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[59]

A LETTER from D R. J E B B,

WITH AN EXTRACT FROM

AN HISTORICAL ACCOUNT of the RIGHTS of the
PARLIAMENT of SCOTLAND.

To MR. DANIEL ADAMS, *secretary to the SOCIETY*
for CONSTITUTIONAL INFORMATION.

S I R, *Buxton, July 20th, 1784.*

IT is the professed design of the society for constitu-
tional information, to diffuse, among the common-
alty of this island, the knowledge of those political rights
and privileges, which are immediately connected with
the enjoyment of civil liberty. This purpose of your in-
stitution you have already very generally, and successful-
ly, promoted by your publications respecting the violated
rights of suffrage, and the unwarrantable prolongations
of parliaments beyond that period, which the constitu-
tion and the reason of things assign as the proper limits
of their duration. Nor have you been inattentive to the
obligation incumbent upon the members of every well
regulated state, to be skilled in the use of arms, a know-
ledge essentially necessary to the safeguard of the com-
munity, against its foreign and domestic foes.

Such preparation has been ably evinced by the learned
and excellent author of *An enquiry into the legal mode of*
suppressing riots, and of *A dialogue upon the principles of*
government, to be truly constitutional, and not only to
be warranted, but in the best times of our republic
enjoined by law, the legislature of this country con-
sidering the arms of freemen, as the strongest security
under heaven, against every species of civil injury or
commotion. Were the ancient spirit of our ancestors
in this instance revived, were the right to universal
suffrage restored, were the septennial and triennial bills
repealed, public virtue, I am confident, would re-assume
its seat in the glowing heart of every English citizen:

VOL. II.

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patriæ

patriæ decus & tutamen appear resplendent on his martial brow.

It has been too much the custom to represent the inhabitants of a neighbouring kingdom as friendly to despotism, as insensible to the feelings of genuine patriotism. The following quotation and authorities, extracted from a pamphlet printed at the commencement of the present century, speak the sense of free parliaments and a gallant people, upon the subject of this letter, and ought to animate the present generation to revive the wise and salutary institutions of our fires. I am, Sir,

Your obedient servant,
JOHN JEBB.

EXTRACT FROM AN
HISTORICAL ACCOUNT of the ANTIENT RIGHTS
of the PARLIAMENT of SCOTLAND. *

IN the reign of queen Mary, it was one of the articles agreed on betwixt the deputies of the court, and those of the nobility, that the king and queen neither made peace nor war on their parts, but by the counsel, judgement, and consent of the estates, according to the ordinance of the country, and as was observed by their predecessors; which was a fair acknowledgement of the power the estates had anciently in that matter.

The estates having so great a power in affairs of war and peace, it followed naturally that they should have a right to take order about arming the people, and training them up in the use of their arms. So much of the sovereignty being then lodged in the three estates, they apprehended no danger of rebellion from the people, whom it was their advantage to cherish or encourage. The barons and freeholders could not otherwise maintain their own grandeur and riches, but by having substantial

* Printed in 1703.

tial and wealthy tenants; and the boroughs could not expect that their corporations should flourish, either in commerce or good discipline, if the burghers and other inhabitants were not encouraged by a mild and just government. This being the case, and the interest of the government and people one and the same, the parliament, from time to time, enjoined all of them that were capable of bearing arms, to be armed and disciplined; settled the days for their rendezvous; ordered butts to be erected in every parish, that the youth might on holidays be encouraged to improve themselves in archery; and enacted, that the sheriffs and barons, and magistrates of boroughs, should take care to see this performed, and levy penalties upon those that neglected or transgressed those statutes. Thus, in the act of William I. cap. 23, it is enacted, That every man shall be armed for the defence of the kingdom according to his ability; and the arms are there specified, and matters appointed by the sheriffs and barons every easter.

* * * * *

In the act of James III. cap. 106, it is ordered, that the sheriffs hold rendezvous of the subjects according to the act, and give the king an account under his own seal, and that of four barons of the shire, of all the men able to bear arms in the said shire, and of their being armed according to the act.

* * * * *

“ In the act of James I. cap. 61, it is enacted, that in order to discipline the people through all the kingdom, every sheriff, steward, bailie, provost, alderman, and bailies of boroughs, lords, and bailies of regalities, at very weapon-shewing, concur with the king's commissioners, that shall happen to be deputed to them, and they together to consult with the most able persons of the shire; and after they have enrolled the names of every man, with their harness and weapons, chuse one able man or more, for every parish, who shall be captain to the companies of the said parishes, to teach them the use of their arms; and shall assemble their companies at least twice per month, during May, June, and July, and the like in all other months, if they find it convenient; and the captains to be chosen

as

as oft as shall be seen expedient by the sheriff of the shire, and the commissioners and council fixed with him.

Thus we find, that our people were universally and continually trained up in the use of arms; that every man was obliged to be armed according to his quality, and that the command of their armed men *was not intrusted with every man that could get a commission from the King*, but either with such as were chosen by the people themselves as in the above mentioned act, or with the lords and barons, that were their landlords and masters, and by consequence obliged in honour and interest to treat them civilly; and being so much concerned in the welfare of the kingdom themselves, were not so liable to be bribed, or bought over to espouse the interest of the court against that of the country, *as mercenary troops and standing armies have ever been.*

[Ordered to be printed, Sept. 3d, 1784.]

AN EXTRACT FROM
THE COUNT DE MIRABEAU'S
CONSIDERATIONS on the ORDER of
CINCINNATUS, &c. &c. *

SINCE the above note was written, the cause of the dean of St. Asaph has received a solemn decision, in which a majority of the judges of the king's bench have declared, that by law, upon every trial for a libel, the jury are bound by their oaths to decide only, whether the party accused published the paper in question, and to reserve it to the court to determine, whether the paper be, or be not, a libel.

* P. 251.

Taking

Taking it for granted, as a foreigner must do, that this doctrine is the undoubted law of the land, it is clear, notwithstanding all that we have heard and fondly believed, about English freedom and English juries, that the liberty of the press is, in this country, a useless privilege, and that the trial by jury is, in questions of the highest importance, a mere matter of form. The English, however, have been hitherto sincere in boasting of their privileges; they deceived themselves; they dreamed that they were possessed of these important birth-rights, till the decision of this fatal cause dispelled the vision, and awakened them to all the gloom of their real situation.

One cannot but congratulate the people of England, that the salutary opinion of the extensive rights of juries was not sooner discovered to be erroneous; and that in the reign of James II. it had such firm hold of the minds of all men, that to its good effects upon the trial of the seven bishops, they are in a great degree indebted for the glorious revolution. The judges of the king's bench, indeed, acknowledge that, though juries have not a *right* to decide upon the criminality or innocence of the supposed libel, still they have the *power* to do it without punishment, and without a possibility of their judgment being reversed; and as long as the distinction between power and right (which probably nothing but a profound knowledge of the principles of English jurisprudence can render at all intelligible) shall be preserved, the people of this country will have one resource left. For if, upon any future occasion, when the decision by the jury of the question, whether libel or not, will preserve the spirit of the constitution, though it offend against the letter of the law, a jury should be tempted to deviate from the duty prescribed them by their oaths, in order to rescue out of the hands of power, some brave assertor of the peoples right, he must be a severe moralist indeed, who could deny that this was one of the very few cases, in which one might exclaim:

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[64]

Falsehood sublime! what truth will ever be,
So fair, so noble, as to rival thee.*

But whether juries having lost the right will long retain the power; and whether liberties can be deemed secure, which are to be defended only by uncommon exertions, and an enthusiasm of public spirit, which many Englishmen with too much reason lament, they see sinking among them every day, are questions worthy the most serious reflection of the nation.

[Ordered to be printed, Oct. 14th, 1785.]

A LETTER from D. R. JEBB,

WITH AN EXTRACT FROM

SIR JOHN FORTESCUE.

To MR. DANIEL ADAMS, *secretary to the SOCIETY*
for CONSTITUTIONAL INFORMATION.

S I R,

THE purport of the following extract from the treatise of sir John Fortescue, chancellor in the reign of Henry the sixth, on the difference between an absolute and limited monarchy, is admirably expressed in the words of the author: consequently, there is scarcely occasion for any farther preamble, than the title of the chapter. I would, however, observe, that the passage appears worthy of public attention, not only on account of the good sense and constitutional wisdom, with which it is replete, but also as it breathes that spirit of freedom, which so frequently animated our ancestors to assert the dignity and rights of men, in opposition to the tyrannical principles, and nefarious practices of ministers

* *Magnanima menzogna! or, quando è il vero
Si bello, che si possa à te proporre?*

[65]

nisters and kings. Although it is the main purpose of our author to demonstrate the realm to be then most vigorous when its commons abound in the comforts and conveniencies of life, his argument also tends to establish a most important right, which, from some strange fatality, Englishmen seem disposed to resign, at a moment when the asserting of it appears more particularly to be required by the circumstances of the times: I mean the right of bearing arms for the public defence.

The present state of the commonalty of England is indeed deplorable. We are exposed without a friend or patron, like a helpless prey, to the depredations of ministers of state. Every constitutional security, in which we formerly prided ourselves, is insidiously withdrawn, or substantially impaired. We are deprived of our right to arms by iniquitous game laws, of our votes for the election of our legislators by no less injurious restraints, falsely termed legal; of the right of suffrage, at the same time that the long continuance of septennial parliaments has almost obliterated the remembrance of our former powers of controul. I am, Sir,
Parliament-street,
Sept. 16th, 1785.

Your obedient servant,
JOHN JEBB.

AN EXTRACT FROM FORTESCUE,

On the DIFFERENCE between an

ABSOLUTE and LIMITED MONARCHY.

C H A P. XII.

*Hereafter ys schewyd, what Harme would come to Englonde, if
the Commons thereof were Poer.*

SOME Men have said, that it was good for the Kyng, that the Comons of *Englonde* were made poer, as be the Comons of *Fraunce*. For than, they would not rebel as now they done often tymes; which the Comons of *Fraunce* do not, nor may do; for they have no We-
pon,

pon, nor Armor, nor Good to bye it withall. To thees maner of Men, may be said with the Philosopher, *Ad parva respicientes, de facili enunciant*; that is to say, that they that seen fewe thyngs, woll sone say their Advyse. Forsothe thoos folkys consyderyn litil the Good of the Realme of *England*, wherof the Might most stondyth upon Archers, which be no rich Men. And if they were made porer than they be, they schuld not have wherewith to bye them Bowys, Arrowes, Jakkes, or any other Armor of Defence, whereby they might be able to resyste our Ennymies, whan they liste to come upon us, which they may do on every syde, consydering that we be an Ilesland; and as it ys said before, we may not have sone Socors off any other Realme. Wherfor we schuld be a Pray to al other Ennymies, but if we be mighty of our self, which Might stondyth most upon our poer Archers; and therfor they nedyn not only to have such Abilyments as now is spoken of, but also they nedyn to be mich exercysyd in schotyng, which may not be done without right grete Expensys, as every Man experte theryn knowyth right well. Wherfor the makyng poer of the Comons, which is the makyng poer of our Archers, schuld be the Distruction of the grettest Might of our Realme. *Item*, If poer Men may not lightly ryse, as is the Opynyoun of thoes Men, which for that cause would have the Comons poer; hou than if a mighty Man made a Rysyng, schuld he be repressyd; whan all the Comons be so poer, that after such Opynyoun they may not fyght, and by that reason not help the Kyng with fyghtyng? And why makyth the Kyng, the Comons to be every Yere musteryd; sythen it was good they had no Harness, nor wer able to fyght? O hou unwise is the Opynyoun of thees Men; for it may not be mantenyd by any Reason! *Item*, whan any Rysyng hath byn made in this Land, before thees dayys by Comons, the porest Men thereof, hath byn the grettest Causars and Doars theryn. And thryfty Men have ben loth therto, for Drede of losyng of their Goods, but yet often tymes they have gone with them thorough Manafys, or els the same poer Men would have takyn their Goods; wherin it semyth that Povertye, hath byn the hole and cheffe Cause of al such Rysyng. The poer Man hath ben styryd therto,

therto, by occasyon of his Povertye, for to get Good; and the riche Men have gone with them, because they wold not be poer, by lesyng of their Goods. What than would fal, if al the Comons were poer? Truly it is like, that this Land than, schuld be like unto the Land of *Beame*, wher the Comons for Povertye rose upon the Nobles, and made al their Goods to be comon. *Item*, It is the Kyngs Honor, and also his Office, to make his Realme riche; and yt ys Dishonor whan he hath a poer Realme, of which Men woll say, that he reygnyth upon Beggars; yet it war mych gretter Dyshonor, if he fownd his Realme riche, and than made it poer. And also it were gretely ayenste his Confyence, that awght to defend them, and their Goods, if he toke from them their Goods, without lawfull Cause; from the Infamy whereof God defend our Kyng, and gyve him Grace to augment his Realme in Rycesse, Welth, and Prosperyte, to his perpetual Lawde and Honour. *Item*, The Realme of *Fraunce* gevyth never frely of their own good Will, any Subsydye to their Prynce, because the Comons thereof be so poer, as they may not gyve any thyng of their own Goods. And the Kyng ther, askyth never Subsydye of his Nobles, for drede that if he chargyd them so, they would confedre with the Comons, and peraventure putt hym downe; But our Comons be riche, and therfor they gave to their Kyng, at sum tymys Quinsimes and Dimes, and often tymys other grete Subsydyes, as he hath nede of their Goods for the Defence of his Realme. How grete a Subsydye was it, whan this Realme gave to their Kyng, a Quinsime and Dime Quinquinall, and the ixth Flees of their Wolls, and the ixth Scheff of their Graynys, for the Terme of five Yers. This might they not have done, if they had ben empoverysyd by their Kyng, as the Comons of *Fraunce*; nor such a Graunte hath byn made by any Realme of Cristyndrome, of which any Cronycle makyth mention. Nor non other Realme may, or hath Cause to do so. For they have not so mich Fredome in their own Goods, nor be entreatyd by so favourable Lawys as we be, except a fewe Regyons before specyfyed. *Item*, We see dayly, hou Men that have lost their Goods, and be fallyn into Povertie, becomyn anon Robbers and Thefes, which would not have be such, yf Povertie had not brought them

Vol. II. L

them thereto. How many a These than wer like to be in this Land, if al the Comons were poer. The grettest Sewertie truly, and also the most Honour that may come to the Kyng is, that his Realme be riche in every Astate; for nothyng may make his People to arise, but lacke of Goods, or lacke of Justyce. But yet certeynly, whan thay lack Goods they will arise, sayyng thay lack Justyce. Nevertheles if thay be not poer, thay will never aryse, but if their Prince so leve Justice, that he gyve hymself al to Tyrannye.

[Ordered to be printed Nov. 18th, 1785.]

EXTRACTS FROM
LORD MOLESWORTH'S PREFACE TO HOTOMAN'S
FRANCO-GALLIA.

THE chief motive, which induces me to send abroad this small treatise, is a sincere desire of instructing the only possessors of true liberty in the world, what right and title they have to that liberty; of what a great value it is; what misery follows the loss of it; how easily, if care be taken in time, it may be preserved; and if this either opens the eyes, or confirms the honorable resolutions of any of my worthy countrymen, I have gained a glorious end; and done that in my study, which I should have promoted any other way, had I been called to it. I hope to die with the comfort of believing, that old England will continue to be a free country, and know itself to be such; that my friends, relations and children, with their posterity, will inherit their share of this inestimable blessing, and that I have contributed my part to it.

The names of *Whig* and *Tory* will, I am afraid, last as long among us, as those of *Guelf* and *Ghibelline* did in Italy. I am sorry for it; but to some they become necessary

necessary for distinction sake; not so much for the principles formerly adapted to each name, as for particular and worse reasons. For there has been such chopping and changing both of names and principles, that we scarce know who is who. I think it therefore necessary, in order to appear in my own colours, to make a public profession of my political faith; not doubting but it may agree in several particulars with that of many worthy persons, who are as undeservedly aspersed as I am.

My notions of a whig, I mean of a real whig (for the nominal are worse than any sort of men) is, that he is one who is exactly for keeping up to the strictness of the true old Gothic Constitution, under the three estates of king (or queen) lords and commons; the legislature being seated in all three together, the executive entrusted with the first, but accountable to the whole body of the people, in case of mal-administration.

A true whig is of opinion, that the executive power has as just a title to the allegiance and obedience of the subject, according to the rules of known laws enacted by the legislative, as the subject has to protection, liberty and property: and so on the contrary.

A true whig is not afraid of the name of a commonwealths-man, because so many foolish people, who know not what it means, run it down: the anarchy and confusion, which these nations fell into near sixty years ago and which was falsely called a commonwealth frightening them out of the true construction of the word. But Queen Elizabeth, and many other of our best princes, were not scrupulous of calling our government a commonwealth, even in their solemn speeches to parliament. And, indeed, if it be not one, I cannot tell by what name properly to call it: for where, in the very frame of the constitution, the good of the whole is taken care of by the whole (as 'tis in our case), the having a king or queen at the head of it alters not the case; and the softening of it by calling it a limited monarchy, seems a kind of contradiction in terms, invented to please some weak and doubting persons.

And because some of our princes in this last age did their utmost endeavour to destroy this union and harmony of the three estates, and to be arbitrary or independent,

dent, they ought to be looked upon as the aggressors upon our constitution.

This drove the other two estates (for the sake of the public preservation) into the fatal necessity of providing for themselves; and when once the wheel was set a running, 'twas not in the power of man to stop it just where it ought to have stopped. This is so ordinary in all violent motions, whether mechanick or political, that no body can wonder at it.

But no wise men approved of the ill effects of these violent motions either way, could they have helped them. Yet it must be owned, they have (as often as used, through an extraordinary piece of good fortune) brought us back to our old constitution again, which else had been lost; for there are numberless instances in history, of a downfall from a state of liberty to a tyranny, but very few of a recovery of liberty from tyranny, if this last have had any length of time to fix itself and take root. Let all such, who either thro' interest or ignorance, are adorers of absolute monarchs, say what they please; an English whig can never be so unjust to his country, and to right reason, as not to be of opinion, that in all civil commotions, which side soever is the wrongful aggressor, is accountable for all the evil consequences: and through the course of his reading (though my lord Clarendon's books be thrown into the heap) he finds it very difficult to observe, that ever the people of England took up arms against their prince, but when constrained to it by a necessary care of their liberties and true constitution.

'Tis certainly as much a treason and rebellion against this constitution, and the known laws, in a prince to endeavour to break through them, as 'tis in the people to rise against him, whilst he keeps within their bounds, and does his duty. Our constitution is a government of laws, not of persons. Allegiance and protection are obligations that cannot subsist separately; when one fails, the other falls of course. The true etymology of the word loyalty (which has been so strongly wrested in the late reigns) is an entire obedience to the prince in all his commands according to law; that is, to the laws themselves, to which we owe both an active and passive obedience.

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By the old and true maxim, that the king can do no wrong, no body is so foolish as to conclude, that he has not strength to murder, to offer violence to women, or power enough to dispossess a man wrongfully of his estate, or that whatever he does (how wicked soever) is just: but the meaning is, he has no lawful power to do such things; and our constitution considers no power as irresistible, but what is lawful.

Whiggism is not circumscribed and confined to any one or two of the religions now professed in the world, but diffuses itself among all. All penal acts of parliament, for opinions purely religious, which have no influence on the state, are so many encroachments upon liberty, whilst those which restrain vice and injustice are against licentiousness.

Let us but consider, how hard and how impolitick it is to condemn all people, but such as think of the divinity just as we do. May not the tables of persecution be turned upon us? A mahometan in Turkey is in the right, and I (if I carry my own religion thither) am in the wrong. They will have it so. If the mahometan come with me to Christendom, I am in the right, and he in the wrong; and hate each other heartily for differing in speculations, which ought to have no influence on moral honesty.

Why, I pray you, may we not all be fellow citizens of the world? and, provided it be not the principle of one or more religions to extirpate all others, and to turn persecutors when they get power (for such are not to be endured), I say, why should we offer to hinder any man from doing with his own soul what he thinks fitting? Why should we not make use of his body, estate, and understanding, for the publick good. Let a man's life, substance, and liberty be under the protection of the laws; and I dare answer for him (whilst his stake is among us) he will never be in a different interest, nor willing to quit this protection, or to exchange it for poverty, slavery and misery.

The thriving of any one single person by honest means, is the thriving of the commonwealth wherein he resides. And in what place soever of the world such encouragement is given, as that in it one may securely and peaceably enjoy property and liberty both of mind
and

and body, 'tis impossible but that place must flourish in riches and in people, which are the truest riches of any country.

But, as, on the one hand, a true whig thinks that all opinions purely spiritual and notional ought to be indulged, so on the other, he is for severely punishing all immoralities, breach of laws, violence and injustice.

A right whig looks upon frequent parliaments as such a fundamental part of the constitution, that even no parliament can part with this right. High whiggism is for annual parliaments, and low whiggism for triennial, with annual meetings. I leave it to every man's judgment, which of these would be the truest representative, would soonest ease the house of that number of members that have offices and employments, or take pensions from the court, is least liable to corruption, would prevent exorbitant expence, and soonest destroy the pernicious practice of drinking and bribing for elections, or is most conformable to ancient custom. The law that lately passed with so much struggle for triennial parliaments shall content me, till the legislative shall think fit to make them annual.

But methinks (and this I write with great submission and deference) that, since the passing that act, it seems inconsistent with the reason of the thing, and preposterous, for the first parliament after any prince's accession to the crown, to give the public revenue arising by taxes, for a longer time than that parliament's own duration. I cannot see why the members of the first parliament should (as the case now stands) engross to themselves all the power of giving, as well as all the merit and rewards due to such a gift; and why succeeding parliaments should not, in their turn, have it in their power to oblige the prince, or to streighten him, if they saw occasion; and pare his nails, if they were convinced he made ill use of such a revenue. I am sure we have had instances of this kind; and a wise body of senators ought always to provide against the worst that might happen. The honey moon of government is a dangerous season. The rights and liberties of the people run a greater risk at that time, through their own representatives compliments and compliances, than they are ever likely to do during that reign.

The

The revenues of our kings, for many ages arose out of their crown lands; taxes on the subject were raised only for public exigencies. But since we have turned the stream, and been so free of revenues for life, arising from impositions and taxes, we have given occasion to our princes to dispose of their crown lands, and depend for maintenance of their families on such a sort of income, as is thought unjust and ungodly in most parts of the world, but in Christendom: for many of the arbitrary eastern monarchs think so, and will not eat the produce of such a revenue. Now, since matters are brought to this pass, 'tis plain that our princes must subsist suitable to their high state and condition, in the best manner we are able to provide for them. And whilst the calling and duration of parliaments was precarious, it might indeed be an act of imprudence, tho' not of injustice, for any one parliament to settle such a sort of revenue for life on the prince: but at present, when all the world knows the utmost extent of a parliaments possible duration, it seems disagreeable to reason, and an encroachment upon the right of succeeding parliaments (for the future) for any one parliament to do that which another cannot undo, or has not power to do in its turn.

An old whig is for chusing such sort of representatives to serve in parliament, as have estates in the kingdom; and those not fleeting ones, which may be sent beyond sea by bills of exchange by every packet-boat, but fixed and permanent. To which end, every merchant, banker, or other money'd man, who is ambitious of serving his country as a senator, should have also a competent, visible, land estate, as a pledge to his electors, that he intends to abide by them, and has the same interest with theirs in the publick taxes, gains and losses.

No man can be a sincere lover of liberty, that is not for increasing and communicating that blessing to all people; and therefore the giving, or restoring it, not only to our brethren of Scotland and Ireland, but even to France itself (were it in our power) is one of the principal articles of whiggism.

'Tis so much more desirable and secure to govern by love and common interest, than by force; to expect comfort and assistance, in times of danger, from our next neigh-

neighbours, than to find them at such a time a heavy clog upon the wheels of our government, and be in dread lest they should take that occasion to shake off an uneasy yoke: or to have as much need of entertaining a standing army against our brethren, as against our known and inveterate enemies; that certainly whoever can oppose so publick and apparent good, must be esteemed either ignorant to a strange degree, or to have other designs in view, which he would willingly have brought to light.

A genuine whig is for promoting a general naturalization, upon the firm belief, that whoever comes to be incorporated into us, feels his share of all our advantages, and disadvantages, and consequently can have no interest but that of the public: to which he will always be a support to the best of his power, by his person, substance and advice. And if it be a truth (which few will make a doubt of) that we are not one third part peopled (though we are better so in proportion than any other part of Europe, Holland excepted), and that our stock of men decreases daily through our wars, plantations, and sea-voyages; that the ordinary course of propagation (even in times of continued peace and health) could not in many ages supply us with the numbers we want; that the security of civil and religious liberty, and of property, which through God's great mercy is firmly established among us, will invite new comers as fast as we can entertain them; that most of the rest of the world groans under the weight of tyranny, which will cause all that have substance, and a sense of honor and liberty, to fly to places of shelter; which consequently would thoroughly people us with useful and profitable hands in a few years; what should hinder us from an act of general naturalization? especially when we consider, that no private acts of that kind are refused; but the expence is so great, that few attempt to procure them, and the benefit which the public receives thereby is inconsiderable.

Experience has shewn us the folly and falsity of those plausible insinuations, that such a naturalization would take the bread out of Englishmens mouths. We are convinced, that the greater number of workmen of one trade there is in any town, the more does that town thrive, the greater will be the demand of the manufacture,

ture, and the vent to foreign parts, and the quicker circulation of the coin. The consumption of the produce both of land and industry increases visibly in towns full of people; nay, the more shall every particular industrious person thrive in such a place; though indeed drones and idlers will not find their account, who would fain support their own and their families superfluous expences at their neighbours cost; who make one or two days labour provide for four days extravagancies. And this is the common calamity of most of our corporation towns, whose inhabitants do all they can to discourage plenty, industry and population; and will not admit of strangers but upon too hard terms, through the false notion, that they themselves, their children and apprentices, have the only right to squander their towns revenue, and to get, at their own rates, all that is to be gotten within their precincts, or in the neighbourhood: and therefore such towns (through the mischief arising by combinations and by-laws), are at best at a stand; very few in a thriving condition (and those are where the by-laws are least restrictive) but most throughout England fall to visible decay, whilst new-villages, not incorporated, or more liberal of their privileges, grow up in their stead; till, in process of time, the first sort will become almost as desolate as Old Sarum, and will as well deserve to lose their right of sending representatives to parliament. For certainly a waste or a desert has no right to be represented, nor by our original constitution was ever intended to be: yet I would by no means have those deputies lost to the commons, but transferred to wiser, more industrious, and better peopled places, worthy (through their numbers and wealth) of being represented.

A whig is against the raising or keeping up a standing army in time of peace.

The arming and training of all the freeholders of England, as it is our undoubted ancient constitution, and consequently our right, so it is the opinion of most whigs, that it ought to be put in practice. This would put us out of all fear of foreign invasions, or disappoint any such when attempted. This would soon take away the necessity of maintaining standing armies of mercenaries.

ries in time of peace. This would render us a hundred times more formidable to our neighbours than we are; and secure effectually our liberties against any king that should have a mind to invade them at home, which perhaps was the reason some of our late kings were so averse to it: and whereas, as the case now stands, ten thousand disciplined soldiers (once landed) might march without considerable opposition from one end of England to the other; were our militia well regulated, and fire arms substituted in the place of bills, bows, and arrows (the weapons in use when our training laws were in their vigor, and for which our laws are yet in force), we need not fear a hundred thousand enemies, were it possible to land so many among us. At every mile's end, at every river and pass, the enemy would meet with fresh armies, consisting of men as well skilled in military discipline as themselves, and more resolved to fight, because they do it for property: and the farther such an enemy advanced into the country, the stronger and more resolved he would find us; as Hannibal did the Romans, when he encamped under the walls of Rome, even after such a defeat as that at Cannæ. And why? Because they were all trained soldiers, they were all freemen that fought *pro aris et focis*, and scorned to trust the preservation of their lives and fortunes to mercenaries or slaves, though never so able bodied: they thought weapons became not the hands of such as had nothing to lose, and upon that account were unfit defenders of their masters properties; so that they never tried the experiment but in the utmost extremity.

That this is not only practicable but easy, the modern examples of the Swissers and Swedes is an undeniable indication. Englishmen have as much courage, as great strength of body, and capacity of mind, as any people in the universe: and if our late monarchs had the enervating their free subjects in view, that they might give a reputation to mercenaries, who depended only on the prince for their pay (as 'tis plain they had), I know no reason, why their example should be followed in the days of liberty, when there is no such prospect. The preservation of the game is but a very slender pretence for omitting it. I hope no wise man will put a hare or a partridge in balance with the safety and liberties of Englishmen; though

though after all, 'tis well known to sportsmen, that dogs, snares, nets, and such silent methods as are daily put in practice, destroy the game ten times more than shooting with guns. The militia, upon the foot it now stands, will be of little use to us: 'tis generally composed of servants, and those not always the same, consequently not well trained; rather such as wink with both their eyes at their own firing a musket, and scarce know how to keep it clean, or to charge it right. It consists of people, whose reputation (especially the officers) has been industriously diminished, and their persons, as well as their employment, rendered contemptible, on purpose to enhance the value of those that serve for pay; insomuch that few gentlemen of quality will now-a-days debase themselves so much as to accept of a company, or a regiment in the militia. But for all this, I can never be persuaded, that a red coat, and three-pence a day, infuses more courage into the poor swaggering idler, than the having a wife and children, and an estate to fight for, with good wholesome fare in his kitchen, would into a free-born subject, provided the freeman were as well armed and trained as the mercenary.

I would not have the officers and soldiers of our most brave and honest army to mistake me. I am not arguing against them; for I am convinced, as long as there is work to do abroad, 'tis they (and not our home dwelling freeholders) are most proper for it.

A right whig lays no stress upon the illegitimacy of the pretended prince of Wales; he goes upon another principle than they, who carry the right of succession so far, as (upon that score) to undo all mankind. He thinks no prince fit to govern, whose principle it must be to ruin the constitution, as soon as he can acquire unjust power to do so. He judges it nonsense, for one to be the head of a church, or defender of a faith, who thinks himself bound in duty to overthrow it. He never endeavours to justify his taking the oaths to this government, or to quiet his conscience, by supposing the young gentleman at St. Germain's unlawfully begotten; since 'tis certain, that according to our law he cannot be looked upon as such. He cannot satisfy himself with

[78]

any of the foolish distinctions trumped up of late years to reconcile base interest with a shew of religion; but deals upon the square, and plainly owns to the world, that he is not influenced by any particular spleen, but that the exercise of an arbitrary, illegal power in the nation, so as to undermine the constitution, would incapacitate either king James, king William, or any other from being his king, whenever the publick has a power to hinder it.

As a necessary consequence of this opinion, a whig must be against punishing the iniquity of the fathers upon the children, as we do (not only to the third and fourth generation, but) for ever; since our gracious God has declared, that he will no more pursue such severe methods in his justice, but that the soul that sinneth, it shall die. 'Tis very unreasonable, that frail man, who has so often need of mercy should pretend to exercise higher severities upon his fellow creatures, than that fountain of justice on his most wicked revolting slaves. To corrupt the blood of a whole family, and send all the offspring a begging after the father's head is taken off, seems a strange piece of severity, fit to be redressed in parliament; especially, when we come to consider, for what crime this has been commonly done. When subjects take arms against their prince, if their attempt succeeds, 'tis a revolution; if not, 'tis called a rebellion: 'tis seldom considered, whether the first motives be just or unjust. Now is it not enough, in such cases, for the prevailing party to hang or behead the offenders, if they can catch them, without extending the punishment to innocent persons for all generations to come?

The sense of this made the late of bill treasons (tho' it reached not so far as many would have had it) a favourite of the old whigs. They thought it a very desirable one whenever it could be compassed, and perhaps, if not at that very juncture, would not have been obtained at all. 'Twas necessary for two different sorts of people to unite in this, in order for a majority, whose weight should be sufficient to enforce it. And I think some whigs were very unjustly reproached by their brethren, as if, by voting for this bill, they wilfully exposed the late king's person to the wicked designs of his enemies.

Lastly,

[79]

Lastly, The supporting of parliamentary credit, promoting of all public buildings and highways, the making all rivers navigable that are capable of it, employing the poor, suppressing idlers, restraining monopolies upon trade, maintaining the liberty of the press, the just paying and encouraging of all in the public service, especially that best and usefulest sort of people the seamen; these are all of them articles of my whiggish belief, and I hope none of them are heterodox. And if all these together amount to a commonwealths-man, I shall never be ashamed of the name, though given with a design of fixing a reproach upon me, and such as think as I do.

[Ordered to be printed, January 27th, 1786.]

AN EXTRACT FROM

T H E O L D W H I G .

THOUGH the cause of liberty is the most useful and glorious, which human nature can engage in, yet the espousing it has been dangerous and often unsuccessful.

Vicious men are it's natural enemies, as vice can only be supported by oppression, and weak men are so divided in their judgments, and so zealous in their trifles, that they seldom are brought to unite in any profitable attempt.

But the chief misfortunes, which have attended the cause and friends of liberty, are owing to their careless choice of leaders, and their relying on the abilities of their chiefs, without distrusting their integrity.

So that our histories shew us the name of liberty to have been continually made a stalking-horse to power, from the days of Thomas Becket, to those of Strafford; and possibly even later instances might be produced.

To prevent my good friends, the OLD WHIGS, from falling into this common snare, and being the dupes of crafty men, I would recommend it to them, in their choice of leaders, rather to regard a known integrity, than the most shining parts. Truth needs no artifice to recom-

recommend her, nor does liberty want any defence but honesty. He that can give a reason for acting once wrong, or once against his conscience, will never want one; and his reasons will be strongest, when we want his service most.

Our choice of men must therefore depend chiefly on our knowledge of their past actions, and particularly in the remarkable changes of their fortunes. Prosperity and adversity are the touchstones God has given us to try men on. He that has forgot his principles and friends from his prosperity, and he that has betrayed them from his adversity, are equally to be avoided.

The selfish man, if he is raised to power, immediately suffers a metamorphosis. He is turned into a statesman: he reasons no longer as a man. His reason is what he calls reason of state. Good and evil are no more: 'tis convenience and difficulty which are to guide his actions, and the serving, or distressing him, the rule for all men else to act by. If he pleases that fifty shall be a greater number than three score, you are to consider, that if you assert the contrary, you may distress him, and that, if you distress him, you distress the cause of liberty, which no one else ever was, or ever will be, able to support.

On the contrary, if he is distressed, his principles are lost in passions. Grief, or superstition, or resentment possess him totally; and, if the last, he will join with the worst men in the worst purposes.

But, if I should attempt to paint this inconsistent character, a courtier out of place turn'd patriot, yet acting against the cause of liberty, writing on whig principles, voting with their most notorious enemies; choosing rather a dependence on a number of known and despised enemies, than to head a few well chosen friends; I say, if I should attempt to paint this character, though it would be most natural and just, yet it would appear too inconsistent, especially as I can't think of any person to whom it possibly could be apply'd.

[Ordered to be printed Feb. 10th, 1786.]

A L E T T E R

A LETTER on the BENEFITS

RESULTING FROM THE

LIBERTY OF THE PRESS.*

To MR. DANIEL ADAMS, *secretary to the SOCIETY*
for CONSTITUTIONAL INFORMATION.

S I R,

THERE is scarce any art, either of ancient or modern invention, that justly claims such high honours, on account of its admirable and extensive advantages, as the art or mystery of printing. It is justly called a mystery, because it had lain conceal'd for ages, and was at last discover'd in one of the most critical periods in the history of mankind, when the circumstances of the world, and the important consequences it would naturally draw after it, render'd it eminently necessary, and almost the only expedient, that could be provided, to prevent the perpetual establishment of ignorance and barbarity. In the times immediately preceding the reformation, a thick, and next to total, darkness had overspread all christendom, in consequence of which, church-power was risen to a most stupendous and enormous height; christianity was quite defaced by unnatural and spurious additions, and lay buried so deep under a heap of legends and ecclesiastical fables, that there was hardly any prospect of its being ever recovered to its primitive simplicity and vigour; superstitions of the most monstrous kind were greedily received and practis'd; the common people, in all nations of Europe, were upon a level with Hottentots and Indian savages; and their priests were little better; so that the chief difference,

* This letter is printed in the form, in which it came to the society; but, from some passages therein, it seems to have been written, if not printed, several years ago.

that

that subsisted between them, was this; that the latter had usurped an insolent and tyrannical dominion, and the former were depressed to a state of enthusiastic and most abject slavery: the one enjoyed the triumphs, and the other wore the chains; of ignorance; who reigned absolute and uncontroul'd, having churchmen for her prime ministers, and the guards, that surrounded and fenced her throne. But, just about the time when the seeds of light and reformation were first sown, particularly in England and Germany, and the papal power had received several fatal shocks through the jealousies and competitions of contending princes, the use of printing was introduced, as the natural and fittest means of compleating this desirable work, and carrying it on to a greater perfection. This curious art was at first admired and encouraged for its novelty and ingenuity. Princes were its patrons: men of learning and superior abilities were inspired with a generous emulation of excelling each other: they had stronger motives to a diligent pursuit of their studies, from the prospect of being more extensively serviceable in their own times, and transmitting useful knowledge to future generations, and were animated besides by the hope of acquiring, instead of a present confined and precarious fame, lasting honour, and a kind of immortality by their writings: and accordingly science actually revived, and darkness and superstition fled before it; an inquisitive temper gained ground, and error was detected, and stripped of its venerable disguises.

The reason why I have been so large in these remarks is this; that whoever allows a particular direction of providence in any cases, that nearly concern the happiness of mankind, will see reason, if he carefully considers every circumstance, to admit it here; the invention of printing being just at the juncture, when it might be highly instrumental in breaking the most heavy yoke of oppression, under which the church of God and civil societies had ever groaned, and in restoring and propagating christian truth and liberty: from whence it necessarily follows, that all attempts to destroy or retain the liberty of the press, are acts of notorious ingratitude

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to providence, and, in effect, opposing the hand and watchful care of heaven, which has pointed out this as the most apt and effectual means of improving and enlarging the human understanding. For he that neglects the proper ways of cultivating his reason, which are plainly marked out for him in the visible course and order of things, neglects the use of reason itself, and is justly chargeable with suppressing and extinguishing the dictates of natural light. And, as it has been acknowledged by almost every sober and considerate writer on the subject, that the glorious reformation from popery could not be thoroughly accomplished and compleated all at once; if any set themselves industriously to disgrace the means, by which it was at first carried on, and the only means by which it can ever be perfected; what is this, but being tools and drudges for the enemy, and supplanting the protestant cause? Let us now enter a little more distinctly into the reason of the thing,

In the first place, then, the liberty of the press is one of the chief and strongest barriers of the liberties of nations and churches. It helps us to settle clearly the proper boundaries of power, and the just measures of subjection, and leaves a way open for exposing slavish principles, and the groundless and arrogant presumption of those, who, in any shape, or upon the most specious pretences, claim an uncontrouled and arbitrary dominion over natural property, or the special rights of conscience. It is the means of unveiling, and discovering to public view, the most artful schemes of tyranny, and lets the body of the people who are naturally apt to be too indolent and secure, into the most secret and crafty designs that are formed for undermining their liberties, which excites in them a noble spirit of self-defence, and frequently checks the insolence, and strikes terror into the hearts, of tyrants. The truth of these observations is undeniably confirmed by the history of our own nation. For what had a greater share in preparing the way for the late glorious revolution (from whence we may date the establishment of all the valuable rights we enjoy, both as Englishmen and Protestants), than those free and judicious discourses on government,

Vol. II,

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vernment, and against the oppressions of the church of Rome, which were printed and published in the two preceding reigns? And indeed, this alone shews the vast importance of the branch of liberty we are now contending for, and its inseparable connection with all others; that aspiring churchmen, and corrupt ministers of state, have always been its bitterest enemies; as well knowing, that, if the common herd of subjects could be kept intirely in the dark, and from being alarmed by a sense of danger, they might be the more easily brought to fall down and adore the purple, or swallow the absurd doctrines of indefeasible hereditary right, and unlimited passive obedience.

2dly, The liberty of the press is the most effectual method to propagate and preserve truth, which can never suffer, unless it has very unskilful defenders, by any opposition that is made to it. On the contrary, the more it is debated, the more it is likely to prevail and triumph; the more thoroughly it is examined into, its evidence and authority must appear more strong and unquestionable; objections against it will be disarmed of all their force; every one of its proofs will be more fully illustrated and confirmed; and, after it has stood the severest trials, there must, in the nature of things, be a foundation laid for our embracing it more firmly, and, of consequence, for its having a more lively and powerful influence. 'Tis the property of error alone to shun the light, and seek for shelter in implicit faith: but to assert this to be the natural refuge and support of truth debases and blemishes its excellency.

But are not pestilent and damnable heresies, are not wild and monstrous opinions, prejudicial to morality, to good manners, to religion, and civil government, vented and dispersed by the press? Suppose they are, is not the press open for proper antidotes against this poison? Is it not as open for confuting, as for broaching heresies, and for shewing the malignity and infamy of the extravagant and pernicious principles so justly complained of? And is not this an easy task for the learned and judicious pens, that always abound amongst us? Does it not afford an opportunity to the
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reverend clergy in particular, to display their skill and zeal in the defence of virtue and true religion, and their loyalty and duty to their superiors? Of what then should we be afraid?—All this it may be replied, is true in the main: but yet, it often happens, that some are infected by the contagion of these heresies and fatal errors. To which I answer, that this is only an accidental abuse, to which the best things in the world are liable: For is not reason itself abused? Are not the holy scriptures abused? Has not the priesthood, has not kingly power, nay, have not all human governing powers been as wickedly and shamefully abused, as ever the liberty of the press was? But is reason therefore not to be consulted? Are the scriptures not to be read? Are priests not to be tolerated? or are we to live without any form of civil government? Such violent remedies will, surely be allowed to be worse than the disease. 'Tis enough that the liberty of the press does not naturally and directly produce the evils that are objected to it; but that the genuine and immediate tendency of it is to banish error and imposture of all kinds, and establish the empire of truth without a rival: whereas, if this liberty be destroyed or arbitrarily restrained, this is in effect saying to truth, *keep where thou art: hitherto shalt thou go and no farther*; and error will for ever remain seated on its throne of darkness, without the least dawning hope, or even possibility, of a reformation.

Besides, if the project of restraining the press was thought fit to take place, to whom must the care and oversight of it be committed? Shall we trust it with ecclesiastics? What may then be expected? Why, that every thing will be prohibited, right or wrong, that contradicts their favourite creeds, and ambitious thirst after power. Shall we trust it with politicians? Yes, if we think it adviseable that all books and writings should be suppress'd that do not suit the complexion of courts. Or, if we lodge the management of this important affair with the creatures of churchmen, and the parasites and tools of ministers of state, the case will be exactly the same; and, therefore, I need not mention this as a distinct article. But to whom else can it be committed,
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mitted, who can be supposed to have any share in conducting public affairs? To none. The consequence, therefore, is plainly this; that if we undertake to restrain the liberty of the press, as the world is at present govern'd, we must destroy it altogether; so far, at least, as it has any relation either to the cause of christianity, or to that of religious and civil liberty.

I shall only add two observations more. The one is, that abridging the liberty of the press is the most natural and commodious project that can be framed for the restoration of popery; in order to which, nothing more is necessary, by way of preparation, than to put out peoples eyes, and keep them blind and stupid. For those, who are the most entirely destitute of good principles, are always most readily disposed to imbibe and espouse bad ones.

The second remark is this; that restraining the liberty of the press, in debates about religion and politics, directly tends to impose the same restraint with respect to philosophy, and in all matters of science whatsoever. For our public guides and directors may reason thus; that the surest way to prevent mens thinking contrary to established truth or error (whichsoever it be) is to discourage their thinking at all; and the surest way for them not to dispute the religion of their ancestors, is to teach them to dispute nothing.

And farther, that the curiosity of the human intellect, and wanton insolence of reasoning, in points of philosophy, may, in the end, be applied to the venerable mysteries of religion; and then—all is lost: or to the arcana, the deep intrigues of politics; and then—we are equally undone. And upon a foundation, somewhat like this, there was a time, when asserting the antipodes was voted to be heresy, and pleading for the motion of the earth was thought a crime worthy of the inquisition. Milton, when in Italy, found and visited the famous Galilæo, grown old, a prisoner to the inquisition, for thinking in astronomy otherwise than the Franciscan and Dominican licensers thought. Galilæo maintained and believed, that the sun is the centre of the world, and immoveable, and that the earth is not the centre of the world, and is moved: for which doctrine he was cited, at 70 years

years of age (1615), to appear at Rome before the holy office of the inquisition, by whose decree * his systems were condemned, and he was sentenced to be imprisoned during pleasure, and, as a salutary penance, enjoined, that for three years ensuing he should recite once a week the seven penitential psalms, and obliged at length to abjure and sign his abjuration with his own hand (in the year 1633) †. Nay, of late years, Mr. Locke's *Essay on human understanding*, one of the best books in philosophy that ever was wrote (and the author of which was an ornament to his country, and to the age he lived in) was condemned as an unsound piece, and contrary to the orthodox faith. Many still rave in the same strain; from whence it is plain, that, in their opinion, free debates about religion, government, and philosophy, ought to share one common fate. And thus far, indeed, they are in the right, that either the press should be entirely restrained, or universally free; and that mankind should be either allowed to improve their knowledge in all points, so far as their faculties will reach, or be reduc'd and confin'd to a state of total stupidity and barbarism.

ARISTIDES. †

* See this decree with his abjuration, p. 88, &c.
† A similar instance of obedience to the higher powers occurs in the following declaration of the learned Jesuits, *Le Seur* and *Jacquier*, prefixed to the third book of their edition of *Newton's Principia*, printed at Geneva in 1742. "Newton," say they, "in this third book, adopts the hypothesis of the motion of the earth. His propositions could not be explained, without making the same hypothesis. For this reason we have been compelled to assume a character different from our own; inasmuch as we profess our obedience to the decrees issued by the popes against the earth's motion."

‡ Since the last sheet was printed off, the above letter has been discovered to be taken with some alterations from No. 77 of *The Old Whig*, printed in 1739.

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The decree against Galilaeo is not to be found among the decrees published at Rome; but a copy of it, containing the particulars of all the proceedings against him, with his abjuration, having been published at Bologna by John Baptist Riccioli of Ferrara, professor of Philosophy, Theology, and Astronomy, in his New Almagest, we shall from thence insert here a translation of the whole proceedings.

T H E
SENTENCE against GALILAEO,
AND HIS
A B J U R A T I O N.

WE Gasper Borgia, &c. &c. by the mercy of God, cardinals of the holy Roman Church, inquisitors general in the whole christian commonwealth against heretical pravity, by the holy see apostolical specially deputed.

Whereas you Galilaeo, son of the late Vincent Galilaeo a Florentine, (now) in the 70th year of your age, were summoned in the year 1615 before this holy office, for holding as true a false doctrine delivered by many, to wit, that the sun is in the centre of the world, and immoveable, and that the earth is moved with a diurnal motion; also for having certain scholars, whom you taught the same doctrine; also for keeping a correspondence concerning the same with certain mathematicians of Germany; also for publishing certain epistles inscribed, *Of the solar spots*, in which you explained the same doctrine as true; and for answering the objections made against you, taken out of holy scripture, by glossing the said scripture according to your sense: and whereas afterwards a copy was exhibited of a writing in form of an epistle, which was reported to have been written by you to a person formerly your scholar, and in it, following the hypothesis of Copernicus, you comprize some propositions against the true sense and authority of sacred scripture:

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The holy tribunal, therefore, willing to provide against the inconveniences and damages, which arose from thence, and grew frequent, to the destruction of holy faith, by command of our lord *, and of the most eminent lords cardinals of this supreme and universal inquisition, by the divines qualificators two propositions were qualified concerning the stability of the sun, and the motion of the earth, as beneath:

That the sun is in the centre of the world, and immoveable by local motion, is a proposition absurd and false in philosophy, and formally heretical, because it is expressly contrary to sacred scripture.

That the earth is not the centre of the world, nor immoveable, but moved by a diurnal motion, is likewise a proposition absurd and false in philosophy, and, theologically considered, at least erroneous in faith.

But, as it was then our pleasure to proceed mildly with you, it was decreed in the holy congregation, held before our lord on the 25th day of February, of the year 1616, that the most eminent lord cardinal Bellarmine should enjoin you to recede entirely from the aforesaid false doctrine; and upon your refusal, you should be charged by the commissary of the holy office, to forsake the said doctrine, and not teach it to others, nor defend it, nor treat of it, to which precept if you should not submit, you were to be cast into prison; and, for the execution of the said decree, on the day following, in the palace, before the aforesaid most eminent lord cardinal Bellarmine, after you had been mildly admonished by the said lord Cardinal, you were enjoined by the lord Commissary of the holy office for that time, in presence of a notary and witnesses, to desist entirely from the said false opinion; and that for the future it should not be lawful for you to defend it, or in any wise to teach it, neither by discourse nor writings; and upon your promising obedience, you were dismissed:

And, that so pernicious a doctrine might be wholly taken away, and not spread farther to the grievous detriment of catholic truth, a decree issued from the sacred congregation of the index, by which were prohibited the books that treat of such doctrine; and it was declared

* Meaning the Pope.

false,

false, and altogether contrary to sacred and divine scripture: and whereas finally a book appeared here, published at Florence in the year last preceding, whose inscription shewed that you were its author, for as much as the title was, *Dialogo di Galileo Galilei, delle due massime sisteme del mondo, Tolomaico e Copernicano*, as soon as the sacred congregation knew from the impression of the aforesaid book, that the false opinion of the motion of the earth and stability of the sun gained strength daily more and more, the aforesaid book was diligently considered, and in it was found an open transgression of the aforesaid injunction, which had been signified to you, because that you in the said book had defended the aforesaid opinion already condemned, and before you declared to be such, for as much as in the said book by various circumvolutions you endeavour to persuade that it is left by you as undecided, yet expressly probable, which is likewise a most grievous error, as that can by no means be a probable opinion, which hath already been declared and defined to be contrary to divine scripture:

Wherefore by our mandate you have been called unto this holy office, in which being examined on oath, you have acknowledged the said book as written and committed to the press by you; you have also confessed, that about ten or twelve years ago, after you had been enjoined as above, you began to write the said book; also that you requested licence to publish it, but without signifying to them who gave you that licence, that you had been enjoined not to hold, defend, or teach in any wise such doctrine:

You have likewise confessed, that the writing of the aforesaid book is in many places so composed, that the reader may think the arguments, used for the false part, are so delivered, that by their efficacy they may rather bind the intellect than be easily answered, excusing yourself for running into an error so foreign, as you have said, to your intention, by having wrote in form of a dialogue, and through the natural complacency which every one hath in his own subtilties, and in shewing himself to be more shrewd than men commonly are in devising ingenious discourses, and of apparent probability, in favour of false propositions.

And

And when a convenient term had been assigned you for making your defence, you produced a testification in the hand writing of the most eminent lord cardinal Bellarmine, procured, as you said, by you for your defence against the calumnies of your enemies, who said you had abjured and been punished by the holy office; in which testification it is said you had not abjured nor been punished, but only that the declaration made by our lord had been denounced to you, and promulgated by the sacred congregation of the index, in which is contained, that the doctrine of the motion of the earth and stability of the sun is contrary to sacred scriptures, and therefore cannot be defended nor held: wherefore, as mention is not there made of two particles of the precept, to wit, (*docere, et quovis modo*) to teach, and by any means, it is to be believed, that in the course of fourteen or sixteen years they had slipt out of your memory, and that for this very cause you had been silent as to the precept, when you requested leave to print the book, and that this was said by you, not to excuse the error, but that it might be ascribed to vain ambition rather than malice: but this very testification, produced for your defence, hath more aggravated your crime, for as much as it is said therein, that the aforesaid opinion is contrary to sacred scripture, and nevertheless you have dared to treat of it, to defend it, and to persuade it as probable; nor does the licence, artfully and craftily extorted by you, favour you, as you did not shew the precept enjoined you.

Now, as it appeared to us that the whole truth had not been pronounced by you concerning your intention, we have shewn that it was necessary to come to a rigorous examination of you, in which (without any prejudice of those things which you have confessed, and which are above deduced against you concerning your said intention) you have answered catholically: wherefore, the merits of this your cause being seen and maturely considered, together with your abovementioned confessions and excuses, and all other things of right to be seen and considered, we have come to the underwritten definitive sentence against you.

Vol. II.

O

Having

Having thereupon invoked the most holy name of our lord Jesus Christ, and of his most glorious mother the ever-virgin Mary, by this our definitive sentence, which, sitting in the tribunal, by the advice and opinion of the reverend masters of sacred theology, and of the doctors of both laws, our counsellors, we have produced in these writings concerning the cause and causes before us controverted, between the magnificent Charles Sincere, doctor of both laws, fiscal procurator of this holy office, on the one part, and you Galileo Galilei here guilty concerning the present processional writing searched, examined, and confessed as above, on the other, we say, judge, and declare, that you the abovementioned Galileo, for those things which are deduced in process of writing, and which you have confessed as above, have rendered yourself vehemently suspected by this holy office of heresy, that is, that you have believed and held a doctrine false and contrary to sacred and divine scriptures, to wit, that the sun is the centre of the orbit of the earth, and that it is not moved from east to west, and that the earth is moved, and is not the centre of the world; and that it may be held and defended as a probable opinion, after it has been declared and defined contrary to sacred scripture; and, consequently, that you have incurred all the censures and punishments by the sacred canons and other constitutions general and particular against delinquents of this kind appointed and promulgated: from which it seemeth good unto us, that you be absolved, provided you first, with sincere heart and faith unfeigned, before us abjure, curse, and detest the abovementioned errors and heresies, and every other error and heresy contrary to the catholic and apostolic Roman church, in the form that shall be exhibited unto you by us.

And that this your grievous and pernicious error and transgression may not remain altogether unpunished, and that you henceforth may become more cautious, and be an example to others to abstain from such crimes, we decree that the book of dialogues of Galileo Galilei be prohibited by public edict, and we condemn you to the formal prison of this holy office for a time to be limited

limited by our will, and as a salutary penance enjoin that for three years ensuing you recite once in a week the seven penitential psalms; reserving to ourselves the power of moderating, changing, or taking away entirely or in part the above-mentioned punishments and penances.

And thus we say, pronounce, and by sentence declare, appoint, condemn, and reserve, in this and every other better manner and form, by which we may and of right ought.

Thus we the cardinals underwritten pronounce:

- F. *Cardinalis de Asculo.*
- G. *Cardinalis Bentivolus.*
- F. *Cardinalis de Cremona.*
- Fr. *Antonius Cardinalis S. Onuphrii.*
- L. *Cardinalis Gypsius.*
- F. *Cardinalis Verospius.*
- M. *Cardinalis Ginettus.*

THE ABJURATION OF GALILEO.

I GALILEO GALILEI of Florence, son of the late Vincent Galileo, aged 70 years, being placed personally in judgment, and on my knees, before you, most eminent and most reverend lords cardinals of the universal Christian commonwealth, general inquisitors against heretical pravity, having before my eyes the most holy gospels, which I touch with my own hands, do swear, that I have ever believed, and do now believe, and, with God's help, will hereafter believe all that the holy catholic and apostolic Roman church holdeth, preacheth, and teacheth. But seeing that by this holy office (because, after having been with precept juridically enjoined by the same utterly to relinquish the false opinion, which holdeth, that the sun is the centre of the world and immoveable, and that the earth is not the centre, and is moved, and not to hold or defend in any wise, or by writing the aforesaid false doctrine, and after it had been notified to me, that the aforesaid false doctrine is repugnant to sacred scripture, I have written and caused to be imprinted a book, in which I treat of

the said doctrine now condemned, and bring reasons with great efficacy in favour thereof, not giving any solution) I am therefore deemed vehemently suspected of heresy, to wit, because I have held and believed that the sun is the centre of the world and immoveable, and that the earth is not the centre, and is moved :

I therefore, willing to take from the minds of your eminencies, and of every christian catholic, this vehement suspicion justly conceived against me, with sincere heart and faith unfeigned do abjure, curse, and detest the abovesaid errors and heresies, and generally every other error and sect contrary to the abovesaid holy church ; and do swear that I will never more hereafter say or assert by speech or writing, any thing for which like suspicion may be had of me ; but, if I should know any heretic or person suspected of heresy, I will report him to this holy office, or to the inquisitor and ordinary of the place in which I shall be. I do swear moreover and promise, that I will fulfill and observe entirely all the penances which have been or shall be imposed on me by this holy office ; and if it shall happen that I act contrary to any of my said promises, protestations and oaths (which God forbid), I subject myself to all pains and punishments appointed and promulgated by the sacred canons and other general and particular constitutions against such delinquents. So help me God and the holy gospels, which I touch with my own hands.

I the above-mentioned Galileo Galilei have abjured, sworn, promised, and obliged myself as above, and in assurance hereof have subscribed with my own hand to this present writing of my abjuration, and have recited it word by word at Rome in the convent of Minerva, this 22d day of June, in the year 1633.

I Galileo Galilei have abjured as above with my own hand.

D E.

D E C R E E X X X V I I I .

OF THE SACRED CONGREGATION

O F T H E I N D E X .

THE sacred congregation of the most eminent and most reverend lords cardinals of the holy Roman church condemneth and prohibiteth the underwritten books, commanding all and singular persons of whatsoever degree and condition, under the penalties contained in the index of books prohibited, that no one henceforth presume to imprint, read, or in any wise retain them with him ; and, if any one shall have any of them, that he, immediately on notice of the present decree, deliver them to the ordinaries or inquisitors of the places. Now the books are,

Dialogo di Galileo Galilei, doue ne i congressi di quattro giornati si discorre sopra i due massime sistemi del monde Tolomaico e Copernicano.

In assurance whereof, the present decree was signed and confirmed with the hand and seal of the most eminent and most reverend lord cardinal Pius, prefect of the sacred congregation, at Rome, the 23d day of August, 1634.

C. Episcopus Portuen. Cardinalis Pius.

(L. S.)

Fr. Jo. Baptista Marinus Ord. Pred. S. C. Secr.

[Ordered to be printed, March 17th, 1786.]

E X.

EXTRACTS FROM MR. PRYNNE'S
 SEASONABLE, LEGAL, and HISTORICAL VINDICATION,
 and CHRONOLOGICAL COLLECTION of the
 good, old FUNDAMENTAL LIBERTIES, FRANCHISES, LAWS of
 ALL ENGLISH FREEMEN.

THOSE publike laws, which establish, fence, fortify, support the fundamental constitutions, rights, liberties, priviledges of any nation, kingdome, republike, (essentially to their being and subsistence, as a free or happy people) against the invasions, underminings, encroachments of any tyrants, usurpers, oppressors, or publike enemies, are usually stiled fundamental laws; and have ever been reputed so sacred, inviolable, immutable, in all ages, upon any pretences of necessity, or publike safety, that most nations, and our own English ancestors above others, have freely chosen to hazard, yea, lose their estates, lives, in their just defence, against such exorbitant tyrannical kings, and other powers, who by force or policy have endeavoured to violate, alter, or subvert them: rather than out of a cowardice, sottishness, carelesness, or want of cordial love to the publike, to suffer the least infringement, repeal, or alteration of them to the inthrawling of themselves or their posterities to the arbitrary wils of such domineering tyrants and usurping powers. *

[The author then goes on to shew, that this country has certain fundamental laws and liberties, which are unalterable; and he afterwards proceeds as follows:]

Having thus sufficiently proved, That the kingdom, and freemen of England, have some ancient hereditary rights, liberties, franchises, privileges, customs, properly called FUNDAMENTAL, as likewise a fundamental government, no ways to be altered, undermined, subverted, directly or indirectly,

* Page 2.

reely, under the guilt and pain of high treason, in those who attempt it, especially by fraud, force, or armed power;

I shall in the second place present you in brief propositions; a summary of the chiefest and most considerable of them, which our prudent ancestors in former ages, and our latest parliaments, have both declared to be, and eagerly contested for, as fundamental, and essential to their very being, and well being, as a free people kingdom, republick, unwilling to be enslaved under any yokes of tyranny, or arbitrary power: that so the whole nation may the more perspicuously know and discern them, the more strenuously contend for them, the more vigilantly watch against their violations, underminings in any kinde, by any powers or pretences whatsoever, and transmit, perpetuate them intirely to their posterities, as their best and chiefest inheritance.

I shall comprise the sum and substance of them all in these ten propositions, beginning with the subjects property, which hath been most frequently, universally invaded, assaulted, undermined by our kings, and their evil instruments heretofore, and others since, and thereupon more strenuously, frequently, vigilantly maintained, fenced, regained, retained by our nobles, parliaments, and the people in all ages (till of late years), than any or all of the rest put together, though every of them hath been constantly defended, maintained, when impugned, or incroached upon, by our ancestors, and ourselves.

1. That no tax, tallage, aid, subsidy, custom, contribution, loan, imposition, excise, or other assessment whatsoever, for defence of the realm by land or sea, or any other publick, ordinary, or extraordinary occasion, may or ought be imposed, or leavied upon all or any of the freemen of England, by reason of any pretended or real danger, necessity, or other pretext, by the kings of England, or any other powers, but only with and by their common consent and grant, in a free and lawful English Parliament duly summoned and elected; except only such antient, legal ayds, as they are specially obliged to render by their tenures, charters, contracts, and the common law of England.

2. That

2. That no freeman of England ought to be arrested, confined, imprisoned, or in any private castles, or remote unusual prisons, under souldiers, or other guardians, but only in usual or common gaols, under sworn responsible goalers, in the county where he lives, or is apprehended, and where his friends may freely visit and relieve him with necessaries; and that only for some just and legal cause expressed in the writ, warrant, or process, by which he is arrested or imprisoned; which ought to be legally executed, by known, legal, responsible sworn officers of justice, not unknown military officers, troopers, or other illegal catchpolls; that no such free-man ought to be denied bail, mainprise, or the benefit of an *Habeas corpus*, or any other legal writ for his enlargement, when bailable or mainprizable by law; nor to be detained prisoner for any real or pretended crime, not bailable by law longer than until the next general or special gaol-delivery, held in the county where he is imprisoned; when and where he ought to be legally tried, proceeded against, or else enlarged by the justices, without denial or delay of right and justice. And that no such freeman may, or ought to be outlawed, exiled, condemned to any kinde of corporal punishment, loss of life or member, or otherwise destroyed or passed upon, but only by due and lawful process, indictment, and the lawful trial, verdict, and judgement of his peers, according to the good old law of the land, in some usual court of publick justice; not by and in new illegal military, or other arbitrary judicatories, committees, or courts of high justice, unknown to our ancestors.

3. That the ordinary standing militia, force and arms of the kingdom, ought to reside in the nobility, gentry, freeholders, and trained bands of the kingdom, not in mercenary officers and souldiers, receiving pay, and contributions from the people; more apt to oppress, inslave, betray, than protect their laws, liberties, and to pretraect than end their wartes and taxes. That no freemen of England, unless it be by special grant and act of parliament, may or ought to be compelled, enforced, pressed, or arrayed to go forth of his own county (much less

out

out of the realm into foreign parts) against his will, in times of warre or peace; or except he be specially obliged thereto by antient tenures and charters, save only upon the sudden coming of strange enemies into the realm; and then he is to array himself only in such fort, as he is bound to do by the ancient laws and customs of the kingdom still in force.

4. That no freeman of England may, or ought to be disinherited, disseised, dispossessed, or deprived of any inheritance, free-hold, office, liberty, custom, franchise, chattles, goods, whatsoever, without his own gift, grant, or free consent, unless it be by lawful process, trial, and judgment of his peers, or special grant by act of parliament; nor to be denied or delayed common right or justice in any case.

5. That the old received government, laws, statutes, customs, priviledges, courts of justice, legal process of the kingdom, and crown, ought not to be altered, repealed, suppressed in any sort; nor any new form of government, law, statute, ordinance, court of judicatory, writs, or legal proceedings, instituted, or imposed on all, or any of the freemen of England, by any person or persons, but only in and by the kingdoms, peoples free and full precedent consent in a lawful parliament, wherein the legislative power solely resides.

6. That parliaments ought to be duly summoned, and held, for the good and safety of the kingdom, every year, or every three years at least, or so soon as there is just occasion. That the election of all knights, citizens, and burgeses, to sit and serve in parliament (and so of all other elective officers) ought to be free. That all members of parliament hereditary or elective, ought to be present, and there freely to speak and vote according to their judgements and consciences, without any over-awing guards to terrifie them; and none to be forced, sequestered, or secluded thence by force or fraud. That all parliaments not thus duly and freely summoned, elected, freely held, but unduly packed, without due elections, or by forcible secluding, securing any of the members, or not summoning all of them to the parliament, and all acts of parliament fraudulently, or forcibly

cibly procured by indirect means, ought to be nulled, repealed, reputed voyd, and of dangerous president.

7. That neither the kings, nor any subjects of the kingdom of England, may or ought to be summoned before any forreign powers or jurisdictions whatsoever out of the realm, or within the same, for any manner of right, inheritance, thing belonging to them, or offence done by them, within the realm, nor tried, nor judged by them.

That all subjects of the realm are obliged by allegiance, oaths, and duty to defend their lawful kings persons, crowns, the laws, rights, and priviledges of the realm, and of parliament, against all usurpers, traytors, violence, and conspiracies. And that no subject of this realm, who according to his duty, and allegiance, shall serve his king in his warres, for the just defence of him and the land, against forreign enemies or rebels, shall lose or forfeit any thing for doing his true duty, service, and allegiance to him therein; but utterly be discharged of all vexation, trouble, or losse.

9. That no publick warre by land or sea ought to be made or leavied, with, or against any forreign nation: any publick truce or league entred into with forreign realms or states, to binde the nation, without their common advice and consent in parliament.

10. That the king of England, or others, cannot grant away, alien, or subject the crown, kingdom, or antient crown lands of England to any other, without their nobles and kingdoms full and free consent in parliament. That the antient honors, manors, lands, rents, revenues, inheritances, rights, and perquisites of the crown of England, originally settled thereon for the ease and exemption of the people from all kind of taxes, payments whatsoever (unlesse in case of extraordinary necessity) and for defraying all the constant, ordinary expences of the kingdome (as the expences of the kings household, court, officers, judges, ambassadors, guard, garrisons, navy and the like) ought not to be sold, alienated, given away or granted from it, to the prejudice of the crown, and burdenning of the people. And that all sales, alienations, gifts, or grants thereof, to the empairing of the publique revenue, or prejudice

judice of the crown and people, are void in law, and ought to be resumed, and repealed by our parliaments and kings, as they have frequently been in all former ages. *

[Ordered to be printed, March 27th, 1786.]

EXTRACT FROM
ANDREW FLETCHER of SALTOUN'S
DISCOURSE of GOVERNMENT
WITH RELATION to MILITIAS.

THERE is not, perhaps, in human affairs, any thing so unaccountable, as the indignity and cruelty, with which the far greater part of mankind suffer themselves to be used, under pretence of government. For some men falsely persuading themselves that bad governments are advantageous to them, as most conducing to gratify their ambition, avarice and luxury, set themselves with the utmost art and violence to procure their establishment: and by such men almost the whole world has been trampled under foot, and subjected to tyranny, for want of understanding by what means and methods they were enslaved. For though mankind take great care and pains to instruct themselves in other arts and sciences, yet very few apply themselves to consider the nature of government, an inquiry so useful and necessary both to magistrate and people. Nay, in most countries, the arts of state being altogether directed either to enslave the people, or keep them under slavery; it is become almost every where a crime to reason about matters of government. But if men would bestow a small part of the time and application, which they throw away upon curious but useles studies, or endless gaming, in perusing those excellent rules and examples of government which the ancients have left us, they would soon be enabled

P 2

abled to discover all such abuses and corruptions as tend to the ruin of public societies. 'Tis therefore very strange, that they should think study and knowledge necessary in every thing they go about, except in the noblest and most useful of all applications, the art of government.

* * * * *

Since in our time most princes of Europe are in possession of the sword, by standing mercenary forces kept up in time of peace, absolutely depending upon them, I say that all such governments are changed from monarchies to tyrannies. Nor can the power of granting or refusing money, though vested in the subject, be a sufficient security for liberty, where a standing mercenary army is kept up in time of peace; for he that is armed is always master of him that is unarmed. And not only that government is tyrannical, which is tyrannically exercised; but all governments are tyrannical, which have not in their constitution a sufficient security against the arbitrary power of the prince.

* * * * *

A good militia is of such importance to a nation, that it is the chief part of the constitution of any free government. For though, as to other things, the constitution be never so slight, a good militia will always preserve the public liberty. But in the best constitution that ever was, as to all other parts of government, if the militia be not upon a right foot, the liberty of that people must perish. The militia of antient Rome, the best that ever was in any government, made her mistress of the world: but standing armies enslaved that great people, and their excellent militia and freedom perished together. The Lacedæmonians continued eight hundred years free, and in great honour, because they had a good militia. The Swisses at this day are the freest, happiest, and the people of all Europe who can best defend themselves, because they have the best militia.

* * * * *

That the whole free people of any nation ought to be exercised to arms, not only the example of our ancestors, as appears by the acts of parliament made in both kingdoms

kingdoms to that purpose, and that of the wisest governments among the antients; but the advantage of choosing out of great numbers, seems clearly to demonstrate. For in countries, where husbandry, trade, manufactures, and other mechanical arts are carried on, even in time of war, the impediments of men are so many and so various, that unless the whole people be exercised, no considerable numbers of men can be drawn out, without disturbing those employments, which are the vitals of the political body. Besides, that upon great defeats, and under extreme calamities, from which no government was ever exempted, every nation stands in need of all the people, as the antients sometimes did of their slaves. And I cannot see, why arms should be denied to any man who is not a slave, since they are the only true badges of liberty; and ought never, but in times of utmost necessity, to be put into the hands of mercenaries or slaves: neither can I understand, why any that has arms, should not be taught the use of them.

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