shewn greater skill in managing it than any man I ever met with. The mode in which the Defendant introduced himself to you, Gentlemen of the Jury, was well calculated to interest you in his favour. A

well-affected simplicity, want of knowledge in the forms of proceeding, inability to do justice to his defence, joined to colourable reasons for not placing it in the hands of others, were well selected by the Defendant for this purpose; and having in this manner interested you in his favour, he was seen to bring to his aid talents which do not fall to the common lot of man. These are the advantages which the Defendant has gained by pleading himself his cause to day (and more consummate address I never witnessed), but, yet, they will not avail him. As far as the sentiments of the Defendant in his speech this day, or as they appeared in other parts of his paper, can go to an alleviation of his offence in publishing the libel in question, so far let his guilt be alleviated. I am happy to find that the same man in the year 1810, is not so unlike the person Lord Eldon found him to be in the year 1793, as from the paragraph in question I must have conceived him to be. The Defendant wishes that the Jury could look into his mind, and see what passed there. If the Court who may have to pass sentence on the Defendants could do so, it would be fit that they should be governed by what they saw passing there: But what you, Gentlemen, are here to try, is, if a paragraph, stating that certain blessings are to be attained by the People of this Country, but that the period of their attainment is not within the life of the reigning Sovereign, but on the accession of his Successor, and consequently that the period of the reign of the present Sovereign must be interposed before they can be attained, is, or is not a libel. If such be the meaning of the paragraph, is there any man so besotted as to deny that the tendency of it could only be to alienate the affections of the people from the reigning Sovereign, and to teach them to look forward to the era of His dissolution as the period at which those blessings are alone to be enjoyed? This, I must contend, is the fair inference to be



drawn from the publication in question, notwithstanding the eloquence which has been displayed by the Defendant in giving it a different interpretation. Though I have attended to the utmost of my power, to the address the Defendant has made, I could not comprehend any part of it as going to the real questions. He went round it and round it, but with singular care, and must say with great dexterity, avoided coming near it. What is the meaning which the paragraph carried along with it in sound sense and reason? I was short in my opening of the case, because I felt it to be so plain that I was afraid reasoning on it might bring on obscurity, which simply reading of it could not do. How, then, was it to be defended? Not by itself, for that was desperate. It was impossible to read it and not to say, that it bore that a change of circumstances would bring blessings, but that the way for their attainment was the accession of another Sovereign, and that He would be nobly popular in the country. Can any man say, that the paragraph will bear any other interpretation? The time at which these blessings are to be expected, is the commencement of the reign of the next Sovereign; the Public are to look forward to that period, without hope or expectation of any of the promised blessings visiting them during the reign of His present Majesty. Then how is this paragraph to be explained away by any other parts of the same paper? It is said by the Defendant, that the paragraph in question was not in the large type, and that this which was displayed conspicuously, was all which the publishers of such papers held out as their own. This is the first time I ever heard of such a doctrine, and his Lordship will tell you that it is impossible such a defence can be admitted. The Defendant has also said that there are other passages in the same paper which prove that he did not hold the sentiments here imputed to him. To take up that matter drily, can it be said that a man is intitled

to put a paragraph of the tendency I have described, into an insulated part of his paper, and then to argue?—It is true, you here find this paragraph, but if you look three columns back you will find one of a different tendency, and the one will correct the other. No such argument can be sufficient to avail any man. But it is said, the paragraph did not go so far, and that what I have stated was not the meaning of it. I could only take the paragraph by itself, and to my mind it had only this one meaning, that the blessings he figured are only to be attained in the reign of his Majesty's Successor. When this idea was in the mind of the writer of the article, when the person of the King must have been before him, how came he not to state, that His present Majesty might have an opportunity of becoming nobly popular by a total change of system, but to reserve that claim to popularity for His Successor? To proclaim to his readers, that His present Majesty will not entitle Himself to claim an attachment from the part of His Subjects, but that it is the Successor of His Majesty only who will do it? It is impossible he could do for any man to wrest the paragraph to any other signification. But what is it which the Defendant relies on to show not only that he had not, but that he could not have any such sentiments in his contemplation? Not the sentiments of the Editor himself, but what he related of another as being his sentiments. You must not say he is imputed to him, altho' he says in another part of the paper that he only impute loyalty to Lord Ormonde, and states the expressions of loyalty used by him. It does not appear to me, that there is anything like a rational argument in this. But the Defendant says there is still another part of the paper which proves his loyalty, and this is a paragraph in a commendation of the Prince of Wales, and of his regeneration for the virtues of his Father, and it is impossible, heithen for the Defendant, or for the Learned Lord who has formerly

been his Counsel, to hold the character of his Royal Highness in higher respect than I do; but I am at a loss to see what connection there is between this paragraph in commendation of his Royal Highness, and this Tail-piece, as the Defendant describes it, tacked not to it but to another article. The sentiments ascribed by the Defendant to the Prince of Wales are most truly so ascribed with the view of magnifying His character; but what argument can be built on this to shew you, Gentlemen of the Jury, that you are not from the other paragraph, to collect, that the accession of His Majesty's Successor to the throne is not the æra at which the blessings alluded to are to be attained? So far the reverse of this, it furnishes an additional argument for the interpretation I contend the paragraph can alone receive. I should not have thought the two paragraphs at all connected together: but supposing them to have followed each other, or to have formed part of the same article, what would they together have amounted to? A commendation of the Prince of Wales—a declaration that a total change of system would produce an infinity of blessings—followed by an observation that the Successor to His present Majesty would have the finest opportunity of becoming nobly popular. In other words, “Nothing but change of system can produce the blessings alluded to, and His Majesty's Successor—that Prince I have before commended, will have an opportunity of becoming nobly popular, by acting directly contrary to that system His Father is now pursuing.” Could any man give a different interpretation to the whole, supposing the paragraphs to stand together? The Defendant says this was like a post-script or corollary to the article in the former part of the paper. I say, if they were connected, my argument would gain additional strength from the circumstance. But if connected, how happened it that they were so disjointed?

The Defendant says the article charged as a Libel is to be taken as a part of the former long article. What part? The article immediately preceding it, begins “Three sail of the homeward bound Jamaica fleet have arrived at Cove severely injured in masts and rigging, &c.” Then, if this argument of the Defendants is correct, it follows, that there is not a paragraph which could possibly find its way into a newspaper, however poisonous it might be in itself, which, when coupled with another paragraph in some other part of the same paper, might not become perfectly innocent. For a person of so acute an understanding as the Defendant possesses to hold out such an argument to you, Gentlemen, is to deceive you. It was unworthy the understanding which he has so ably, and, though he disclaims it, so eloquently exhibited to day, to contend that the articles have any connection. If they had, however, it only makes the matter worse. I will do the Defendant the justice to say, that I do not believe the Defendant intended they should have any connection. If he had first perused the one, and then adopted the other as having reference to it, his intention would be the more strongly manifested; and therefore, if the paragraphs were to be connected together, the observations that I have before made would be greatly enhanced.—If there be nothing in this paper, which I am certain there is not, that can give a different sense to the paragraph complained of, it must be judged of, as it stands, by itself. The effect of it no man who reads it can doubt. I have no doubt his Lordship will tell you that the paragraph could have no meaning but that which I have assigned to it; of course, it will be your duty to convict the Defendants.

## SUMMING UP.

LORD ELLENBOROUGH.

GENTLEMEN OF THE JURY,

This is an Information against the two Defendants, Mr. Perry and Mr. Lambert, for the publication of that which is alleged to be, "A scandalous, malicious, and seditious Libel concerning our Lord the King, and his Administration of the Government of this Kingdom." It is therefore treated as a Libel upon the person of His Majesty and his Majesty's Administration of the Government of the Kingdom, applying personally to His Majesty and His personal conduct in that respect. That is the way in which it is charged. The words of the Libel, and it is a very short one, and therefore you will be able with better effect to apply your minds to it, fairly to comprehend its meaning, are these—"What a crowd of blessings rush upon one's mind that might be bestowed upon the Country in the event of a total change of system." By change of system, you will clearly see, is not meant a change in the frame of the established Government, an overthrow of the Constitution, or of the Kingly Power under it—That is not meant by nor imputed to it; for the descent of the Monarchy to the Successor of His Majesty is mentioned in the next branch of the sentence. You are therefore, Gentlemen, to discharge your minds from the necessity of considering the former part of the sentence as intending, or meaning to insinuate that a change in the frame of the Constitution would bestow blessings on the Country; as the words in this part really mean a total change in the plans and measures of the Administration; as these words are commonly understood

to be used and applied to the system of the King's Ministers for the time being. Your attention will be drawn and applied to discover the true meaning of the subsequent words of the sentence, which coming after the words I have read, are as follows: "Of all Monarchs indeed, since the Revolution, the successor of George the third," meaning our present Lord the King; that is the only inuendo in it (and of course, without it, one would have known George the third meant our present Sovereign Lord George the third,) the successor of George the third "will have the finest opportunity of becoming nobly popular."

Gentlemen, the Defendant himself has given his interpretation of the words, and he says that these words are to be understood in an innocent sense by reference to the context of the paper, and that there are to be found in this same paper, in which the paragraph appears, other parts which shew he did not mean to disparage either the wisdom or the virtues or the personal solicitude of His Majesty for the welfare of His People. It is competent to the Defendant to read a part of the same publication; for if it is near enough to have a fair bearing upon this paragraph, it ought to be imported into this paragraph, to have its influence in determining its sense. The first paragraph referred to merely conducts us to the part the Defendant alludes to; it relates to a political event which passed about the period of this paper (the 2d of October). After having stated that certain noble Lords were communicated with upon a subject which it is unnecessary for me to discuss, but which you will perfectly understand to be the subject of this paper in part; he says, "Awful as the crisis is, and arduous as the task would be, we may conclude from their principles and conduct," speaking of the two noble Lords adverted to (my Lords Grenville and Grey)

“that they will be ready to devote themselves to the service of their King and Country. But they cannot consistently with those principles permit Lord Liverpool and Mr. Perceval to be the persons to communicate their thoughts and views; a rule of action which we conceive to be most correct, not dictated by any narrow minded principles of exclusion; but resting upon those sound and well considered views of the Constitution, which ought to govern their conduct as Statesmen in this most important and interesting matter.” Then he afterwards says, and this is the part to which I would draw your attention; “We ought to add to this statement, that His Royal Highness the Prince of Wales has, upon this most curious and interesting occasion, taken a line which must exalt His character, and endear him to His Country. The sentiments of His Royal Highness on the awful crisis of the Empire, and of the character of the measures which have led to that crisis, are not unknown; He feels on the subject like every other enlightened man, but more strongly perhaps, because He has a deeper interest than any other in its welfare; but from some unfounded rumours respecting His interference in the arrangements which were in contemplation, the Prince has thought it His duty to express to His Majesty, His firm and unalterable determination to preserve the same course of neutrality which He has maintained, and which, from every feeling of dutiful attachment to His Majesty’s Person, from His reverence of the virtues, and from His confidence in the wisdom and solicitude of His Royal Father for the happiness of His people, He is sensible ought to be the course that He should pursue. We have no doubt but that this assurance of the filial respect of the Heir Apparent, in not interposing His high influence in the forming of an Administration, will be most acceptable to His Majesty.” Here he states that His Royal Highness had

resolved to preserve a line of neutrality, and that from the estimation in which He justly held His father’s virtues, and his confidence in the royal wisdom and solicitude for the happiness of His people, He had forbore to interfere.

Now if this stood immediately next to the paragraph in question, or there was a sort of continuing context to unite them, it would be fitting for you to consider (and it is fit for you to consider as they stand now) whether you are to regard this as influencing really, and bona fide, the sense he has meant to convey in the other, supposing that these words, in the manner in which they stand, do not so clearly intimate a conviction of the wisdom and solicitude of His Majesty as the others do; and the question for you to try, as it respects these words, is, whether they are really bona fide to be considered with reference to the other passage; and whether any language, in the other passage, which might have otherwise appeared improvident, did not connect itself with this, in point of context, so as to receive a qualification from that consideration.

The next question for your consideration, and which will be a most important and probably the most important question, is—What is the fair, honest, candid interpretation of the words taken by themselves?

Now, Gentlemen, the part I have read certainly imports no disrespect whatever to His Majesty, on the contrary it speaks of the virtues of His Majesty; it speaks of that, which every body in His Majesty’s dominions knows, that He does entertain the strongest solicitude for his people, and a regard for his virtues is very strongly breathed in this passage. But this paragraph (as has been observed by the Attorney-General) is very considerably removed, in point of place, from the paragraph in question; the one being in the fourth column of the second page and the other being in the second column of the third page. The

paragraph which is the subject of the prosecution is this: "What a crowd of blessings rush upon one's mind that might be bestowed upon the Country in the event of a total change of system. Of all Monarchs indeed since the Revolution, the successor of George the Third will have the finest opportunity of being nobly popular." Now if the two paragraphs are to be understood, as they would be, if they stood immediately following each other, and were in immediate context and union, or rather communion, with each other, one must understand the words, in fairness, as referring to the blessings which would ensue under a change of system, and as implying that those blessings were expected from that change of system, without meaning to impute to His Majesty a want of concern for the happiness of His People, or an insinuation that these blessings were not to be expected till the reign of His successor. "Of all Monarchs since the Revolution, the successor of George the third will have the finest opportunity of being nobly popular."

But, Gentlemen, taking these words standing remote as they do in point of place from each other, the most important question for your consideration is this—what is the fair meaning of this passage, standing by itself, and detached from any connection with any other paragraph; and is it, as it stands per se, libellous? "What a crowd of blessings rush upon one's mind that might be bestowed upon the Country in the event of a total change of system." First of all as to the words "change of system," I think, as I have said, the fair meaning of those words is a change of political system, not a change of the ordinary management of the Country in any of its vital concerns, but a change in its political Government. By "total change of system," certainly is not meant subversion or demolition, because the next passage talks of the Monarchy; therefore it does not mean a change inconsistent with the full vi-

gour of the monarchical part of the Constitution because it speaks of the blessings to be enjoyed on the accession of the Prince of Wales.—Now, I do not know that the saying there would be blessings from a change of system, taken by itself, without reference to the period at which they may be expected, is expressing a wish or a sentiment that may not be innocently expressed on a view of the political condition of the Country. There may be error in the present system, as it may obtain, but without any vicious motives, however, on the part of His Majesty; it may be from the way in which His Majesty may view particular parts of the Government of the Country, and arising entirely from an erroneous view. I do not know but of one Being to whom error may not be imputed, but it must be without any imputation of bad motives. If it be said that his Majesty, in the exercise of his wisdom and his virtues, has taken an unfortunate view, an erroneous view of the interests of His People—I am not prepared to say that the imputing to His Majesty an erroneous view of the interests of His People is imputing to Him, that which materially degrades His Majesty; go one step further, and say it is from a partial, corrupt view, with an intention to favour, or to oppress any individual, and it would become most libellous; but to lament merely an erroneous system of Government, as that which obtains under His Majesty's reign, I am not prepared to say is libellous.

Then, Gentlemen, comes the next paragraph—"of all Monarchs indeed, since the Revolution, the Successor of George the Third will have the finest opportunity of being nobly popular;" it does not say that he will become so, but that he will have an opportunity of being so. What is the fair import of that, for words are not to be taken either in the more lenient sense or the more criminal sense, but in that sense which they fairly import. Formerly it was the habit to say that words were to be taken in the



more lenient sense, but that is not now the interpretation in a judicial construction of words; they are not to be taken either in the more lenient or the more harsh sense; but in the interpretation which belongs fairly to them; but I must, in order to get at that which makes them take the more harsh interpretation, get at something which naturally gives to them that interpretation, and discover from them that they are made to impute to His Majesty any thing which is corrupt—any system of conduct—any motives which it would be vicious in a subject to suppose His Majesty to entertain, and which it is therefore mischievous to impute. Now it says, “Of all Monarchs indeed since the Revolution, the Successor of George the Third will have the finest opportunity of being nobly popular.”

If it means that his Majesty during his reign or for a length of time may have taken an imperfect view—an erroneous contemplation of the interests of the Country, as it regards either foreign nations, or our own, or the system of our internal policy—if it imputes nothing but honest error without crime, I am not prepared to say that that is of itself libellous. The rest of the paragraphs do seem to me too remote in point of place, and too divided in point of matter, to have any immediate necessary connection with the paragraph in question; but that is a matter for your consideration. But if it has not, and taking it as I am now doing substantively, and by itself, it is a matter I think somewhat doubtful, upon the fair construction of these words, whether the writer meant to calumniate the person and character of our august Sovereign.

If you are satisfied that was his meaning, by the application of your understanding honestly and fairly to the paragraph in question, you will find the Defendants guilty; but if, on looking at this paragraph by itself, or still more, if you shall think yourselves warranted to import, into your consideration of it, what goes before, notwithstanding

it is considerably distant in place, and disjoined by other matter; and you infer, from that connection, that this was written without any purpose to calumniate the personal Government of His Majesty, and render it obnoxious to His people, you will find them not guilty. The matter is for your consideration; you will not distort the words, but give them their fair application and meaning as they impress your mind. What is most material is the substantive paragraph itself, and if you consider it is meant to impute that the reign of His Majesty is the only thing interposed, between the possession of great blessings which are likely to be enjoyed in the reign of His Successor, and that it is intended to render His Majesty's Administration of his Government obnoxious, it is a calumnious paragraph, and to be dealt with as a libel. If, on the contrary, you do not see that it means distinctly and fairly, according to your reasoning, to impute any purposed mal-administration to His Majesty, or those acting under Him, but is at all reconcilable to the imputing only an erroneous view of public administration, I am not prepared to say that that is a Libel. There have been, at all times, errors in the administration of the most enlightened men. I will take the instance not of any of ourselves, or of our own age, but of a man who for a time administered the concerns of this Country with great ability, although he obtained his dignity with great crime, I mean Oliver Cromwell—we are at this moment suffering from the most erroneous principle in his Government, throwing the scale of power into the hands of France when he turned the balance against the house of Spain, and laid the foundation for that ascendancy on the part of France, which, unfortunately for all mankind, has since obtained in the affairs of Europe. The greatest of Monarchs, who ever sat upon the Thrones of Europe, and who have been the promoters of the greatest blessings to their Country in some respects, and who have contemplated its wel-



fare with the greatest solicitude, have had errors, but can the statement of that be considered as disparaging them ?

Gentlemen, the whole subject is for your consideration ; apply your minds fairly and candidly to the consideration of the paragraph in question ; distort no part of it ; and let your Verdict be the result of that fair consideration of it.

*The Jury immediately pronounced the Defendants NOT GUILTY.*

The next Cause, (also upon an information *ex officio*) the King v. Hunt, on a charge of libel for the original publication of the same paragraph in *The Examiner*, was withdrawn by the Attorney General.

FINIS.

