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A

SPEECH,

AGAINST

The SUSPENDING and DISPENSING

PREROGATIVE, &c.

"IT IS BUT FORTY DAYS TYRANNY AT THE OUTSIDE."

PER LEGEM TERRÆ.

Populus Romanus beneficii et injuriæ memor esse solet.
Nemo civis, qualis sit vir, potest latere.
—Quemdam, hominem nobilem, factiosum, novis rebus studere, advorsum quem—neque LEGES *valerent.*
Neque modestia, neque modus contentionis erat.—
Sed eos frequens Senatus judicavit contra REMPUBLICAM, *et salutem omnium* dixisse.

SALL.

The THIRD EDITION, with many Corrections and Additions.

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ADVERTISEMENT.

SPEECHES have been published, pretending to be the real ſpeeches made in a certain place. This does not go to the publick under any ſuch pretence. The ſpeech now offered to the reader, was made in a private Political Society, which from common fame procures the beſt information they can of what paſſes in other places.

A SPEECH, &c.

PERMIT me, late as it is, to expreſs my thoughts upon one of the moſt momentous ſubjects, in my opinion, that I have ever heard agitated in ——t. I hardly know what more important matter could occupy your —— attention, ſhort of a queſtion touching the actual diſſolution of government. Sure I am, if what we have this day heard ſtrikes your ——, as it does me, it muſt have brought freſh to your remembrance the fatal ground upon which that unhappy queſtion was decided, with a vengeance, when it was debated in th— h—e, near fourſcore years ago.

We are, as it were, ſurprized into a debate upon the *diſpenſing power*, and what aſtoniſhes me ſtill more, we are got, at leaſt ſome of us, into a vindication and defence of it;——a thing I had long thought ſo odious in its very name, but ſo ſettled in the notions of it, and ſo exploded in theory as well as practice, that no body ever thought of it, but to hate it, and to thank God it was utterly exterminated out of the pure ſolar ſyſtem of Engliſh Government, and Engliſh Liberty.

One — — has told us he roſe in this debate not as *a Patron of Liberty*, in the *modern phraſe*, as he was pleaſed to call it, but as a *Patron of Law*. Modern phraſe did the — — ſay? I hope it will never ceaſe to be a modern phraſe; though it is an ancient, and has in all countries been a glorious title. Our anceſtors were Patrons of Liberty at the coſt of their lives; but they ſecured our LIBERTY by protecting the LAW againſt a *diſpenſing power*, which they reſiſted unto blood. *Quid a majoribus defenſum eſt aliud quam* LIBERTAS: *neu cui niſi* LEGIBUS *pareremus?* Shall we then be the *præclara proles, geniti ad ea, quæ majores virtute pepere-*

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re, subvertunda? We are yet free, and "The freedom "of men under Government is to have a ſtanding rule "to live by, common to every one of the ſociety, and "made by the Legiſlative Power created in it." So ſays Mr. Locke, *who is* appealed to as a great authority. What he ſays in theſe few words is equally in favour of LAW and LIBERTY. I ſhall be proud to ſhew myſelf the Patron of *both.*

— —, The ſame — — has been pleaſed to claim, if not the whole, yet the beſt knowledge of the Conſtitution on behalf of the profeſſion which has raiſed his — to the h— ſt——ns he has enjoyed. But I have always looked upon lawyers, at the beſt, to be but the moſt ſkilful midwives to help forward the birth of the Wiſdom of Great Stateſmen, ſound, enlightened, and enlarged Politicians, to the energy and ſagacity of whoſe genius, in all ages, and in every country, the beſt models of Government have been moſt indebted: of this the appeal made to-day, as well as on a late *notable* occaſion, to the ſpeculations of Mr. Locke, that great Philoſopher, Legiſlator, and Senator, (as we have been told he was) is a ſtrong proof.

This alſo I will be bold to ſay from the hiſtory of England, that our liberties owe moſt to Great Noblemen who were not lawyers. Sure I am, lawyers have often appeared amongſt us, to be the worſt guardians of the Conſtitution, and too frequently the wickedeſt enemies to, and moſt treacherous betrayers of the Liberties of their country. Of this truth, the preamble of the bill of rights, which the — — has himſelf appealed to in the debate, as his chief, tho', I think, much miſtaken, and much miſrepreſented authority, will be a perpetual monument, in theſe words: "Where-"as K. J. II. by the aſſiſtance of divers evil Counſel-"lors, JUDGES, and *Miniſters,* employed by him, "did endeavour to ſubvert and extirpate the Proteſ-"tant Religion, and the LAWS and LIBERTIES "of this kingdom." Certain it is, that no arbitrary prince, when meditating the ſubverſion of the Conſtitution,

ſtitution, ever was at a loſs for Lawyers and Judges to ſecond his deſigns; in ſpite of their learning, and in ſpite of the religion of the oaths that bound them to ſupport and maintain the Conſtitution. And ſo *ſhip-money* and the *diſpenſing power* have, in former times, had the vile countenance, and, if it could be ſo called, the authority of the bench, and of the ſages, or the *Fathers* of the Law (as Charles I. named his ſhip-money Judges) while a Hampden, and ſuch-like Patriots, who were the greateſt honour, and the greateſt bleſſing of England in their day, ſtood forth the ſaviours of their country, by reſiſting the uſurpations of the crown, ſupported by the perfidy of corrupt Judges.

Such a ſort of monopoly as the — — ſuggeſts in favour of the long robe ſavours too much of what a Lord Keeper (who made many excellent *prerogative-ſpeeches* for Charles the Firſt) ſaid in the concluſion of the ſpeech he delivered, after publiſhing that ſhameful opinion of the judges on *ſhip-money.* The words I allude to are theſe: "If any contrary opinion ſhould "yet remain among men, it muſt proceed from thoſe "who are ſons of the Law. Of the *latter,* I will "ſay, *Felices demum eſſent artes, ſi de illis ſolum judica-"rent artifices.*" *So* that *Prerogative Lawyer* was for keeping the judgement of the Conſtitution to the art and myſtery of the law. Y—— —— will not, from the occaſion, be fond of adopting the example.

If the — — has now got ſo high an opinion of the advantages of the long robe, I remember when he had it not. But this is not the only proof this day has furniſhed from his — and from ſome others too, of the wonderful change in opinions, that difference of intereſts, as well as ſituation, brings with it. For I think the ſame — — has likewiſe told us to-day, that we are undone by diviſions, though I can recollect the time when his —— regretted in th— h—e that we were ruined by an *intoxicated unanimity,* under an a——n of which one of his *new* friends conſtituted a moſt brilliant part. I congratulate the — — on this change of mind

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mind for the better, which is more than I can say of all the opinions his — has given to-day, though I believe they proceed also from a *new light*. I cannot however say, the — and — —'s opinions are *modern*. They are *old*, and what is more, they are *antiquated*. His —— has but revived an old farce, not acted near these hundred years. It will therefore be fit, I think, to examine opinions that have slept so long, before they are *restored*, or licensed, so as to pass current.

But — — it is necessary, for preventing mistakes, to premise, that I heartily concur with all your — who have spoke in the debate, in expressing my approbation of the measure immediately under consideration, *when taken*,——the embargo on wheat and wheat flour laid by order of Council *so late* as the 26th of September. The evil of an enhanced price of that grain, which had for so considerable a time before been prognosticated, and growing by a quick pace, was then come to so alarming a height, that it awakened even our a——n from the pleasing dream of pecuniary emolument, and extravagant compensations, most liberally doled about to one another, beyond the example of any former time. It awakened them to the cries and risings of the poor, and at last made them take notice that there was such an imminent danger of famine, that it became indispensibly necessary to put a stop to the exportation: And by a long prorogation of parliament, which themselves had so culpably advised, that there was no other way left of doing it, but by an interposition of the *Royal Power*. I choose to use that word, though *authority* is the word used in the S—, from the T—, because I materially distinguish between the two expressions, for reasons I shall afterwards give.

— —, On the other hand, I most warmly deplore and lament the calamity produced by the want and dearness of provisions, mentioned likewise in the s——h, I mean that spirit of insurrection, riot, and disorder, that has gone forth, and rages in all corners of the kingdom, big with fire and sword, to afflict a country, already groaning

groaning under a weight and pressure of evils, greater than she can bear. It would ill become this place to palliate or excuse, on any account whatever, such dangerous tumults and riots, much less to incite and encourage them, by saying as I have once heard it said within these walls, by one sworn to execute the laws, that the subjects cruelly harrassed by burthens and other grievances, imposed upon them by the Legislature, are made desperate. This daring and lawless expression, I confess, related only to the justification of the *American subject* in wanton rebellion. God forbid that I should adopt the detestable language, even in favour of the *English subject*, taxed till the power of taxing can no further go, famished, and starving. It must, however, grieve one to see the nerves of government so totally relaxed, and its proper energy and vigour almost wholly lost. The truth of the matter, and the root of the evil is, we have had no government for some years, or, which is much the same thing, we have had the *form* of it only, without any reality, energy, or spirit, descending ever from bad to worse.

Tota discors machina divulsi turbat fœdera mundi.

And the — — in the bl—e ri—— has too good reason to put us in mind of what he told your — last year, that you would import rebellion from America. Would to God he had not been so true a prophet! The indulgence shewn to *Americans* is not, I fear! altogether free of the blood that must be sacrificed, in *England*, at the altars of justice, to restore and preserve peace and good order, maintain authority and secure property. Nor can I acquit the blunders of a——n in this very corn business, of that charge. I am afraid, the unseasonable, and extraordinary long prorogation of Parliament, which excluded the prospect of relief from famine, by a *legal* prohibition of the exportation, had no small share in producing the riots and risings: And by a shameful blunder in the Proclamation against forestalling, misreciting the laws it promulgates, a pretence was given for the riotous people to seize the grain for their own use, under

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under a miſtaken notion that the *grain* itſelf was forfeited, as the Proclamation declares it to be, inſtead of a forfeiture of the *value* of it, which is what the miſrecited ſtatute enacts.

—— I ſaid I approved of the embargo as neceſſary, *when* laid on; but I do not approve, on the contrary, I complain of the preceding conduct of ad—n, by which they brought themſelves into that dilemma, which neceſſitated them to adviſe his M— to that meaſure, by what is called the Royal Authority. And as to the principles I have heard laid down to-day, and the doctrine that has been advanced in juſtification of the legality of the embargo; ſo far am I from approving of them, or acquieſcing in them, that I cannot even hear them with patience. I declare they make all the Whig-blood in me boil; for, to uſe an expreſſion that has, I think, been miſerably miſapplied on the other ſide, theſe doctrines, if adopted, lay the ax to the root of the conſtitution. They can tend to nothing but an utter ſubverſion of the power of Parliament, and of the moſt fundamental and eſſential Rights and Liberties of the ſubject. Upon my word, if I did not know I was awake, I ſhould be apt to think I had been in a dream, and that ſome fairy midnight ſcene had carried my imagination back an hundred and thirty or forty years, in an illuſory audience of ſome of the ſpeeches of a James, or Charles, or their Lord Chancellors and Lord Keepers; for with no other ſtandard of the prerogative, that I know of, will ſuch notions ſquare; and *theſe* they will fit.

—— I ſhall hereafter endeavour to point out that aſſemblage of circumſtances on which I found the complaint of blunder, inattention, and neglect in the a—n: But your —— will allow me, in the firſt place, to conſider the general *doctrine* that has been drawn into the debate, as by much the moſt important matter, and what indeed principally called me up: I ſay has been *drawn* into the debate, for ſure I am it could never have come from the meaſure in queſtion, if it had been allowed to reſt upon its true bottom, with a claim to ſuch a ſanction as could be given it by *Law*:— which ſanction, by the way, I fancy your —— will find neceſſary, notwithſtanding all that has been ſaid in ſupport of the embargo as a legal exerciſe of prerogative.

—— The queſtion debated is, whether the embargo on corn, the largeſt freedom of exportation of which is permitted by many Acts of Parliament, and encouraged by a ſtatute bounty, is a prohibition according to law; a *legal* act of *government*, within the conſtitutional bounds of the prerogative of the crown; or is only a mere *act of power*, induced by an urgent neceſſity in the ſtate, exceeding the true limits of the royal prerogative, but that ought, for its beneficial tendency and effect, to be approved, and muſt be confirmed by the ſanction of law, to give it legal force, and valid operation.

This queſtion comes to a general point, and it has been brought to that in the debate. A general propoſition muſt be maintained, and the general propoſition has been maintained, that of *any*, and if of any, of *every* act of parliament, the King, with the advice of the Privy-Council, may *ſuſpend* the execution and effect, whenever his Majeſty, ſo adviſed, judges it neceſſary for the immediate ſafety of the people.

I limit it ſo to give the propoſition fair play. I ſhall likewiſe, to be as candid as I can, add, becauſe it has been added, *during the receſs of parliament*: and if —— pleaſe, they ſhall have the other words too, *when parliament cannot be conveniently aſſembled.* Such preciſely is the propoſition that has been maintained in this debate. For God's ſake! —— is this the doctrine of the Conſtitution? Is this doctrine that Engliſhmen will ſwallow? Can it go down! I do not ſay with your ——, will it with the moſt unread or unlearned in the Conſtitution? If this is Conſtitutional doctrine, I make bold to pronounce the revolution, ——, the Glorious Revolution! (as I have been taught to call, and to think it,) nothing but a ſucceſsful rebellion, the moſt lawleſs and wicked invaſion of the rights of the Crown, —and the Bill of Rights, that illuſtrious monument of Engliſh liberty, the Palladium and Bulwark of the Conſtitution, the moſt falſe and ſcandalous libel that ever was publiſhed;

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lished; the most infamous imposition, both on Prince and people, ever invented. James the second neither abdicated, nor forfeited; he was robbed of his crown. His Majesty is an usurper, and his Royal Anceſtors, of blessed memory, even our great and glorious deliverer himself, have all been usurpers; the act of settlement is a nullity, and your —— are a generation of Rebels, whose fathers revolted; many of you are not ——s of the —— m. Pardon me —— if I am warm, I cannot help it.

The —— at the head of the C—B— who spoke early in this debate, is called a Whig, —— a zealous Whig he calls himself; but he has defended the legality of the embargo, by maintaining the very proposition I have rehearsed. I say he has defended the *legality*, for we are not now debating the *necessity*, and the argument goes to exclude the method pointed at in the — moved, of *legalizing* the measure, and validating it, by a bill of indemnity.

The —— has told us, he would prove his point from no less authorities than the Bill of Rights, Acts of Parliament, and the usage of the Privy-Council.---Very respectable authorities indeed! who could desire better? I shall consider them all, as far as I am able to follow the —— on memory; and I was as attentive as possible.

Now, ——, to the proposition; and I would first speak a word to the last part of it,---the *recess of Parliament*. This is either an old, or a new distinction. If it is an old one, the —— should shew us where it is to be found; if it is a new one, he should tell us what authority, warranted by the law of the land, has made it. But the truth is, it is the distinction of the day, and I suspect it will never grow older; it is an alleviation of the dispensing power, to sweeten it to your ——, because too nauseous in the full stinking potion.

—— There was no such distinction in the days, when the *Law-making*, and the *Law-breaking Prerogative* walked forth at noon-tide. The princes that were then endeavouring to establish the *dispensing* and *suspending* power, in their best moods, and when they were speaking soft words to Parliament, told them, that though they *condescended* to call them together, it was not because they could not do without them; and that if Parliament refused what they deigned to ask, they would only be forced to use the other powers for attaining it, which God had given them. The concomitant, and the fatal principle of those days was, that the Rights of Parliament were so many concessions of the Crown, resumable at pleasure, and the calling them but a gracious compliment from the prince: and so the maxim of the *idolaters* of prerogative, as then understood, that is of *absolute* and *arbitrary Power*, was *a Deo Rex, a Rege Lex*.

——, I cannot conceive the ground of this distinction as to the recess of Parliament. By the Constitution as now modelled, Parliament must always be in being, ready to be called, so much so, that even an expired Parliament revives when necessary to be assembled, and another is not chosen. With regard to Acts of Parliament, I know of no days, either *fausti* or *festi*, in which they sleep. They are not like jurisdictions that may be evaded by going into a sanctuary. They are of equal force, while in being, at all times, in all places, and over all persons; or, as Mr. Locke says, "Laws, though "made in a short time, have a *constant* and lasting force." Acts of the executive power are incident, temporary, and instantaneous; but Acts of Parliament are permanent, made as the general rule by which the subject is to live, and be governed.

Unless therefore it can be said that the moment Parliament breaks up, the King stands in its place, and that the continuance of Acts is consigned into his hands; he cannot of right *suspend*, any more than he can *make* laws, both requiring the same power. *The Law is above the King*; and the Crown, as well as the subject, is bound by it, as much during the recess, as in the sessions of Parliament; because no point of time, nor emergent circumstance, can alter the Constitution, or create a right not antecedently inherent. These only draw forth into action the power that before existed, but was quiescent. There is no such prerogative in any hour or moment

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moment of time, as vests the semblance of a legislative power in the Crown.

—— If we next examine the foundation of *necessity*, it will appear to be equally destitute of authority, as the other distinction. But it would be to tire your — patience unreasonably, because there is no use in it, to enter into this argument at large. For who has ever read the arguments on *ship-money*, and the *dispensing power* in former and bad reigns, that does not know, that a *supposed* necessity was the plea to justify the acts complained of? And the answer is ready in the mouth of every one, that if the crown is the judge of that necessity, the power is unlimited; because the discretion of the prince, and his council, may apply it to any instance whatever: and so discretion degenerates into despotism. Therefore the wisdom of the constitution has excluded every discretion in the crown over positive statute, and emanicipated acts of parliament from the Royal Prerogative, leaving the power of *suspension* which is but another word for a temporary repeal, to reside where the legislative is lodged, to which only it can belong; that is in King, Lords and Commons, who together constitute the only *supreme sovereign authority* of this government. Nor did Parliament ever allow of the *dispensing* power, or any thing of the kind, because it was exercised under the specious pretence of *the safety of the nation being concerned, and the whole kingdom in danger*, which was the usual jargon, and, if true, implied the most urgent necessity.

The — and —— on the cross bench, who like a true friend of Liberty, has given us so excellent a definition of the Constitution, *as a government by Law*, (which I must do his — the justice to acknowledge has often come from his lips in this h—e) has very accurately stated the extent of the crown's discretion, in matters within the legal prerogative. H —— has truly said, that in *these* the crown, which is entrusted with the power, and has the right to act, must be judge of the necessity and season of acting, subject always to the controul of that Constitutional advice, by which the crown must act in all cases. But these acts, as his — justly observed, are legal,

legal, not because they are necessary and proper, but because they flow from the proper power; and they are legal and valid, though wrong in themselves, till corrected; as a legal power may be improperly exercised; for which the advisers are responsible. But I heartily agree with his — that the constitution has entrusted the crown with no power to *suspend* any act of Parliament, under any circumstances whatever; and with his — I also declare I never shall, nor can, consent to any such power, being intrusted *with the Crown*.

For my own part —— it is difficult for me to form an idea of the *necessity*, in any case, of *suspending* an act of Parliament by *Royal Authority*; as the Parliament may always be assembled in time to prevent an irremediable evil from any statute. Sword and famine seem to be the most alarming evils; but neither of these can possibly ever catch the nation in a case of unavoidable necessity, without culpable neglect. Invasion is not the work of an instant, and government must be totally asleep, the ministers, both at home and abroad, dozing strangely, if there is not intelligence in time to assemble Parliament. Scarcity, it is impossible, can ever come at a moment's notice, so as to make famine stare us in the face; and even in the present case it is apparent, that the necessity which, *at the instant*, justified the embargo, was owing to an inattention that loads the authors of it, and reduces it to the case of *Esau*'s necessity, who sold his birthright for a mess of pottage, because he had not been prudent enough to provide in time for satisfying his hunger at a cheaper rate. The Marquis of Halifax has some words so applicable to this subject, that I cannot help quoting them. "By the advantage of our situation, (says he) there can hardly any such sudden disease come upon us, but the King may have time enough left to consult with his physicians in Parliament. Pretences indeed may be made, but a real necessity, so pressing that no delay is to be admitted, is hardly to be imagined; and it will be neither easy to give an instance of any such thing for the time past, or

or reasonable to presume it will ever happen for the time to come. But if that strange thing should fall out, our constitution is not so strait laced as to let a nation die or be stifled, rather than it should be helped by any but the proper officers. The cases themselves will bring the remedies along with them." This doctrine I can subscribe to in all its parts. But still, I say, that if a clear case of undeniable necessity could be figured, the *legality* of the act done under that force would just stand where it did, upon the general principles of the Constitution, and not the particular exigency of the instance, and the justification be effected by an *expost facto* law, as now pointed at. For I apprehend it to be bad politicks, and I should imagine it worse law, that any special case can ever derogate from a general fixed rule, such as a fundamental law of the Constitution.

Let us therefore — — take what road we will, still we come back to the general question, Has or has not the crown a right to *suspend* an act of Parliament, in any case, or on any pretence whatever? And let the question be tried by the — — s own authorities.

I begin with the lowest and last named, — the usage of the Privy Council. The — — produced no instances of this usage of the Privy Council, in prohibiting the exportation of corn. The present is the first we have been informed of. It is clear the Queen's ministers would not venture upon it in 1709. On the contrary, when the Queen was advised to call Parliament on purpose to make provision for preventing famine, it is remarkable that she tells them in the Speech from the throne, that she had done all that she could *by law*; referring to the proclamations issued against forestalling, &c. The Queen was not advised even to use the device of laying on a general embargo, thereby to prevent the exportation of corn; tho' being in time of war, the Crown had an undoubted right to lay an embargo. As that would have been using the war-power of embargoes indirectly for another end than a war-purpose, such an evasion of the law was not judged wise or fit. In the same manner the example of the Queen's reign was

was followed in 1756; which was also a time of war. Lord Hardwick would not then advise an embargo: We see at all other times of the like exigency, from an apprehension of scarcity, parliament has been constantly resorted to: And from the bare recital of the several acts of parliament on the subject, as well the laws permitting the exportation, as those temporary acts prohibiting it in times of scarcity, it is plain that there is not, perhaps, another instance of a thing so well guarded against the fangs of prerogative in practice as well as by statute.

— — The only example of this usage mentioned by the — — was the prohibition of the exportation of gun-powder, which is frequently laid on by the King and Council. But to that there is a very short answer, *viz.* that there is an express provision in one of the Acts that have been alluded to, the 12th of Charles the second, allowing the King by Proclamation to prohibit the exportation of gun-powder, though by the same act the exportation of it is permitted; which is an authority in point against, instead of being one for the — — 's argument. And this express statute provision, as to gun-powder, to avoid doubts upon prerogative powers, even in such a case as that of warlike stores, proves how jealous Parliament is of a *dispensing power*, and how scrupulous Government has been to rest any thing upon constructive arguments of *right*, or cases of *necessity*, to justify the Crown's interfering with acts of Parliament.

In regard to the authority of acts of Parliament, the only one mentioned by the — —, I think, was that converting the declaration of rights into a bill, and making it a statute. We may therefore take both together, the — — s argument being founded on a comparison of the declaration with the bill or statute, and what the — — is pleased to call a difference between them, as if the bill limited and restrained the words in the declaration.

The — — read from his *own copy* the first article of the declaration of rights, presented to the Prince and Princess

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Princess of Orange, and *verbatim* recited in the bill, or act of parliament. The words of the article are, "whereas King James," &c. did so and so, "by assuming and exercising a power of *dispensing* with, and *suspending* laws, and the execution of laws without consent of parliament." And says the — — this to be sure is general, and would leave no latitude, but this is only the *claim* as put in by the subject, and therefore when parliament came to enact upon the article, they restrained it, knowing that it was impossible but there might be a necessity for the Crown's *suspending* some particular acts of parliament, *during the recess of parliament*. I appeal to your — if this was not the — —s reasoning precisely, and his very words. I marked them well, for I own they surprized me.— And the — — next reads to your — the second article of the bill, in the enacting part, which stands thus, (viz. declared by parliament) "that the pretended power of dispensing with laws, or the execution of laws by regal authority, *as it has been assumed and exercised of late*, is illegal." Hence says the — — it is clear that parliament, when they came to make the statute, would not deny every degree or kind of a *dispensing* power in the Crown, but only as *exercised of late*, that is by King James. I confess — — the reasoning astonished me, and I think it could not convince y— — or any man living, if the thing rested on the very words the — — has read, to prove his distinction between the declaration and the enacting bill.

— — The history of these words *as exercised of late* is well known. They were an amendment made by the Lords to the bill to save some old charters and grants, with *non-obstante's*: And to secure against all dispensations whatever with statutes in time to come, there is a clause in the end of the act, declaring that no dispensation by *non-obstante* of, or to any statute, should be thereafter allowed, except a dispensation be allowed in such statute. But what was the *dispensing* power exercised *of late* by King James? It was only

dispensing with *penal* laws; that is, a remitting or *dispensing* with penalties inflicted by act of parliament in certain cases: And even that sort of dispensation, or exercise of the *dispensing* power by King James, is condemned by the bill of rights as illegal.

These words therefore upon which the — — has laid so much stress, furnish one particular remark, but it is most unfavourable to the purpose for which he has quoted them. Your — will have prevented me in it, by recollecting what I just now mentioned. For tho' King James undertook to shew, by the means of his corrupt judges, *that a power in the King to dispense with law was law*, the only acts of parliament upon which he made his essay of the *dispensing* and *suspending*-power were the *penal* statutes against non-conformity; from which, for the sake of the Papists, he gave a general exemption, by the lump, to all his subjects. He took that method, because parliament had remonstrated against his *dispensing* with the Test-Act, in favour of the Roman Catholick officers he employed: And the language which the parliament held in that remonstrance deserves our most particular notice. They told the King, "that the consequences of *dispensing* with "that law, *without an act of parliament* were of the "greatest concern to the *rights of the subject*, and to "*all the laws*." King James suspended no acts of parliament besides these penal laws; and to *penal* laws *only* did the judges he corrupted extend that shameful opinion for the *dispensing* power, which they gave judicially in a particular case;—an opinion grounded upon such notable reasons as these, "that the laws of England were the King's laws, and therefore it was an incident, inseparable prerogative of the Kings of England, as of all other Sovereign Princes, to *dispense* with all *penal* laws; and that it was not a trust invested in, or granted to the King, but the ancient remains of the Sovereign power of the Kings of England, which never had been taken from them, nor could be." Yet for dispensing with and *suspending* these *penal laws* only, laws that in so far as they affected Protestant Dissenters were truly a grievance, and therefore were re-

pealed after the revolution, did the eſtates of this king-
dom *dethrone* King James: And it was declared in the
bill of Rights, that the pretended power of *diſpenſing*
with laws, or the execution of laws by regal authority,
as it had been *ſo* aſſumed and exerciſed *of late* was ille-
gal. What then muſt we think, in theſe times, of
ſuch a conſtruction, as is now held out of the bill of
rights, which attempts to invalidate and pervert the
Great Charter of the Revolution, by ſetting up, as a
Prerogative of the Crown, a right, in *all caſes of ne-
ceſſity*, to *diſpenſe* with *all* laws, touching our Liberty,
and our Property?—a right to which in theſe inſtances
K. James the IId with his moſt corrupt judges never
dared aſpire.

But — —, my wonder is not confined to the — —s
conſtruction or interpretation of theſe words. For I am
utterly at a loſs to underſtand how the — — got at the
ſecond article of the enacting bill, without reading the *firſt*;
or how he took the ſecond article *alone* of the bill for the
whole echo of the firſt article of the declaration or
claim of rights recited in it, as the preamble of the
enacting part, when the half of the anſwer to the firſt
article of the *Claim* or declaration is in the firſt arti-
cle of the *Bill*. But however the — — may have
paſt over that firſt article of the enacting part, I dare
ſay it is not out of any of your ——— memory.
Hear the words of it. (Art. 1. of the enacting bill)
"DECLARE that the pretended power of *ſuſpending* of
"laws, or the execution of laws, by *regal authority*,
"*without conſent of parliament, is illegal*:" the very
preciſe letters and words of the firſt article of the de-
claration, or claim of rights, only leaving out the
word *diſpenſing*, becauſe that is made an article by it-
ſelf in the ſecond of the enacting bill. After reading
this firſt article of the enacting part of the bill, I cer-
tainly need not aſk your — —, or the — — himſelf,
where the limitation is, in *that article*, on which his
— has founded his whole argument? Nor will the
— — deny that the firſt article is as much a part of
the Act of Parliament as the ſecond. Moſt undoubt-
edly there is not the leaſt difference between the *Bill*
and

and the *Claim* in this *general*, unlimited and unreſtrain-
ed poſition, that the *pretended* power of *ſuſpending* of
laws, or the execution of laws, by regal authority,
without conſent of parliament, is illegal, every word
of which is emphatical. And ſo parliament in the
ſame bill, enacts, "that all and ſingular the Rights
"and Liberties *aſſerted* and *claimed* in the ſaid *declara-
"tion*, are the true, ANTIENT, and *indubitable* RIGHTS
"and LIBERTIES of the people of this kingdom, and
"ſhall be ſo eſteemed, allowed, adjudged, deemed,
"and taken to be; and that all and every the parti-
"culars aforeſaid ſhall be firmly and ſtrictly holden
"and obſerved, as they are expreſſed in the ſaid *decla-
"ration*; and all officers and *miniſters* whatſoever ſhall
"ſerve their majeſties and their ſucceſſors according
"to the ſame."

The — — ſays it is a narrow and illiberal idea that
the Crown has not, or ought not to have, a power,
for the publick good, to *ſuſpend* an act of parliament.
I do not know what the — —s notions of liberality are,
or how liberal his own ideas may be. Extraordinary
liberality *received*, may beget extravagant *returns*. Pro-
fuſion in giving may produce vaſt compliance in yield-
ing; and to whom much is given, of them the more
will be required. A great authority ſays, that gifts
blind even the wiſe. For my part I confeſs, I have
no opinion of that liberality of which the Conſtitution
is the ſubject. Of the Conſtitution no man can be too
ſparing or abſtemious. She has coſt much, and ſhe
is worth all that ſhe has coſt, and without it, every
thing elſe will be of little value. I hope nothing
ſhall ever tempt Y— — to be liberal ſo much at the
expence of your fellow ſubjects. Slices of the Con-
ſtitution, are the laſt thing I will give away, nor ſhall
I conſent to maim it, to gratify any man, or to juſti-
fy any meaſure.

As to the — —s queſtion, what would be the diſ-
treſs on many occaſions, if there was in no caſe a
power in the Crown, to *ſuſpend* an act of parliament?
After the words of the *Bill*, that is the *Statute of Rights*,

which

which I have quoted, I will give no other anſwer than this, that they exclude totally, abſolutely, and in the moſt general terms poſſible, any ſuch power: And I am yet to learn what poſterior ſtatute has repealed one article of the Bill of Rights, or veſted in the Crown, or the Privy Council ſuch a ſort of *Chancery* powers, to *ſuſpend* laws and acts of Parliament, on ſuggeſtions of equity, or expediency, for the ſafety or relief of the ſubject: Nor do I ſee that ſuch an alteration would be an amendment of the Conſtitution, I think it would deſtroy it, to the very foundation.

—— We have had a philoſophical argument upon *Prerogative*, to prove that the prohibition in queſtion was a *legal* exerciſe of *legal Prerogative*: And Mr. Locke's authority has been quoted, a page or two of whoſe chapter on Prerogative the — — in my eye has read.

—— Nobody has greater reſpect for Mr. Locke's writings than I have, yet if I found any thing in them that did not ſquare with the ſettled fundamentals of the Conſtitution, I ſhould not be moved by him. It is highly improper, I am afraid, to enter here into a general diſcuſſion of Mr. Locke's ideas, and nothing but the deference, I will add the juſtice, due to ſo venerable a name, would have made me go into this. But I believe Mr. Locke and I do not at all differ, and I think he is miſunderſtood, when brought as an authority on the other ſide. It is not doing him juſtice, for ſurely their was not a man in England a greater enemy to the *diſpenſing* power than himſelf.

—— *Prerogative*, is a word that has been the occaſion of great wranglings, and certainly the princes of the houſe of Stuart underſtood by it arbitrary power, or ſomething ſo very near it as not to be diſtinguiſhable. I have a very ſimple notion of it, and it is this, that *Prerogative* is that ſhare of the government which, by the Conſtitution is veſted in the King alone. Lord Coke, after giving the etymology of the word as denominated from the moſt excellent part, becauſe the King muſt be firſt aſked before any law is made, ſays, " the Prerogative comprehends all the powers, pre-

eminences,

eminences and privileges which the Law giveth to the Crown. It is no diſtinct or ſeparate inheritance in the Crown oppoſed to the intereſt of his people. It is a truſt *ad communem totius populi ſalutem*, juſt as much as the powers of Parliament are. Now I can never conceive the prerogative to include a power of any ſort to *ſuſpend* or *diſpenſe* with laws, for a reaſon ſo plain that it cannot be overlooked unleſs becauſe it is plain; and that is, that the great branch of the prerogative is the *executive* power of Government, the duty of which is to ſee to the execution of the laws, which can never be done by *diſpenſing* with or *ſuſpending* them.

—— When Mr. Locke ſpeaks of the prerogative *as acting ſometimes even againſt law, or of the laws themſelves yielding to the executive*, it is far from his meaning that the prerogative or executive can *diſpenſe* with or *ſuſpend* laws. His example makes it clear, *viz.* that of pardoning offenders where the law condemns, which is certainly undoubted prerogative. There the law yields, — not in its force or ſubſiſtence, but only in its conſequences, and in a particular inſtance: And though the King can pardon, he cannot before hand, even in a particular inſtance, *diſpenſe* with the law. The expreſſion of acting *againſt law*, is perhaps not well choſen, but it is evident Mr. Locke intended to expreſs no more than this, that the Crown can by pardon (for inſtance) prevent that execution which the law would effect. As for the other inſtance mentioned by Mr. Locke of the law *yielding*, *viz.* pulling down a houſe to ſtop a fire, it is a clear inaccuracy; for that has nothing in the world to do with prerogative, or even with magiſtracy, no more than the throwing goods overboard to keep a ſhip from ſinking. It is an inſtantaneous act of ſelf-defence, to authorize which no man waits for, nor needs ſeek the order of a magiſtrate. The *fact* of danger which is *viſible*, juſtifies it *in law*, juſt as the danger of a ſhip juſtifies *in law* the throwing goods overboard: and both acts are *legal*, and allowed by all the laws in the world. No body ever heard or read of a proclamation or edict from the ſovereign to pull down a houſe in the midſt of

a con-

a conflagration. So that if Mr. Locke's whole definition of Prerogative is taken together and fairly expounded by what he himself says, it will be found he perfectly agrees with what other sound Constitutionalists have advanced, that "Prerogative is a power in the person "of the Sovereign, to command or act in matters not "repugnant to the law, or for which the law had not "provided, and certain acts of grace and favour, which "the King might exercise with regard to some particular persons, provided these acts were not very prejudicial to the rest of the nation." Let Mr. Locke be but allowed to speak in his own words, and no error can be drawn from them. His reasoning in support of what he calls the law *yielding to prerogative* or the *executive* is this, "Since many accidents may happen, wherein a strict and rigid *observation* (he should have said *execution*) of the laws may do harm, and a man may "come sometimes within the reach of the law, which "makes no distinction of persons, by an action that "may deserve reward and pardon, 'tis fit the ruler "should have a power in many cases to mitigate the severity of the law, and pardon some offenders."— And in the other place alluded to, where he speaks of prerogative *acting against law*, he reasons thus, "For "since in some governments the law making power is "not always in being, and is usually too numerous, "and too slow for the dispatch requisite to execution; "and because it is also impossible to foresee, and so by "laws to provide for all accidents and necessities that "may concern the public, or to make such laws as will "do no harm, if they are executed with inflexible rigour on all occasions, and upon all persons that may "come in their way; therefore there is a latitude left to "the executive power, to do many things of choice, "*which the laws do not prescribe.*" Mark the last words! *which the laws do not prescribe.* He does not say of doing things to *make laws of no force.* Nor in any one place of the book does he speak of prerogative as having a power to *suspend* any law. On the contrary, he largely handles the power of positive laws over the prerogative itself, to declare

declare limitations of it; and shews the absurdity of calling such limitations encroachments upon the prerogative: And he is very clear and express "that the legislature is the supreme power of the commonwealth, "and that *no edict of any body else, in what form soever* "*conceived, or by what power soever backed,* can have "the *force and obligation* of a *law*, which has not its "sanction from that legislature which the public has "chosen and appointed, and that no obedience is due "but ultimately to the *supreme* authority, which is the "legislature."

Any author may be misunderstood by taking detached pieces of his writings, and that only can render Mr. Locke's sense in this matter dark or obscure; though I do not think he is always nicely correct in his expression. For one instance, he says, in one place, that "the "supreme power cannot take from any man any part of "his property without his consent, because the end of "government is to secure property." Yet would not any man be justly laughed at to produce this sentence from Mr. Locke, to prove that parliament could not divest the owners of the property of the houses which the bank has thrown down in Threadneedle-street, upon giving them a compensation. Mr. Locke knew better than to doubt it; though that single sentence, if it stood by itself, might import a contrary opinion.

—— A great deal has been said on this occasion by the —— who has quoted Mr. Locke, upon a few other words of that great author, where he says, that "if "there comes to be a question between the executive "power and the people, about a thing claimed as a "prerogative, the *tendency of the exercise* of such a prerogative to the good or hurt of the people will easily "decide that question." And the argument drawn from these words is to shew that the *tendency* of the embargo in question, to the *good*, and not to the *hurt* of the people, must decide for the legality of the measure, as an exercise of legal prerogative. But I must say there never was, in my poor apprehension, an argument founded

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founded in a greater miſtake, or an author more unſeaſonably cited.

—— Mr. Locke is not here ſpeaking of the tendency of a ſingle act done in exerciſe of a right of prerogative, as a rule to decide the legality of that particular act: he ſpeaks, (and his words are plain) of the tendency, that is, the *general* tendency of the exerciſe of a power or *thing claimed as a prerogative*, as a rule by which the queſtion may be decided, whether that power or thing claimed as a prerogative be really a legal prerogative, or only an uſurpation. And moſt undoubtedly it may be a ſafe rule of deciſion. It is upon that very rule that I, and I truſt every Engliſhman in his ſenſes does, and for ever will decide, that a *ſuſpending* power *is* not, *cannot* be a legal prerogative, in any circumſtances, or under any pretence whatſoever, becauſe the tendency of the exerciſe of ſuch a prerogative is deſtructive of the Conſtitution. I ſay *the tendency of the exerciſe*: for it tends to render acts of parliament uncertain, and to bring poſitive law under the diſcretion, that is the pleaſure of the Crown, and conſequently to ſet the whole Rights and Liberties of the ſubject afloat, ſo that no man can for a moment be ſure of the law, though it is his inheritance and *birth-right*. Then indeed it would be *vis menſura juris*.

Far therefore, ——, am I from differing with Mr. Locke, in what he ſays in the words quoted. I find myſelf at full liberty to expreſs my approbation of his reaſoning. I adopt his rule of deciſion of that great queſtion, whether a thing claimed as a prerogative, be, or ought to be one. And I alſo heartily concur with Mr. Locke's ſentiments in the only other quotation that has been read from him, "that when that great "queſtion does ariſe, (and it muſt be the greateſt of "misfortunes when it does) between an executive and "a legiſlative power, conſtituted as ours are, there is "no judge on earth to decide it; and therefore the "only remedy is the appeal to heaven, that is, to the "ſword." On that principle do I approve and juſtify the conduct of thoſe great and brave men, who maintained

tained our Liberties at the expence of their lives. They firſt contended for them, in Parliament, by force of reaſon, and particularly againſt the *diſpenſing power* of the Crown; and when the obſtinacy of unhappy princes, enſlaved with the notions of arbitrary power, which they called Prerogative, left no other option but to ſubmit to the uſurpation of the Crown, or to fight, they drew their ſwords, and Heaven, to which they appealed, propitious to Engliſh Liberty, juſtified their cauſe, and crowned it with ſucceſs. In that extremity it was their right, their undoubted right, upon the doctrine of legal reſiſtance, which is incorporated in this Conſtitution, to take the field againſt the princes who were the enemies of their people, the oppreſſors of their liberties. For as Mr. Locke truly ſays, in the forcible expreſſions that have been read by the ——, "The people have "by a law antecedent, and paramount to all poſitive "laws of men, reſerved that ultimate determination to "themſelves, which belongs to all mankind, when "there lies no appeal on earth, *viz.* to make their ap-"peal to heaven: and this judgment they cannot part "with." That, (to uſe the Marquis of Halifax's words, a little, and but a very little differently applied) "is the hidden power in this Conſtitution, which would "be loſt if it was defined; a certain myſtery, by virtue "of which a nation may, at ſome critical times, be "(as ours has been) ſecured from ruin: but then it "muſt be kept as a myſtery; it is rendered uſeleſs, "when touched by unſkilful hands; and no people ever "had, or deſerved to have that power, which was ſo "unwary as to anticipate their claim to it."

——, I think I might with great ſafety to the queſtion before us, leave the authority of Mr. Locke, without any apprehenſion of the leaſt impreſſion from it. But as the doctrine of *tendency* has been brought on the carpet, I cannot diſmiſs it without a few words more; becauſe I think it is of importance that it ſhould be ſtated upon its true grounds; and I ſhall endeavour to do it very ſhortly.

I admit, as in this very caſe before us, (*the neceſſity being*

being allowed) that a power which is not a legal prerogative, may be exercised for the good of the people: and so I will allow too, that the most legal prerogative that exists may be exercised to the hurt of the people. But as the hurtful exercise of a legal prerogative, in a particular instance, will not make the prerogative so hurtfully exercised, cease to be a legal prerogative, or prove that the general tendency of such a prerogative is to the hurt of the people, and therefore that it ought not to be a prerogative; so neither will a beneficial exercise, in a particular instance, of an illegal or usurped Prerogative, change its nature and general tendency, so as to decide that it is or ought to be a legal prerogative.

—— I will explain myself, though I hardly think it necessary, by examples. It is the undoubted prerogative of the Crown, to declare war, make peace, and treaties, to create peers, and to pardon offenders. And the general tendency of the exercise of all these prerogatives is for the good, and not for the hurt of the people. The constitution has therefore vested these powers in the Crown, and they are legal prerogative. But who will deny that any one of these prerogatives may be improperly and hurtfully exercised? If they are, the advisers of the Crown are responsible, though the power exercised is legal, and the acts valid. As the — and —— on the cross bench truly said, when the King makes war, it is war to all its consequences, however improperly the Crown may have been advised in taking the measure: and so of the rest. On the other hand, if a *suspending* power were exercised in an instance never so beneficial, the power is not a legal prerogative, and is not to be endured, because of its dangerous tendency. Nevertheless, the particular act done, under colour or pretence of such a power, if in itself for the advantage of the people, will not cease to be so, however illegal the power to do the act may be. Let me only just ask, as it comes in my way, and may in some respects be particularly applicable to the case of the embargo under consideration, Could the Crown now legally create a foreigner a peer, because it is the general prerogative of the Crown to make peers, when the act of settlement has in that particular instance, restrained the general prerogative of the Crown? Certainly not. And for the same reason, even supposing it to have been at any time an inherent power in the Crown to prohibit the exportation of Corn, the Crown cannot now do it, as positive statute has clearly divested the Crown of the power.

What I have said is, I think, sufficient to shew, that Mr. Locke is very much misunderstood and misapplied, in the words last referred to, which have been much insisted upon, when they are produced as an authority to prove, that the *tendency* of the Embargo to the good of the people, is the rule for deciding if it is an exercise of a legal Prerogative or not. I will even venture to say, Mr. Locke's words are a clear authority upon my side, to prove, as far as the reasoning and opinion of that great writer can do it, that the *dispensing* or *suspending* power, which is the only thing that can be named as a Prerogative, under or by virtue of which the Embargo is laid, is not, and cannot be a Prerogative.

I will however —— go yet a step farther, and I hope I shall satisfy y——, that the use made of this authority of Mr. Locke, taken as the —— has stated and explained it, even upon his own argument, is as dangerous and unsatisfactory as any thing can be. For —— suppose for once, it was the tendency of a particular act that was to decide for or against the legality of that act, as an exercise of a legal Prerogative, I only ask, what would be a more uncertain or dangerous rule of decision, with regard to the suspension of an act of Parliament by the Crown, if the decision is to be with the Crown; and with the Crown it must be, when the suspension is to be the act of the Crown; and consequently, according to the argument, the legality of the act to depend upon the Crown's decision? I say, what more uncertain or dangerous rule of decision? I do not say but a case may be put, so strong, that there

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cannot among men be a doubt as to the tendency of a particular act of ſuſpenſion, as in the very inſtance of prohibiting the exportation of corn, when famine is ſtaring you in the face; and in ſuch a caſe, the Crown would decide juſt as every other perſon would. At the ſame time, one may affirm, that even that caſe is not ſuch an one as will always admit of an abſolute mathematical certainty; for men may be, and they often are, divided in opinion as to the appearances of ſcarcity, whether real or not, and to what degree; and conſequently whether it is fit to prohibit the exportation of corn or not. But ſuppoſing that to be one clear caſe, I aſk, how many more clear ones can be mentioned? And I am intitled to aſk the queſtion, becauſe if a power in the Crown to *diſpenſe* with an act of Parliament, for the good of the people, is the foundation of prohibiting exportation, ſuppoſing exportation to be authorized by act of Parliament, the ſame *diſpenſing* power may be exerciſed as to other acts of Parliament, on the like ground of the good of the people; and ſo muſt extend to the whole ſtatute book. Now — —, how many caſes are there, in which all mankind would, to a man, be agreed, that it was for the good of the people to *ſuſpend* any one particular act of Parliament? What act is it, that if a queſtion of Repeal were in Parliament, y—— —— and t——o——ſh——e might not be divided in opinion about? ſome thinking it of a tendency for the good of the people, others thinking the contrary, and the people without doors alſo divided in opinion. Would it then be a ſafe rule to make any one act of Parliament, *in the general view of things*, depend on the deciſion of the Crown, for a *ſuſpenſion*, be it never ſo ſhort, which is nothing elſe than a temporary repeal?—Or is that a rule, upon which to reſt or truſt the deciſion of the Legality of any particular act of a *ſuſpending* power exerciſed by the Crown? I will not, I need not, lengthen the Argument. It is clear nothing could be a more dangerous, uncertain, and arbitrary rule: nothing ſo naturally tending to found a deſpotick power in the Crown over acts of Parliament.

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And therefore nothing can be ſo fallacious or miſapplied an argument, as that drawn from Mr. Locke, explaining his words in ſuch a ſenſe. His rule would not apply: it could not even to particular acts or exerciſes of any power or prerogative. He did not intend ſo to apply it. As a rule with regard to one or another general power claimed as a prerogative, it is a ſound and a ſafe one; and he applies it no otherwiſe himſelf: But, as I ſaid, it is not only foreign to the purpoſe, as it has been applied in the argument, but it is clearly againſt the thing contended for by thoſe who do apply, or rather miſapply it in that manner.

One ſingle remark —— —— I muſt be allowed to make, before I cloſe my obſervations upon Mr. Locke's authority. The laſt ſ——n of P———t ſet out with the wildeſt doctrines, extracted *piecemeal* from the ſame Mr. Locke, in favour of Liberty; of Liberty run mad with notions extravagant, ridiculous, exploded, and thank God! by the whole legiſlature condemned. This ſ——n begins with doctrines again extracted alſo *piecemeal* by the ſame perſons, from the ſame author, trumpeting forth a tone of tyranny, more hateful, and more dangerous, becauſe more extenſive, than any promulgated in the worſt reign of the worſt of the Stewarts. I hope, *theſe* will meet with the ſame contempt as the others did. Indignation is the due of *both*.

After all —— —— what is this old and ſtale argument now revived, as to the *tendency of the exerciſe of a prerogative for the good*, and not for the *hurt of the people*? What is it, I ſay, taking things on a general view, but the exploded argument of *neceſſity* repeated in other words? The wildeſt bigot to Prerogative, or abſolute power, (if I may imitate the enthuſiaſm of the —— and —— ——s expreſſion, who ſpoke of the wildeſt zealots for Liberty) I ſay, the wildeſt bigot to Prerogative never pretended, that any Prerogative whatever, the *diſpenſing* power itſelf, could or ought to be exerciſed, but for the good of the people; the Prince indeed always being judge of that. Even *Manwaring* and *Sibthorp* themſelves would not have ſaid otherwiſe;

therwise;---those monsters of men, who prostituted the pulpit, to preach the impious and nonsensical doctrines, "that if Princes commanded things against the laws "of God or of nature, or impossible, yet subjects "were bound to undergo the punishment, without re- "sisting, railing, or reviling. —And that the King "is not bound to observe the laws of the realm con- "cerning the subjects rights and liberties; but that his "royal will, in imposing taxes without consent of Par- "liament, bound the subjects conscience, upon pain "of eternal damnation:" —Even these men, and their stupid doctrines, suppose that what was done by the Prince should be for the public good; and that what was not so, was in itself wrong; as certainly what is against the laws of God or of nature must be; and therefore, as they admit, could not in conscience be *actively* obeyed, for which reason they wickedly and senselessly say they ought to be obeyed *passively*, by suffering punishment. But did not every Prince who exercised the *dispensing* or *disabling* power, pretend that he did it for the good of the people, and that the particular acts by which it was exercised were for the best ends? Look at James the IId's declarations for liberty of conscience. What more specious pretences could be devised than are mentioned in those acts of the *dispensing* power? "To unite the hearts and affections of his "subjects to God in religion, to him in loyalty, and to "their neighbours in christian love and charity." For these great and good purposes, "he thought fit, by "his *sovereign authority, Prerogative royal and absolute* "*power*, which all his subjects were to obey, without "reserve, to grant his royal Toleration." And for that purpose, "with the consent of his privy council, "by *his sovereign authority, Prerogative royal, and ab-* "*solute power*, he *suspends, stops*, and *disables* all laws "or acts of Parliament made or executed;" and so forth. These are the words used in one, and they are only a little softened, but not substantially varied, in another of the Declarations of this sort.

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— —, Part of that same very illegal act of the *dispensing* power, the declaration in favour of liberty of conscience, unquestionably was, in its tendency, for the good of the people. The first part of it, artfully introduced to colour all the rest, is a toleration to protestant dissenters, exempting them from the absurd penalties of nonconformity. But did that tendency of the exercise make either the particular exercise, or the pretended Prerogative exercised, legal? No. It was equally an exercise of the *dispensing* power, and consequently equally *illegal* in favour of protestant dissenters as of papists, though the tendency was very different in regard to the two. And accordingly when government came to itself, and was upon a right foot, one of the first acts passed after the revolution was, for exempting protestant dissenters from the penalties of those grievous laws that affected them. The preamble of the act adopts the very motives with which K. James gave a colour to his declaration; and the act itself is the best proof in the world, if the fact needed one, that the tendency of K. James's exercise of the illegally assumed power, was so far for the good of the people. Yet that very act of K. James was one of those that cost him his Crown, and, as I have said before, stands the very point condemned by the second article of the bill of rights, *as exercised of late*, without any distinction as to the tendency of any part of it; though the posterior act of exemption manifests the opinion of Parliament that one part of it tended to the good of the people. The difference is this: the act of Parliament was the constitutional relief from the grievance; the act of K. James, let its tendency, in any part, be what it would, was, in the whole of it, the exercise of an unconstitutional and usurped power, against law, and in its tendency dangerous to the liberties of the people.

— —, I will venture to say, that there is not any one notion more exploded, and more condemned by the statute book, than that notion of the *tendency* of acts for the public good being sufficient to make them legal; and indeed it is one of the wildest notions that ever entered

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tered the mind of man; for it goes to cut up all government by the roots, and to make every man a judge and lawgiver for himself. I might have said, that it is condemned and exploded by all morality and sound divinity; avowed and professed only by Jesuits, and such diabolical casuists. But I say, look only to the statute book. What is the language of all your acts of indemnity, passed upon great occasions? I need not mention those in our own memory, passed after the rebellions 1745 and 1715, on purpose to indemnify those who had done acts for the public service against law, and that could not be justified by law, as the stile of these statutes runs. Let me only refer your —— to one of the first acts passed after the revolution, *the act for preventing vexatious suits against such as acted in order to bring in their majesties, or for their service.* What does it say? "Whereas about the time of his majesty's GLORIOUS "enterprize for delivering this kingdom from popery "and arbitrary power, and in aid and pursuance of the "same, divers lords, gentlemen, and other good peo- "ple, well affected to their country, did act, &c. in "which proceedings, some force, &c. were unavoid- "able, which in a time of common peace and safety, "would not have been warrantable: and also since their "Majesties happy accession to the crown, by reason of "the wars and troubles raised and occasioned by the "enemies of their majesties and this kingdom, divers "like matters and things have been done; all which "were *necessary* and *allowable*, in regard of the exigence "of public affairs, and *ought* to be *justified*, and the "parties concerned therein indemnified," &c.

Surely, —— ——, if ever there were acts that tended to the good of the people, these mentioned in this act were:——acts to rescue the kingdom, its religion and laws, from ruin and destruction;—and done at a time, of all others, when no law could be said to be in force, but the law of nature, which stimulated and justified what was done, the Government being totally dissolved; so that one might say, there existed no law of the land to be transgressed, or that could be a ground of action

or charge, as where there is no law there can be no transgression. Yet even for such acts done, acts *necessary and allowable*, as the statute speaks, and done under such circumstances of a suspension *in fact* of all the laws in the kingdom, did these Saviours of their country take and pass to themselves an indemnity? They loved the constitution they had saved so much, that they would not suffer the very act of saving it to have the appearance of giving it a wound. And though these were the acts of subjects, it makes no manner of difference; for I do maintain, that in law, and legal and constitutional language, the Crown has no more right to *suspend* acts of Parliament, or to act against them, than any subject; because, as I said before, the one is not more than the other the legislature. This however is a distinction totally immaterial, because according to this constitution, there can be no act of the Crown, but some subject is responsible for it as the adviser: and in the matter before us, the Lords of his Majesty's Privy Council, state themselves, justly, as answerable to Parliament for the act they advised. Over and above all which, I might add, that the case I have referred to was the strongest and most favourable that could be; for if it was not the Crown which did the acts indemnified, it was not *one* or a *few* subjects, but the whole people and Parliament itself that were the actors; and had not the caution for the safety of the constitution been great, in proportion to the zeal that had just redeemed it, men might have thought, with good reason, that the very act of Revolution, and the statute that placed the Crown on William and Mary's heads, were sufficient to justify every part of the work, as well as the best proof of the tendency of every thing done in aid and pursuance of it.

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There were other acts in the reign of William and Mary, of the same tenor and effect with that I have quoted, particularly in 1690 and 1692, on occasion of threatened invasions. I only mention them because the persons first named as the actors in the things thereby

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juſtified and indemnified, are *the Lords and others of the Privy Council*, and the chief act done againſt the law, was the cauſing the militia to be raiſed *otherwiſe than as authorized* by the acts of Charles the Second, which were not more ſacred than the acts of the ſame reign, permitting the exportation of corn. The Privy Counſellors, even of thoſe days, were not ſhy to acknowledge on the records of Parliament, that they had acted againſt law and againſt acts of Parliament, though the acts they had done were *neceſſary* and for the *public good*; nor did they deſpiſe and refuſe an indemnity, but accepted it, to tranſmit it to poſterity as a ſafeguard of the conſtitution, that in future times no evil might come to it, from a precedent of the higheſt neceſſity, and moſt important ſervice to the country; becauſe they knew, as we do, *omnia mala exempla a bonis orta ſunt.* His preſent Majeſty's Miniſters are aſhamed or afraid to own that an act they adviſed was not legal, though they ſay it was neceſſary, and all agree with them, that, from various neglects and criminal blunders, it was *at the time* become ſo neceſſary as to be unavoidable. Rather than own a breach of the law, even a *neceſſary* one, that ought to be juſtified, they will defend the act done as ſtrictly legal, at the expence of maintaining *a degree* of the *diſpenſing* power: I ſay *a degree*, for I will not make it worſe than they do themſelves—They are ſo much more delicate or infallible than King William's Miniſters and Privy Counſellors, that they are affronted with the offer of an indemnity: and one —— —— ſays, *timeo Danaos et dona ferentes.* I believe it. All miniſters, when they are in the wrong, are afraid, eſpecially of thoſe that are able to ſhew their error, and by offering a plaiſter diſcover the ſore. I truly believe they are afraid, for the ſame reaſon as the Trojans dreaded their enemies, and ſuſpected their gifts, that is, leſt the *city ſhould be ſurprized and taken.* But —— —— the fall of fifty Miniſters, or fifty ſucceſſions of them, if the greateſt that ever were, is not to be compared with one thruſt at the conſtitution, let the inſtrument be never ſo harmleſs, or the intention never ſo innocent: for ſhe may

may be wounded even *in the houſe of her friends*, and *alta ſedent civilis vulnera dextræ.* If the —— —— is afraid of thoſe who proffer gifts, I will be jealous of thoſe who refuſe ſuch as are now tendered, and refuſe them on ſuch grounds as I have heard this day, in my opinion, dangerous in the laſt degree to the conſtitution; and only ſo much the more ſo that they are the arguments of her once moſt zealous friends, to whoſe paſt ſervices I will conſent to give any reward, but that of wounding the conſtitution further; one hair of the head of which I would not have hurt for all Miniſters, or any *prime Miniſter* on earth.

The —— —— who founded ſo much upon the authority of Mr. Locke, in his ſecond ſpeech, has taken up ſome time to juſtify the argument of the —— —— who ſits near him, from a miſinterpretation which he thought ſome other —— put upon it, as if the —— —— had argued for a *general* and unlimited *diſpenſing* power; whereas he only maintained it in caſes of *neceſſity*, and till Parliament could meet: and ſays the —— ——, that is the circumſtance which diſtinguiſhes the act in queſtion, from thoſe exerciſes of the *diſpenſing* power complained of in former times ——, that it was done only when Parliament could not meet, and till it aſſembled: and farther, ſays the —— ——, it is ſingular for criminals to call their judges to condemn them; yet the King's ſervants have called Parliament to judge of the act they adviſed, and to condemn it if it is wrong.

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If you have honoured me with any attention to what I have ſaid, you will not think that I miſtook or miſtated the argument of the — and — — which the other —— —— has explained and enforced, as well as juſtified. I do not think any of your —— did miſtake it: but I did not like it as he gave it us, and I hope very few of your —— were pleaſed with it. It is true, the —— and —— was but for giving us a taſte of the *diſpenſing* power; I do not chuſe to touch the cup: and therefore I reject the diſtinction, as to the receſs of Parliament, totally, and I have endeavoured to diſprove

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the foundation of it. Whether I have ſucceeded, your —— are to judge. I can make no diſtinction but one, and that I do make, between an act of *Power*, and an act of *Prerogative*. The Crown has the whole force of Government in its hands, all inferior Magiſtrates and Miniſters of Government under its orders; and what the Crown commands they will obey, and in general I think they ought, as it muſt indeed be a very ſtrong act againſt law, that they ſhould diſpute or diſobey, as it would be dangerous to conſtitute them judges over the Crown. But Parliament will make the diſtinction between Power and Prerogative, and judge upon the act done accordingly. The act in queſtion, I ſay, is an act of mere power ſuppoſed to have been impelled by neceſſity, and tending to the ſafety of the people, and as ſuch it is to be allowed and juſtified; but it is not a legal act, there being no ſuch Prerogative in the Crown, as a *diſpenſing* power for one moment, or in any one moment: and therefore it was, that I very ſoon told your —— I objected to the words *Royal Authority*, as I hold *authority* to be *legal power*, whereas the Embargo is, in my opinion, *power without law*, and *againſt law*; conſequently is not authority in a juſt ſenſe.

As to what the —— —— ſays of the Miniſters calling Parliament *their judges* to judge of the act they adviſed, I ſee no weight in the obſervation at all, upon the footing of the doctrine advanced by himſelf, and by others whoſe arguments he has ſupported. Had the Miniſters told us, that they had adviſed the Crown to an act of power which they were ſenſible was not agreeable to law, but was ſo neceſſary and ſalutary, that they were confident it would be approved, and that they had, in that confidence, called Parliament to ſubmit their conduct to the judgment of Parliament—I ſay, had they held this language, I admit they might have ſaid there was ſome modeſty at leaſt in calling their judges to ſit upon them, and that it would have paſſed for a preſumption of innocence as well as a proof of candour. But what are we told? Why that the

the Crown had a right to do what it has done; that it was the Prerogative of the Crown to do it; and all the modeſty that can be pretended, is that the Miniſters did not give a longer line to the exerciſe of this Prerogative, but called Parliament a little more early than uſual, though perhaps, if the whole truth were known, Parliament was really called, (as it was at the time alledged) only for the India buſineſs. It is impoſſible it could be for the Embargo, as the Embargo was not laid when the Proclamation for calling the Parliament was iſſued, viz. 10th September. However, if the doctrine that has been advanced is juſt, Parliament has no judgment to give of the act done by the Crown; but are only to judge what they themſelves ought to do in the ſame affair. For now that Parliament is met, all that is told them is this:—"You may have thought, when at your country houſes, that the Embargo was not a legal act; but we let you know you are miſtaken; for the Embargo is the exerciſe of the ordinary and *undoubted Prerogative* of the Crown." I own I did not expect to hear ſuch news, and if I believed them, I ſhould not think the Parliament was met upon a fooliſh errand, but I would ſay it was upon a very unhappy occaſion; and at the beſt, I think there would have been as good reaſon, and not more modeſty, in calling Parliament in the beginning of the Winter, to acquaint them, that during the receſs, his Majeſty had thought fit to create ſome new Peers, and to change his Miniſters, which are both the undoubted Prerogatives of the Crown, whether exerciſed properly or improperly.

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The —— and —— —— upon the —— ——k, a new convert to Prerogative, has thrown his abilities, and the weight of his ſituation, gained by other doctrines, into the ſcale of the *diſpenſing* power; and in maintaining that degree of it contended for by the other —— whom he has ſupported, his —— has taken the ground of the law of nature, that firſt of all laws, *ſelf-defence*,

defence, recurring again to that *necessity* which is superior to all law, and calling up the great maxim, *Salus Populi Suprema Lex:* and his —— tells us he goes to *common sense*, he wants no statute for that which is written in the breast of every man, that law of instinct, that inherent power which must be in every state as much as in a single person, to defend itself:—and that if he thought the law of England (which he had hitherto thought to be perfect) was so destitute of sense and reason, as not to have that great fundamental of all law and government, *Salus Populi*, &c. for a part of it, he would move for a Bill to enact it, and make it part of the law of the land.

The —— —— says he was one of those who a—d his —— to the measure in question, and he thought he had done right. He thought his ——y deserved thanks for the care he had taken of his People, but he now finds that there is to be blame even when he is *dispensing good* to the nation, and the view is to cast a slur upon the gracious act of the Crown, and to hold forth to the Publick that there has been a Violation of the Constitution. And if it is so, says his ——, he ought to change his tone, and *cry mercy*; and the first thing y—— ought to have done was to call the offenders who gave this criminal advice to the bar—— but, says his —, I will not be so mean as to sculk under a pardon, till I find I am condemned, and it is hoped y— — will not condemn any unheard. — The — — is ready to enter upon that ground with any man, and to maintain, that it is not only the *Right* but the *Duty* of the Crown to *suspend* the execution of a law, for the safety of the people, as much as to keep them from starving;—that the Crown is bound in duty to protect the people from ruin, and the Prerogative (as another — — had expressed it) is nothing but a power to protect them; and, says the — and — — upon the — —k, it is a strange thing if the act was wrong which every body says they would have advised—that it is a strange crime to be meritorious—a strange criminality to save a country from ruin— from famine. His —, however,

however, challenges any one to shew that act of parliament, that excludes the Crown from the power of stopping the exportation of grain; — there is nothing, he says, in the whole statutes, from Magna Charta down, but this one simple thing, that the sea shall be open, *soit la mer ouverte*—that the Crown had done no more than to keep wheat in the country to prevent a famine at home, and that only for forty days, till the parliament should meet;—and, says the — — in the warmth of his fancy, that is such *a power as he believes Lucius Junius Brutus would have intrusted Nero himself with*;—adding, as if that was not an expression strong enough—*it is but forty days tyranny at the outside.*

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When I repeat these words in which I am sure I am not mistaken, I cannot go farther without disburthening my own mind of its feelings. That —— —— is the last person from whom I should have expected to hear such words. But I own a great deal of what he has said shocks me;——by nothing that he has offered am I convinced: And though it may be bold for one of those not entitled, and not expected to be so learned in the constitution, and with still less pretensions to be learned in the law; yet I cannot stir from my p—e, till I have done some justice, unable as I am, to what presses upon my poor understanding.

Forty days tyranny! —— —— *Tyranny* is a harsh sound. I detest the very word, because I hate the thing. But are these words to come from a —— —— whose glory it might, and ought to have been, to have risen by steps that liberty threw in his way, and to have been honoured, as his country has honoured --m, not for trampling her under foot, but for holding up her head? The —— —— in the b——r—— has said, as it became him to say, *forty hours, nay forty minutes tyranny* is more than Englishmen will bear. I have used my best endeavours to answer the Argument which is the foundation of the distinction to which the forty days alludes, by argument founded in principles; I will now give the —— —— one answer, more and it shall

ſhall be *argumentum ad hominem*——That —— —— has, I believe, ſaid on other occaſions, and he ſaid well, that the price of *one hour*'s Engliſh Liberty none could tell but an Engliſh Jury, and juries, under the guidance of a *certain* — —, have eſtimated it very high, in the caſe of the meaneſt of the ſubjects, when oppreſſed only by the ſervants of the ſtate. But forty days Tyranny over the nation, by the Crown! who can endure the Thought? — —, leſs than forty days tyranny, ſuch as this country has felt in ſome times, would I believe bring your — together without a ſummons, *from your ſick beds, riding even upon poſt horſes, in hot weather, faſter than our great Patriots themſelves to get a place or a penſion, or both*; and, for aught I know, make the ſubject of your conſultations that *appeal to Heaven* which has been ſpoken of. Yet eſtabliſh a *diſpenſing power*, and you cannot be ſure of either liberty or law for forty minutes.

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I have as great a regard for the principles of the law of nature as the — — can have. I love them. I know indeed the law of nature is not a law for Men in their preſent ſtate; it is two weak to bind them; and it will always with ſome danger be recurred to, as a rule of conduct, even in caſes of the moſt extreme neceſſity. However — — I am ready enough to admit that every ſtate, that is, all government, as well as every individual, has an inherent right to act, and muſt, for ſelf-preſervation, act upon that principle of the law of nature *ſelf-defence*. But — — do not let us be led away with a name without proper ideas. Even that great principle of *ſelf-defence*, ſacred as it is, does not ſuſpend or make void any poſitive law or conſtitution whatever: it only takes the caſe acted in *out of the law*, leaving the law in its full force. So a man who kills in ſelf-defence, is acquitted, not becauſe there is no law againſt murder, but becauſe his caſe is not within that law. I cannot help therefore thinking, it is but an incorrect uſe of the term *ſelf-defence* to apply it to this caſe,

caſe, by ſaying the embargo was ſelf-defence againſt famine. The laws for exportation have not overlooked or omitted to provide for the caſe of ſelf-defence againſt famine. Your — will underſtand what I mean, when you recollect that as the laws ſtand there are limits ſet to the liberty of exportation, to ſtop it when the prices come to a certain pitch, and that is the remedy which the legiſlature has ſaved againſt dearth; the *fact* then ſuſpending the *law*. I do not ſay but ſuch a neceſſity may occur as to make it neceſſary to draw another line, and ſo we have had, and now again, I preſume, ſhall have a temporary law, narrowing the line. But that is an extraordinary caſe, the cognizance of which, Parliament has reſerved to itſelf, to apply an extraordinary remedy to it; and has not left it to the ſuperior wiſdom of the Crown and Privy Council to anticipate that extraordinary remedy by a *ſuſpenſion* of the laws, within the bounds preſcribed by parliament, which will of themſelves ſtop the exportation as ſoon as Parliament has thought, in a general view of things, it ought to be prevented.

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I revere the principle of *ſalus populi ſuprema lex*. And I do not think we need an act of parliament to introduce ſuch a fundamental into the law of England. But what does this principle teach? Why this, that in the *making* of laws, the ſafety of the people ought to be paramount to every other conſideration, public or private: and in the *execution* of laws, or obedience to them, that it may for an inſtant tranſcend them all: ſo that if a caſe happens in which poſitive laws cannot be executed, or obeyed, and at the ſame time that great principle purſued, poſitive laws are and ought to be diſobeyed, or not executed at peril, the maxim followed, and the juſtice of Government relied upon for the juſtification and indemnity; a hazard which under no wiſe and good Government, any man acting with an upright intention need be afraid of.

But the Principle, even upon the wideſt ground of the law of nature, does not import that all poſitive laws are by the force of it *ipſo facto* ſuſpended or repealed; in

in cases that concern the execution or obedience of them. It supposes the very contrary; and never could do otherwise, unless we were at once to say a thing so absurd as this, that not only the Executive Power of Government, but every subject is vested with a *dispensing* power; as the principle operates with equal force on single subjects, as on the Executive Power itself; and is upon every individual a binding duty, as far as there is an obligation upon any one to consult the safety of the Commonwealth. If therefore the debate were, upon the Act in question, Whether to be justified or not upon this great principle, supposing it not justifiable upon any other, Government most surely is intitled to avail itself of the principle, so qualifying the Act, as to bring it within it. But if Government maintains the Act to be the exercise of Legal Power, and consequently against no law, the principle of *Salus Populi*, &c, which always supposes the direct contrary, is totally out of the question: and indeed I cannot help taking notice of it as an inconsistency, that, in my apprehension, runs thro' the whole of the argument of the — and — —, which I am now considering, that he resorts at all to extraordinary principles, and particularly to those of the law of nature; for if, as his — and other — have argued, the Act in question is a legal Act, and the exercise of a legal Prerogative, it needs no *Salus Populi suprema lex*, for a justification or excuse. It defends itself, and is within the protection of the positive law of the land; and consequently the law of nature has no more to do with it than the law of any foreign State, that has no authority in this Country. For my part — — the application I do, and shall, upon every such subject, and occasion, as the present, make of the maxim *Salus Populi*, is this, that as I think the safety of the People could not be secure one moment, if the Constitution were not preserved entire, and unhurt, the supreme law with me shall ever be to maintain unrelaxed and unenervated the fundamentals of the Constitution; and, as one of the principal of them, to exclude every, even the least degree of a *dispensing*, or *suspending* Power in

in the Crown, the natural and necessary tendency of which is to destroy the Constitution, and of consequence to destroy the safety of the People.

And here — — I would only ask by the way, if ever the principle of *salus populi* was made, or pretended to be made, a ground for the Crown's assuming or exercising a power to *suspend* the *Habeas Corpus* act by order of Council, tho' nothing perhaps more directly concerns the safely of the State, on some occasions; and therefore it is the first thing Parliament does in emergencies of imminent danger? These *suspensions* are, I hope, the only species of *Dictatorial* power, that this Government is acquainted with. But, thank God, they are no part of the Constitution, nor do they depend on the pleasure, or even the discretion of the Crown. One Great — has indeed mentioned the *Dictatorial* power, in the debate, and endeavoured to assimilate this act of the Crown, of suspending the laws for the exportation of corn to it. But surely, after saying what I have just now said of the suspension of the *Habeas Corpus*, as totally beyond the power of the Crown, it is needless to give any other answer to this attempt to compare the Crown's *suspending* these laws with the *Dictatorial* power among the Romans. If the *suspending* or *dispensing* power of the Crown were any part of this Constitution, it would indeed be a *Dictatorial* power with a witness; and a perpetual one too. So that we should be so much worse than the Romans were, as their Constitution slept only during the existence of the *Dictatorial* power, which was but short, and expresly given by the Senate; whereas ours, without the intervention of our Senate, would at once and forever be destroyed totally.

The — and — — speaks of *meritorious criminality* as strange; and it would be so. But meritorious *illegality* is not so strange, or an action meritorious in itself and happy in its effects, though against law. The merit consists in running the risk of the law, for the publick good; as in the instance alluded to by the other — and — — on the cross bench, of the Roman General who fought against orders, and was rewarded for saving

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ing his Country. On the other hand, if an Act is authorized by law, there can be no ſuch riſk, nor conſequently any other merit than that of doing one's duty.

I agree with the — — who holds the —ls of S. of S. that he would be a poor Miniſter indeed, who would not run ſuch a riſk, when the ſafety of the State required it. I will not take the — —'s inſtance of ſigning a General Warrant, as he *arbitrarily* ſaid he would do, notwithſtanding all the noiſe that has been about them; for a General Warrant is ſuch a piece of nonſenſe as deſerves not to be ſpoken of, being no warrant at all, and incapable of anſwering any one purpoſe, in any caſe whatever, that a legal warrant would not better attain. But this I will ſay, that without being a Miniſter, as an inferior Magiſtrate, or even as a private ſubject, I ſhould not heſitate, upon good ground of Publick Safety, to ſtop, if I could, any ſhip from ſailing out of port, to the deſtruction of the State, although no embargo ſubſiſted: and in this caſe, if Miniſters had held to the Juſtification of the particular Act, upon the circumſtances, they had done well. But they have juſtified the Act, by maintaining a Power which I cannot acknowledge. I blame not the Crown, nor the adviſers of the Crown for *diſpenſing good*, nor do I wiſh to hold out to the people a violation of the Conſtitution; but I will blame Miniſters for aſſerting a Prerogative in the Crown, which, inſtead of diſpenſing good, would diſpence much evil; and if they will hold out a power unconſtitutional, and deſtructive of the vitals of the Conſtitution, they muſt excuſe others for holding up the barrier againſt ſuch a Power, and defending the Conſtitution. I think Prerogative is a Power, and it is a duty alſo to protect the People; but I think a *diſpenſimg* Power is no Part of the Prerogative, and equally againſt the duty of the Prerogative, and the ſafety and Protection of the People; and to tell y— — the truth, I am aſtoniſhed how a H— of L— could have patience to ſit and hear ſo much of it: The — — ſpoke as if he joked, and certainly was in jeſt when he talked of *crying mercy*, and *ſkulking under a pardon*, of calling

calling to the bar and condemning. I will not enter into what the other — and — — who ſpoke before him ſaid of his not being a wiſe man who refuſes God's pardon and the King's. But — — I have had occaſion to mention inſtances of your — anceſtors, when they did things meritorious indeed, though not authorized by law. They did not cry out for the *mercy*, but they claimed the *juſtice* of their Country: and their Country protected as well as applauded them. Parliament paſt indemnities; nor did theſe brave men think it any meanneſs to cover themſelves; I will not diſgrace their heroiſm ſo far as to ſay they *ſkulked* under a pardon, though they ſued for and accepted an indemnity *in their own perſons* for the CONSTITUTION. Let me tell the — — who jokes at this rate, that the time has been, (and I almoſt wonder we have not ſeen it *very lately*) when a word in defence of any ſort of *diſpenſing* power would have brought the greateſt —— in the kingdom to the Bar. Sure I am it is wonderful forbearance that no one — inſiſted upon ſome very alarming expreſſions being taken down. It is a kind of complaiſance or acquieſcence that I fear more than the — — needs fear the *dona ferentes*. Language of this ſort, ſat under quietly, — Language ſo directly trenching on the Conſtitution, is, I am afraid, a diſagreeable ſymptom of want of health in the Body Politic. We have heard, *it has been ſaid*, in juſtification of the ſubjects reſiſting law, and rebelling, that the *original Compact* was broken by the Legiſlative Power, in one Act of Parliament, which was but a juſt and ſeaſonable exertion of what ſtands the declared, aſſerted, and recognized power and right of Parliament: and now a Juriſdiction is to be given to the Crown over the Legiſlature, by a *ſuſpending* Power, by which every Act of Parliament may be broken. Is it leſt Parliament ſhould again, as was traiterouſly ſaid laſt year, BREAK THE ORIGINAL COMPACT by ſome other Acts of Parliament? How two ſuch oppoſite opinions are to be reconciled, I know not! Or how they can *both* be made to quadrate with a zeal for Liberty, which has perhaps

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perhaps run wild; I leave that to thoſe who hold and
have given both opinions. But I think they are both
dangerous opinions; and by much the more ſo, that
they are the opinions of the ſame perſons, which puts
their *principles* beyond the reach of my line. Thus
much I will ſay, the *diſpenſing* Power, and the ſacred-
neſs of Acts of Parliament, are no jokes: they are not
ſubjects, nor is it a ſeaſon for levity, to ſport with.
Your —— fathers thought them no jokes: and if ſuch
doctrine, as has this day been advanced, prevails or
takes root in this ——e, I doubt the Conſtitution muſt
ſeek for ſanctuary elſewhere than within theſe walls,
the very hangings of which ought to put us in mind of
the glorious deliverances Engliſh Liberty and Engliſh
Spirit have obtained.

——— ———

The ——— ——— calls upon any one to ſhew the Act
of Parliament that hinders the Crown from ſtopping
the Exportation of Corn. I think many Acts have
been pointed out; and I ſhall not now go back to them.
But as to the idea that all the Statutes from *Magna*
Charta down import no more than that the ſea ſhall be
open, I confeſs I do not underſtand it: it muſt be owing
to my dulneſs. I have no notion of an Act of Parlia-
ment to make the ſea open to our own ſubjects; there
is not a ſingle word to that purpoſe in *Magna Charta*,
and I thought the Controverſy, that has loaded the
world with learning as to *mare clauſum et apertum*, had
only been between us and foreign nations. I hold it to
be a fundamental law, that the ſea is open to ourſelves:
and I wiſh the ——— ——— would point out a Statute
opening the ſea, to the Subjects of England, where ex-
portation had not been reſtrained by ſome antecedent
law. But I can ſurely tell h——— ——— of ſome laws
relating to this very matter of the exportation of Corn,
which do much more than make the ſea open: for the
Bounty Act makes the Treaſury open too, and gives the
exporter an indefeaſible right, unleſs taken away by Act
of Parliament, to a reward, in certain caſes, for carry-
ing his corn to the open ſea. Whether it be true or not
what

what a ——— ——— ſaid of Corn having been made too
much an article of Commerce, is not the preſent en-
quiry: but ſo the law ſtands: and it has proved a be-
neficial law to the nation, not only by promoting agri-
culture, and bringing money from abroad, but by pre-
ſerving plenty of corn at home, more than ever was
known before; and by ſaving the great expence to the
nation occaſioned by frequent ſcarcities that prevailed
before theſe laws were made: and I do not think ſuch
a ſudden inſtance of ſcarcity as the preſent, or the pre-
ſent benefit to the public, from the ſtopping of the ex-
portation by the Royal Power, will appear to be a ſuf-
ficient ground for veſting in the Crown a *diſpenſing*
power, as a ſubſiſting right, in order to *ſuſpend* theſe
laws when parliament is not ſitting, or till it meet, even
under the favourable colour, or for the neceſſary end of
preventing famine.

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The ——— ——— has indeed been pleaſed to ſay that
Brutus would have entruſted *Nero* with ſuch a power.
A ——— ——— has already given this good anſwer, that
though Brutus might have entruſted Nero with that
power, Brutus would have been very ſorry if Nero had
exerciſed it when not entruſted to him. I will add to
that anſwer, that however Brutus might have entruſted
Nero ſafely with a ſingle act which could do nothing
but good, he certainly would not have choſen to entruſt
the beſt of the Cæſars that ever governed the Roman
empire, with a power, under which, for one good act
of a *Titus*, a *Nero* might have done as many bad as he
pleaſed, and ſwallowed up Liberty entirely. Such and
no other is the *ſuſpending* power, under which the act in
queſtion is juſtified by the ——— ———, as an act of le-
gal Prerogative.

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The ——— and ——— ——— the better to accommodate
the preſent caſe to the great principle of *Salus Populi*,
and to prove the embargo to be within the inherent
power of the Crown, upon that principle, has pointed
at a ſimilarity between the ſtopping of the exportation
of

of corn, and the obliging to the performance of quarantine. And the — — asks, Where is the act of parliament that enables his Majesty to impose quarantine, all the statutes on the head being only to regulate it? Now for answer, I hope I may have leave to ask a question in my turn, to make the two cases parallel: and my question is, Where is the act of parliament that forbids his Majesty to impose quarantine; or that enacts, that all ships foreign and domestic, shall have free entrance into the ports of the kingdom without performing it? I know there is none, and such a law would be indeed absurd. But till such a law does exist, it is equally ridiculous to ask for one to impose quarantine, by repealing the other. For, most undoubtedly, it must be inherent in the executive power, to have a right to use means to protect the nation from the plague, not only upon the general principle, that the executive power may act in things for the good of the whole, where there is no prescription of law, but because self-preservation is a fundamental law interwoven in all government, as well as in the human frame: and the end of government is, to protect and defend the whole from all external evils, of which pestilence is among the worst. But not to rest on general principles, nobody can be so ignorant surely as not to know, that the power to impose quarantine is the prerogative of the crown, settled by prescription, and proved by immemorial usage, which gives it a legal beginning. The acts of Parliament on the subject do not create, but recognize this prerogative. However, if I could suppose so senseless, and perhaps I might say, so intrinsically void an act of parliament, as one to exempt from quarantine, I believe I should not scruple to break the law if I could, in a proper case, and trust to the justice of my country: but I should neither justify the breach under an act of the *dispensing* power, nor be a bit more ready to run the risk for the having such an illegal protection. I should think the principle of *Salus Populi* applied to excuse the act, not to justify the power, a better shield. And at the same time, it is worth observation, that these very quarantine

quarantine laws, confined as they are to regulations, prove how jealous parliament has been of leaving either the necessity or mode of it to depend upon the discretion of the Prerogative, though the thing itself be a fair instance of the original, inherent, and just prerogative of the Crown; these regulating laws being, as I understand them, of the nature of explanatory limitations of that part of the Prerogative.

———— ————

Another thing has fallen from the — and ——— ——— on the ——k, which I cannot help taking notice of. The — — has been pleased to complain of the other ——, and ——— —— on the cross bench, for declining to give a decisive opinion upon the legality of the embargo, because (as the ——— on the ———k expressed himself) of questions that may arise in *his* ———t. And the ——— on the ———k, says, He does not ask what may be pleaded on a demurrer in the *inferior courts?* he stands on *wider ground*, and asks in P———t, what is sufficient to justify the act in question? It is very true, the — and ——— on the cross bench did decline giving an opinion at present, as to the legality of the Embargo, and the reason he gave was a fair one, having been informed, as his — said he has been, of actions being brought, which may come before a certain judicature. But his — very candidly, and with great perspicuity, stated what the legality would turn upon, if judicially tried, and mentioned how fit it might be to prevent such questions on this occasion, by a law for that purpose. This was all very consistent, I think, though it has been glanced at as inconsistent, with the clear and firm opinion given by the — — upon the general point of the *dispensing power*, which his ———, without hesitation, and in the true spirit of the Constitution, condemned and spurned. * As for the question of

* The ——— and ——— ——— on the cross bench declined, for the reason he mentioned, at *that time* giving any opinion on the *legality* of the Embargo, on its own particular grounds of law; he has since had occasion to declare his opinion, that the Embargo, by *order of Council*,

of the —— and —— on the ——k, I own both parts of it strike me with surprize, as well what the —— —— does not, as what he does ask: and I would have that ——, instead of the question he states, ask, what *can* justify an act questioned in any court of law, inferior or superior, but a legal defence? For certainly, if the embargo is not itself a legal act, within the known powers of the Prerogative, it can afford no legal defence against any action brought in the courts of Westminster-hall. I am sure the —— on the ——k, can neither have forgot, nor can he differ from a very well founded opinion, which he *knows well* has been given in *one* of these courts, and not a great while ago, "That judges can decide only *according to law*, and are "upon their oaths to pronounce what is law, and that "they can regard nothing but law, not even votes of "Parliament." Why then ask even in P——, or in the H—— of L——, sitting in its political, not in a judicial capacity, hearing no cause, nor having any cause before them. What is sufficient to justify any act, if a *legal* justification is meant? Were the H—— of L—— hearing a cause touching the embargo upon a writ of error, would any —— in the H—, would the great —— who presides in that H——j——e, give his opinion upon any other ground than the *known law* of the land, which no opinion, even of the H—— of L—— in its political capacity, can alter? Courts of law will receive the law from Parliament, and the expositions of it from the H—— of L——, as the judicature of the last resort: but I hope they will always judge by the law, and by no other rule whatever. I trust never to see the time come again, when judges will pronounce upon the Prerogative of the Crown, as dic-

Council, is a direct suspension of an Act of Parliament, and therefore *illegal*. In delivering this opinion, the —— made a most excellent speech, supporting it by the dearest principles of the CONSTITUTION, and animated with the true fire of LIBERTY; which has met with universal applause, and for which his —— had (upon the spot) the *warmest thanks* of the known and most zealous friends of Liberty and of the Constitution.

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tated to them by a Prince or a Minister, or even by a political opinion of either House of Parliament.

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There is but one thing more I can at present remember, of what dropt from the —— and —— —— on the ——k. His ——, aware of the great affinity between the *suspending* power, and that other usurpation of the Crown which usually attended it, the *raising money* without consent of Parliament, (as to which, and even the power of Parliament in the matter, perhaps his —— entertains some peculiar notions) has thought fit to make a distinction between these two powers; and the one, I mean that of raising money, his —— totally condemns and explodes, though his argument of this day has been to support and maintain a degree of the other; that is, in cases of urgent necessity for the public good, and at least till Parliament can conveniently be assembled.

The —— says, that the *purses* of the subject stand upon quite a different footing; that the matter of money has undergone many statutes, down from *Magna Charta* and the statute, *That no taillage shall be levied*, &c. and, in short, that it is clear law and constitution, that no money can be raised but in Parliament. And his —— further adds, that as to money, there never can be a pretence of necessity for raising it during the recess of Parliament by an act of the crown, not even in case of the most imminent danger of invasion; because every body knows the difficulty of assembling forces, and bringing an army into the field, with all its appendages of artillery and baggage, which occasions so much delay, even where there is no want of money; and how long time it would take to levy any money from the subject by such means as could be used in the greatest haste: so that there never could be any difficulty in convening the Parliament before any thing could be done that way, and therefore no pretence to anticipate their meeting by such attempts.

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I think the purse of the subject is very sacred, and that none have a right to put their hands in it but Parliament.

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I go in that doctrine as far as the constitution carries me, and that is far enough for the security of the subjects property, though I have not any peculiar notions about the magical virtue of representation, and other dreams of that sort. The King and Common-Council of the kingdom are the known ancient, and acknowledged legislature, and I am not for loosening this pin of the constitution as to money, more than any other thing.

But I must at the same time fairly tell your ——, that if the opinion I have as to the *suspending* power, or the raising money, which are, I am sure, brother's children, stood upon any of the distinctions made by the ——, I should think it very poorly supported. Nor can I in any sort or kind distinguish between these two usurpations, which always went together. I have one short logic for both: I have mentioned it before; namely, That the Crown is not the supreme sovereign legislative power of this constitution: and that as money must be raised by Parliament, (whether the thing be taken on the more abstracted and radical principles of the original constitution, or on the statutes and usage respecting it, which I hold to be all but declaratory and explanatory, from the first to the last of them) so I think every other law, of whatever kind, must be both made and repealed, or suspended mediately or immediately, by the same legislative power that can alone raise money: and I know no greater degree of sacredness in those acts of Parliament that secure the purse of the subject, than in those that secure to him the possession of every benefit of law he is entitled to enjoy. I see no difference between an edict of the Crown to take money from the subject without authority of Parliament, and one to keep money from him that he has a right by act of Parliament to receive; and therefore, I think the Crown has not in any case, a right to suspend the bounty-act, by which the exporter of corn is entitled to receive so much money for every quarter he exports.

The princes who were put to shifts for raising money without consent of Parliament, because they quarrelled with

with their Parliaments for not tamely surrendering the constitution, and all their rights, and liberties to them, had no other way of doing it but by levying and forcing money from the subject, by various ways and devices. But if that trade were ever to be resumed, as the country is now situated, perhaps a fit statecasuist might for once at least, or for a short while, *during the recess of Parliament*, fall upon a method of raising more money, without calling for a penny from the subject directly, than was ever raised by ship-money, loans, &c. Suppose only the King was to be advised by the casuists of state necessity, to suspend all the appropriating acts, and stop the issues at the Exchequer to the public creditors, it would turn out to a better account than when Charles II. shut up his Exchequer, to save paying his own debts, that would not be raising money without consent of Parliament, but only *suspending* some acts of Parliament; yet I believe this country would hardly furnish a minister bold enough to advise the project, even if an enemy were burning our fleet again at Chatham; which has been mentioned by one great — as an instance of urgent necessity and immediate danger; though the — and — — on the — —k does not seem to think even that or any other exigency would be a pretence for raising money without consent of Parliament.

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To me the *dispensing and suspending* power, and the raising of money without consent of Parliament, are precisely alike, and stand upon the very same ground: They were born twins; they lived together, and together were, I hoped, buried in the same grave at the Revolution, past all power of resurrection; and as I think neither of them ever did belong to the Crown, I cannot admit of any doctrine that maintains the one or the other. If I were to make a difference between raising money and the *suspending* or *dispensing* power, I rather think the *suspending* and *dispensing* power the most dangerous of the two, as that which might do most universal mischief, and with the greatest speed, as it includes

cludes the whole. I must therefore enter my most solemn protest, and I do it with all my heart against the *suspending* and *dispensing* power in every degree even to the smallest vestige of it.

But — —, I pledged myself to lay before you the grounds upon which I charge the servants of the Crown in this business: and I think they are chargeable with the act itself, which is a dangerous infraction of the constitution, made yet more dangerous by the attempt to justify it under the pretence of Prerogative; because, if they had done their duty, there would have been no occasion at all for such an act of power by the Crown; and their not doing their duty, to prevent it, is only to be accounted for by the doctrine we have heard to-day, from which we learn, that the Ministers had taken up the notion of a defensible *dispensing Prerogative*, and were resolved to venture upon the excercise of it, rather than to call for the aid of Parliament. So that the necessity which at last forced them to advise the Crown to interpose, was not only of their own making, but of their *choice*, which caused them to prefer an exercise of power under the name of Prerogative to a relief by law, under the authority of Parliament. For had the Ministers been of another Mind, they would have called Parliament, when they might and ought to have seen, nay, when the Proclamation they caused to be issued against forestalling, &c. testifies they did see, that the remedy was wanted; and if Parliament had been called even *then*, (as it ought to have been sooner,) a legal and more effectual remedy might still have been applied by the legislature, as early as the embargo by the Crown took place; instead of which, Parliament was not only not called, but was prorogued beyond the length of an ordinary prorogation; and still the remedy, which then only could come from the Crown, was delayed till it was unreasonably late, and the evil much increased by the injudicious procrastination. But even this is not all; for I shall also shew, that the conduct, or rather the misconduct, which produced the necessity for the Crown to interpose at last, if it had

had been attended with no such consequence as a violation of the constitution, and an usurpation upon the rights of Parliament, was, in itself, the most culpable neglect of the public safety, too gross to be reconcileable with any notion of the duty of those who undertake the care of the state, or with any measure of fitness for that situation.

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I will say in general, he is not a moderate Minister, who will rashly decide in favour of Prerogative in a question where the rights of Parliament are on the other side: and I am sure he is not a prudent Minister, who, even in a doubtful case, *commits* the Prerogative, by a wanton experiment, to what degree the people will bear the extent of it.

But ——, rashly, and wilfully, to claim or exercise as Prerogative a power clearly against law, is too great boldness for this country: and of all things in the world, the *suspending or dispensing power*, that edged tool which has cut so deep, is the last that any man in his wits would handle in England: —— that rock which the English history has warned against with such awful beacons: —— an attempt that lost one prince his crown, and another both his crown and his head; and that at length expelled their family out of this land of liberty to the regions of tyranny, as the only climate that suited their temper and genius: — a power, the exercise of which stands branded as the subversion of the constitution, in the front of that *truly* GREAT CHARTER of your liberties, the BILL OF RIGHTS. A Minister who is not afraid of that power, is neither fit for the sovereign nor the subject.

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I love a bold Minister when he keeps in the true sphere. In times of distress and danger, boldness is a jewel: and with joy have I seen bold, even *wild* enterprizes succeed, tho' hardly within the die when undertaken.—But the enemies of our country are the proper subjects of that boldness, — not ourselves, not the constitution.

— —,

— —, I must farther observe, that if Parliament was either not called when it might have been called, or was prorogued, and prorogued to an unusual distance, when it ought to have been assembled, the power that has been exercised, as a pretended Prerogative competent to the Crown during the interval of Parliament, is, even upon the principles argued from on the other side, as mere an usurpation, as if those who contend for it, in that way, admitted what I maintain, that the power has no being at all, in any case or under any circumstances whatever. For it is precisely the same thing, upon the argument, as if the deputy or substitute, who has power to act only in the absence of a principal, should supercede the principal, merely by not calling for him, when there was occasion to act. And at the same time there cannot be a stronger demonstration of the exceeding great danger of this pretended Prerogative of a *suspending power*, even under the restrictions conceded, than this, that the occasion which creates it, depends upon the Crown itself, whose undoubted Prerogative it is to call Parliament, and fix the time of their meeting; so that there can at no time be any security against the exercise of this power, if there were a finister view to be answered by exercising it.

This, — —, at least we may venture to affirm, that if there were really such a Prerogative, depending for its existence upon the recess of Parliament, there would need to be the greatest imaginable circumspection observed in calling it as soon as practicable, when there was occasion for the exercise of the power, that it might be as short-lived as possible, and as soon brought under the controul of Parliament as could be. On the other hand, if necessity is the sole foundation of this dangerous power, or Prerogative, which-ever it be, it behoves those who advise the exercise of it, not only to see that the necessity is indeed *invincible*, but that it has not been occasioned by any fault of their own. For if it is not the one, the act is in no way justifiable; and if the other, that very necessity which is the excuse of the act, will be the accusation of those who occasion it; and

and in place of being justifiable in their conduct, they must be chargeable first with the blame of the necessity, and next with the danger of the violation of the law, as the drunken man who commits murder, justly bears the guilt both of inebriation and bloodshed.

But ——, nothing can so well put the conduct of administration in the true light, which will shew it to be most indefensible, as a few facts, of which it will not cost many words to remind your ——. And let me first beg your — attention to the defence made for administration by themselves, as it has been given by two of the M——rs. One — in a great — (the S— of —e) has said, he was astonished when he found that in the act passed last session, there was no provision giving power to the King and Council to prolong the prohibition beyond the 26th of August, and that he could hardly believe it. Another — in a h— ——e (my L— P— —l) says, he was amazed when he made the same discovery; and to distinguish his *greatness* by a superiority above the *trifles* of the end of last S—n, he informs the — that he went to B—h before P—— rose, and did not know so much as whether it broke up in May or June.——This is really an extraordinary tone of *burlo-thrumbo* greatness, and it may, for aught I know, carry a great air with it; but I think it is very *strange* language. And I fancy if your —— find any other reason to join in the amazement and astonishment of these two great —, it must be that they were both so ignorant of what it was their indispensible and most urgent duty to be acquainted with, and what I should imagine very few besides themselves did not know. The surprize can only be sunk in another wonder, still greater, that so unaccountable ignorance should be avowed, and offered as an apology for the most inexcusable neglect of a most necessary duty, upon an attention to which the safety of the kingdom depended.

But — —, when was it that these *attentive* Ministers made this *amazing* discovery? So very early, we are told, as the last day of August or first of September, when the prohibition by the last year's act was expired.

And

0312

And what was it that brought ſo *immaterial* an object, as an alarming ſcarcity, a threatened famine, under the conſideration of the Miniſtry? A letter which it ſeems was received from a *watchful Magiſtrate*, the late *Lord Mayor* of London, who is but an inferior Miniſter of government, tho' in an office of great ſtate and dignity.

Thus ——, by the Miniſters own account, from the middle of July, when his — called them into his ſervice, to the beginning of September, they had not once beſtowed a thought upon the prognoſticks or proofs of a general ſcarcity, tho' it was the ſubject of writing in all the daily news papers, the cauſe of diſquiet in all quarters of the kingdom, and of converſation in every company, that of Miniſters, I ſuppoſe, only excepted:

Sidera quis, mundumque velit ſpectare cadentem,
Expers ipſe metus?

The *patriotic* Miniſters, however, did not themſelves feel; and if we may judge of things that are not ſeen by thoſe which do appear, they were engaged in the more important buſineſs of ſettling who ſhould *cede* that another might *ſucceed*, what reverſion or penſion one ſhould have, and what compenſation or encreaſe of emolument another ſhould enjoy, out of the over-flowing treaſury of this *rich, opulent, and unincumbered* country. Had a ſingle hour of the many days ſpent in adjuſting the arrangement for one office, been employed in conſulting about the means of preſerving bread to the poor, miſerable, hungry, and oppreſſed ſubject; the flints that ſtruck each other in that joſtle for place, might have caſt as much light upon the *law* at leaſt, as to have ſhewn what the contents were of *one*, not to ſay of *three* acts of Parliament to prevent ſcarcity and famine, paſſed but a few months before.

——— ———

What were the circumſtances of the country, when Adminiſtration was in this callous, torpid and benumbed ſtate? If we compare them with the ſituation in which things were when Parliament took up the conſideration of the corn laſt ſeſſion, and paſſed the ſeveral acts

acts for ſecuring a national ſupply, we ſhall not be able to avoid ſeeing a remiſſneſs and inattention in government, on this occaſion, that is really not to be conceived, even after the Miniſters have told us, that truly they had not ſo much as once looked into theſe laws of laſt ſeſſion, ſo late as the 30th of Auguſt, when the Lord Mayor wrote to them.

——— ———

In the petition of the city of London preſented to Parliament, which is dated the 17th of January laſt, it is ſet forth, that wheat for bread had for three months been from thirty-nine ſhillings to forty-two ſhillings. In that ſituation Parliament thought the matter worthy their attention, and that a remedy was neceſſary: And three bills were brought into the H. of C. which all paſſed into acts; one to prohibit the exportation of corn; another for liberty to import oats and oatmeal; and a third for liberty to import American corn. Theſe bills paſſed the H. of C. about the ſeventh of February, after which they had their courſe through the H. of L. and received the royal aſſent ſometime after, and your — will pleaſe to attend to it, that even before theſe bills paſſed, wheat was come down to thirty-five ſhillings and ſixpence; and in April the beſt corn was down at thirty-four ſhillings and ſixpence, the worſt at thirty-two ſhillings, owing to the remedy interpoſed by Parliament; which your — ſee was ſo quick and immediate in its operation, that the prices fell even before the law was paſſed: Of ſuch importance and effect is the *proper* remedy, when applied by Parliament *ſeaſonably* and *timely*. Yet under that fall, three or four ſhillings below the prices upon conſideration of which the city of London petitioned, and the Parliament proceeded to bring in bills, did the legiſlature judge it fit to paſs the ſeveral laws; and very wiſely, becauſe their not doing ſo would have had juſt the contrary effect, and have raiſed the prices above what they were, when the matter was taken up, for the ſame reaſon that the doing of it lowered them ſo greatly immediately.

 The

0313

The prohibition act was made to expire the 26th of Auguſt, and the two others for liberty of importation expired the 29th of September: And there was no power given by the act to the K. and C. to continue the prohibition. — So much for what paſt laſt ſeſſion.

Now for what concerns the Miniſtry of this year, to ſhew their *attention*. By the weekly returns of the prices at Bear-key, it appears that upon the 28th of July (by which time I believe the Adminiſtration had taken its form, for the Dictator was ſet to work about the 12th) wheat was at forty-four ſhillings, that is two ſhillings above the higheſt price when the city of London petitioned Parliament in January, and no leſs than eight ſhillings and ſixpence higher than when the bills of laſt ſeſſion paſſed. Auguſt the 4th it was forty-five ſhillings, advanced a ſhilling; Auguſt 11th it was forty-three ſhillings; Auguſt 18th forty-four ſhillings; 25th at forty-five ſhillings; and by September 8th it was got up to forty-eight ſhillings and three-pence; and was at forty-nine ſhillings on the 15th and 22d of September.

The prices at Bear-key are the barometer for plenty and ſcarcity, which the law has pointed out to Magiſtrates, and to *Miniſters* too, unleſs it be no part of the duty of Miniſters to take care of the proviſion of the country, becauſe they have not, like the Lord Mayor and Aldermen, the aſſize of bread to ſet weekly. The authentic and legal information is at hand, if they will but ſend to Bear-key or Guildhall for it: And one would think *that* ought not to be omitted at any time when the ſtate of the country as to corn is but doubtful or ſuſpicious. In a year when there had been a ſcarcity, and no leſs than three temporary acts of Parliament to provide againſt it, ſuch an omiſſion muſt be deemed ſtrange inattention, and unaccountable neglect.

From the liſt of prices I have given your —, you ſee how much worſe the ſtate of the country was in the months of July and Auguſt, than when Parliament was applied to laſt ſeſſions; ſtill more ſo than when the acts

acts of laſt ſeſſion paſſed: And the ſtate of the weather we all know was for a long time moſt threatening, eſpecially coming after a year of ſcarcity. God knows what would have been the caſe, if the ſeaſon had not taken a favourable turn towards the harveſt, as in kind providence it did: Yet all this while, not the leaſt mark of care in Adminiſtration. The Miniſters who had the watch, inſtead of looking out, ſeem to have been the only quiet and unconcerned perſons in the kingdom: they did not ſo much as enquire whether government was armed with a power of prohibition.

This is really hard to be credited. If the Miniſters had no friends to inform them of the expiring laws; ſurely their own reflection, had they uſed any, might have told them long before the 26th of Auguſt, that there was too great a probability ſome farther remedy would be neceſſary. And Parliament (if it had been worth while to give any attention to what they had done) had marked a line of direction for Adminiſtration, with the greateſt exactneſs, by making the prohibition continue till the 26th of Auguſt, and no longer; becauſe there could not ſooner be any ſupply from the new crop, and it muſt before then be known what the harveſt was, and how the crop turned out: So that if, by diſappointment in the crop, there were need for a freſh prohibition or other remedy, Parliament could be called in time to apply it. Parliament had thereby given at the ſame time, the moſt explicit teſtimony, not only that they underſtood it to be *their* province to give the remedy, but that they had now reſerved the cognizance of the affair to themſelves, not chuſing to delegate it to the crown, even *during the receſs*, as had been done frequently before. If Adminiſtration had choſen to follow the line given them by Parliament, they had a plain path to walk in; which was no other than this, To keep their eye upon the ſtate of the country; and if there appeared to be the leaſt hazard of the need of a further prohibition, to keep the prorogation of Parliament upon ſuch a foot, as that it could be called in time,

time, and with a reasonable notice too;—a method that the Journals shew has been often practised on like occasions. Instead of this, Administration took no thought, gave no attention to the matter at all; and of themselves neither did, nor shewed any intention to do any thing, notwithstanding the circumstances of the country, as events turned out, made the affair of such consequence.

But — — was the conduct of Administration a bit better, or wiser, or more like government, when they were waked out of their first sleep, and goaded on to their duty, by others to whom their country was more obliged? Not one whit: but if possible rather worse. Of this also there is the fullest evidence.

After waiting till the end of August, when the state of the country was beyond conjecture, the Lord Mayor of London, in the letter which he wrote to three great Ministers *, told them the stock of grain on hand was very small; that the harvest had failed, and was unproductive; and that there were then (already) come commissions for buying up corn here, unlimited in price, and to an immense extent;—that therefore it was indispensably necessary some measure should immediately be taken to stop the exportation, otherwise the kingdom would very soon be drained, and a want at home. This was material information indeed, and it was as authentic as material; for your — will reflect from whom it came.—Not only from the chief Magistrate of the metropolis, but that Magistrate himself the best informed that any one could be, from his private situation, being the greatest corn-factor in England, perhaps in Europe; a worthy and sensible gentleman, well known in both houses of Parliament, where he has often attended on occasions relating to corn, called upon as the ablest in the kingdom to give information in these matters. Such was the person who gave this information to government; and it was the more worthy of regard, and ought to be mentioned to his honour, that his duty as a citizen of the commonwealth, as well as a Magistrate, in the high office he then bore in the city of London,

* D. of G. E. of C. and E. of S.

prevailed

prevailed over his own private interest, as there was not another man in the kingdom so much interested in the profit to be had by the commissions from abroad. It were to be wished, though I am not enthusiastic enough to hope it, that such an example of *disinterested* patriotism and public virtue would *ascend*. But in late transactions, my Lord Mayor's vigilance in his office as a Magistrate, has not been more woefully contrasted by the Neglect of Ministers, than his noble contempt of gain in his private character as a man, by the *pensioned* avarice of his superiors;—An excellent foil to illustrate the splendor of his virtues!

—— —— What did this information produce? Just nothing; at least nothing for the relief of the country. My L— P— S— and the S— of S— went to statute-books, before un-opened, not *dog-eared*, and there made the *amazing astonishing* discovery, that the act of Parliament of last session gave no power to the King and Council to prolong the prohibition. There government rested: the kingdom was left to be *amazed* in their turn, and my Lord Mayor's letters added to the lumber of some public offices.

The consideration of this weighty and important affair thus forced upon Administration, was yet laid aside for some days; and your ——, will not forget, that at this time Parliament was *not* prorogued, though there had been no thought of calling it, as there should have been much sooner; and if it had been called when my Lord Mayor's letter came, which represented the indispensible necessity there was of taking some measures, and when the *wonderful* discovery was made that no powers were left with the King and Council, it might have been assembled by the 20th of September, on twenty days notice, which even the —— on the W——k has condescended to agree would be *due notice*; or if six days more had been given, still it might have met to apply the legal constitutional relief as early as the time when the *dispensing power* was exerted under pretence of the recess of Parliament.

It

It would feem however, ——, ——, that after a week or ten days confideration, it was thought neceffary to put fome mark of refpect upon my Lord Mayor's letter: And it has been faid, that a Council was held about the 8th of September, when, by the Bear-key prices, wheat was *only* at forty-eight fhillings and three-pence. But that Council ordered no embargo; neither was it judged reafonable or neceffary to call Parliament. The council however *did* fomewhat, rather I think to amufe and fhew their ignorance than any thing elfe; though it is like the amufement in the fable of the frogs. Accordingly that wife and ufeful Proclamation againft foreftalling was brought forth, bearing date the 10th of September: And for quieting the minds of the poor ftarving people, and miniftring prefent and effectual relief to their diftrefs, it publifhes this comfortable news, that *the prices of corn are already* very *much encreafed, and the fame is likely to grow much dearer, to the great oppreffion of the poor.* The people cry for bread, and the Minifters give them a Proclamation; nay, left one fhould not be enough, they give them two of the fame date, and in the fame Gazette; and the fecond much worfe than the firft. I cannot on this occafion drive from my mind thefe words of the Scripture, which fay, "If a fon fhall afk bread of any of you that is a father, "will he give him a ftone? Or if he afk a fifh, will he "for a fifh give him a ferpent? Or if he fhall afk an "egg, will he offer him a fcorpion?" Perhaps two fuch Proclamations never were coupled together. The one proclaims a *growing* dearth, when the ports were by *law* open for the free exportation of every ounce of grain in the kingdom, with the higheft temptation to export, by an unlimited demand from abroad, to prevent which no remedy could be *legally* applied but by authority of Parliament: and under thefe circumftances does the other Proclamation prorogue the Parliament to the 11th of November, *fixty-one days.*

—— ——

If it had been the purpofe or deliberation of Government to aggravate rather than to alleviate the diftrefs of the

the country, and by driving to defpair, to promote infurrection and fire, what more effectual method could have been purfued? I fpeak to facts; and it is well they are proved, for I fhould not expect to be believed without evidence. What were the confequences? The queftion may well be afked; but I fhall not anfwer it, for fear I fhould feem to juftify what I condemn and regret.

But I will tell your — what happened after thefe Proclamations. Wheat that was at forty-eight fhillings and three-pence on the 8th of September, was at forty-nine fhillings on the 15th and 22d: and there were rifings, riots, and tumults, in all corners of the kingdom, and troops marched from county to county, to quell infurrections by military force: Famine and the fword met: Murders have been, and executions muft be: The laws trampled upon and tranfgrefs'd by the people: Acts of Parliament from a *carelefs neceffity* broken, and fufpended by power without right: Royal authority, that is, unfounded prerogative, (for royal authority and prerogative are fynonimous convertible terms); Royal authority, I fay, exerted againft law. For *at laft*, when no *legal* remedy was left for an infupportable evil, the embargo by order of Council, that *violent*, but *then* neceffary, and alfo inadequate remedy, was iffued the 26th of September. It was *forced* by the cries and rifings of the people, and by petitions from the great cities, and particularly the petition prefented to the King on the 23d, from the Lord Mayor and Court of Aldermen of London, who could no longer remain filent fpectators of the diftrefs and danger, which near a month before had been reprefented in fuch ftrong terms to the Miniftry, by their worthy and vigilant chief Magiftrate, in a more private capacity and form.

—— ——

As to what has been faid in the debate, that the facts laid before the Council on the 10th of September, which iffued the Proclamations againft foreftalling, and for proroguing Parliament, were not fufficient foundation for their proceeding to an embargo; — that it was then

only

only a *surmise* of scarcity; and that the circumstances were so much changed before the 26th, when the embargo was ordered, that it could not be longer delayed; I own I cannot understand what it means: for we see by the Bear-key returns, that (as already mentioned) wheat was at forty-eight shillings and three-pence on the 8th of September, *that is*, above the bounty price; and it was but nine-pence higher, viz. forty-nine, on the 22d of September. But the order for an embargo is really the Ministry's indictment drawn by themselves: for it sets forth as its ground the very information that the Lord Mayor of London had given the Ministry twenty-six days before: And upon those *grounds of urgent necessity now impending*, that is, that they had been certified of as impending a month before, and *for the safety, benefit, and sustenance* of his majesty's subjects, his majesty *then only*, *by the advice of his Privy-Council*, orders an embargo on wheat and wheat flour, and *nothing else*. And the *necessity* of laying it on by the *Royal Authority* is stated in these expressive words: "And whereas the "Parliament *standing prorogued* to the 11th of Novem-"ber next, his majesty has not *an opportunity* of taking "the advice of his Parliament *speedily enough* upon the "*present emergency* to stop the progress of a mischief "daily increasing, and which, if not immediately pro-"vided against, might be productive of *calamities past* "*all possibility of remedy*:" A very just account of the situation of things that had been the *present emergency* for the two preceding months, and of the necessity of the *speedy* remedy that had been so unaccountably *delayed* to be applied in any way during that time, and that a voluntary act of Administration, in the prorogation of Parliament, when the emergency was come to the worst, had rendered impracticable in the legal and proper way. But the most curious part of the whole is, that the *want of an opportunity* of advising *speedily enough* with Parliament, is spoken of as a common or unavoidable and unforeseen casualty, though the Ministry themselves were the cause that his Majesty could not *then* have, and had not even sooner had that opportunity.

But

But ——, if the Proclamation for the embargo is considered as a *remedy*, even this act of Power now justified as *prerogative*, was itself but the crowning blunder, by confining the embargo to wheat and wheat flour. The wisdom of Parliament extended their prohibition, under less pressing circumstances, and lower prices, to all grain, and every thing of corn kind, bread, biscuit, and starch. And one would have thought, that when the Crown was advised to suspend acts of Parliament for the public good, the *dispensing* power might also for the greater good of the public, have paid that compliment to the act of Parliament, to have followed it fully, and not in a part only, when the whole prohibition was far more necessary than at the time the law was made: not to say that the example of Parliament was at least a sort of shelter for a *prerogative-usurpation* upon its power. But even without reforting to the wisdom of Parliament for instruction, such an error as the omission of prohibiting the exportation of all manner of grain in the Proclamation, could not have been fallen into, without either the greatest inattention, or most amazing unskilfulness; for hardly any body is so ignorant as not to know that a diminution of any one species of grain, not only raises the price of that particular species, but affects all the rest, because of the increase of consumption of these occasioned by the want of the other. And so the exportation of barley, which was not restrained by the embargo, has contributed to keep up the price of wheat, besides enhancing that of malt to an intolerable degree.*

* The Parliament lost no time in remedying, as fast as they could, the blunders of administration. They revived the *Prohibition act* in its *full extent*; renewed the two other acts before mentioned, which expired on the 29th of September; and have taken other wise and necessary precautions. But that there might be no public act with regard to this great concern, the prevention of famine, executed by administration, without some egregious blunder, and some glaring proof of ignorance and inattention, the Privy Council, though they had a power to prohibit distillation till *twenty* days after the meeting of Parliament, prohibited it only for *three*. In consequence of which, all the distillery might go on till the act passed to stop it.

 ——

If Parliament had been called in time, there might have been a more early, and there certainly would have been a more adequate and ſatisfactory remedy applied to the evil: and the very proſpect of the meeting of Parliament would have kept the people quiet, as they will always have more confidence in Parliament than in any Adminiſtration, and will patiently wait for the relief for which they naturally look up to the Legiſlature. But in a Miniſtry that from the beginning had paid no attention to the calamity either in its preſages or effects, and that cut off all hopes of Parliamentary relief by a prorogation, when they proclaimed the evil to be come to a great height, and ſtill growing; in ſuch a Miniſtry the people could take no confidence, nor could they indeed be expected to continue quiet under ſuch circumſtances. From Miniſters capable of blundering ſo groſsly in ſo plain and neceſſary a buſineſs as the care of proviſion for bread to the kingdom, what may not be expected of the blundering kind, in other matters of more difficulty, for of more importance there can hardly be any? With ſteerſmen at the rudder ſo inexpert in our own ports, the ſhip is not to be truſted in the wide ſea.

Some pretences have been made, I cannot call them excuſes, for not calling the Parliament, which has been the *origo mali*. One —— — ſpeaks in a contemptuous ſtile; he ſays all the difference is, that the King has been adviſed by his *Little* inſtead of his *Great* Council.

This way of ſpeaking is unconſtitutional, and ridiculous. I hope Parliament will always maintain its own ſuper-eminent diſtinction, and mark it ſo as it ſhall not be the by-word of any Miniſter, by ſhewing on this, and every other occaſion, that the King's Privy Council, which the —— —— calls the *Little* Council, is indeed little in compariſon of the Great Council of the *Nation*, as well as of the *Crown*; and that this Little Council, or any *one Man*, who dictates to them, never ſhall be entruſted with the power of *ſuſpending* or *diſpenſing*

penſing with the ſtanding law of the land, on any pretence whatever. If that were allowed of, there is no law ſo fundamental but might be ſubverted; nor any government more abſolute than that which might be introduced.

The —— —— ſays, " he does not enquire whether my Lord Mayor's letter was wrote a day ſooner or a day later.—There is a *littleneſs*, ſays he, in minding dates of Proclamations, —— the day of laying the embargo, of proroguing the Parliament, and the day fixed for its meeting.——Theſe are *minutiæ*, beneath notice: Saving a country from ruin is a great object.——He goes to the great object of preventing famine.

Saving a country from famine *is* a great object; but it may depend on nothing ſo much as *minutiæ*, ſuch as the —— —— would overlook. It did depend upon ſuch *minutiæ* as dates in this inſtance; and the overſight promoted the famine, which attention might have prevented, ſooner, and to much better effect.—But ſurely no inſtance can ever be more unfortunate, of contemptible *minutiæ*, than that of the minding of days and dates, when the ſafety of a country is concerned. States have periſhed by the neglect of an hour, and moments have decided the fate of empires. The Prorogation of Parliament, in ſuch a ſeaſon of calamity and danger, was no *minute* blunder. Laſt year that —— —— ſaid *he could not commend* the then Adminiſtration for calling Parliament *early*, as they termed it, becauſe he thought *their* ſpeed was delay, in ſuch a conjuncture as that was; though the ground of his complaint of delay was *not* that America had been ſuffered to continue in rebellion for months, *but* that ſo much time had been loſt in giving theſe poor oppreſſed ſubjects relief from the grievances, which he thought juſtified their mutiny. Now when *one* greater and wiſer than all other men is Miniſter, days and dates are *minutiæ*. It is *his* Prerogative to blunder and be blameleſs.

But, ſays the —— ——, Parliament could not have been *conveniently* aſſembled ſooner.—It may do for great—— who

who live at their fine palaces in the neighbourhood of the capital, to come up here at any time;——and to be sure any man may get upon *the back of a post-horse*, and ride as fast as he can;——but it will not suit all the members of the two houses, that are to be brought from the East and the West, from the South and the North of this large kingdom, to call them from their houses and their domestic affairs, at an inconvenient season, and upon short notice.——This cannot be done without *notable inconvenience*.——And nothing is so dangerous as surreptitious meetings of Parliament.——The great security of our Liberties consists in calling Parliament upon full notice, to prevent all surprize.——And by surreptitious Conventions, *all countries that have been enslaved, have lost their liberties*, of which confident assertion, he however neither did nor can give one instance from any history.

Must we then, — —, for fear of a surreptitious surrender of our Liberties by Parliament, trust the Privy Council with a power that would subvert our liberties, and render our property precarious? But can the *lowest* number of Lords and Commoners that can make a Parliament, be less safe than the *Little* Council? The law of the land has taught me that Parliament assembled without any notice at all, is a better security for our Liberties than any Privy Council: and therefore, upon the critical emergency of a demise of the crown, Parliament is by statute appointed to assemble *immediately*, however it may happen to stand prorogued at the time. So jealous is the constitution of a pretence left to the successor to the throne to govern with his Privy Council, without Parliament. But —— ——, it is very extraordinary to hear the danger of a surreptitious assembling of Parliament, used as an argument against haste in a season of imminent danger, by those who argue for *necessity* as sufficient to *suspend* and *dispense* with laws and acts of Parliament? Is there more safety in making *necessity* a law-maker, or a *lex temporis*, than in making it only a hasty conveener of the true legislature of the kingdom? —— —— Ministers may not be fond of the

the meeting of Parliament, even when they do not fear much harm from it to their power; because, though it does not immediately or certainly destroy, it puts them in mind, in the midst of their arrogance, that they are mortal, like the Slave in the Triumphal Car. For my part, I have no fear of Parliament, called any how: but I have great fear of a power in the Privy Council that would supersede Parliament. It was the Rump of a well-weeded Parliament that abolished the monarchy, but no proclamation can garble either a House of Lords or Commons: and before any number assembled surreptitiously could sit long enough to attempt a surrender of our liberties, the most distant member, who did not chuse to be a slave, would find his way to Westminster, if *the back of a post-horse* could carry him; and the traitors would very soon find that they had only forfeited their own heads, to confirm the Liberty of their incensed country. In the present case, however, there was no occasion for a hasty convocation of Parliament. Government needed not to have been run to the *minutiæ* of hours or days. Had Parliament been called, even when it was culpably prorogued, it might have had a longer notice than many sessions have sat upon. Nor can I see any *notable inconveniency* in calling it so soon, unless that the — — could not have staid so long at the Waters; as I presume it could not have safely met without his — presence to *guide* it. As to forty days notice being necessary for calling Parliament, it is an assertion without all foundation, contradicted by usage, and by the very stile of the usual Proclamations which speak only of *due* and *convenient* notice; to effect which there is no charm either in the number forty, thirty, or any other. I was surprized to hear the — and — — say, he held it to be the *law of Parliament*, that forty days was necessary. There is no such *mos Parliamentarius*. And the — — must have forgot himself: for in the very first year of this reign, Parliament was called and sat for dispatch of business on twelve days notice by proclamation. The — — knows *who* then advised his majesty, and was in the *first* office in the kingdom. But if it were

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were necessary to go into them, numberless instances
since the Union are ready to be pointed out, of Par-
liament being called and sitting on twelve, sixteen, twen-
ty days, and other indifferent numbers: and the —
and — — is unsupported in this opinion, which is, in-
deed, totally a mistake; the other — and — — on
the — —k having agreed that twenty days is due
notice. There remains therefore no cloak nor excuse
for the blunder of proroguing Parliament for *sixty-one*
instead even of *forty* days, at a time when it was so ne-
cessary to have assembled it upon the shortest notice for
which there was any precedent; and when, if it had
been called even upon twenty days from the date of the
Proclamation proroguing it, it would have prevented
the necessity for an embargo by the Crown against law,
and hindered those dangerous tumults and insurrections
that at last extorted an act of such dangerous example
from Administration.

—— ——

The occasion is my apology for having said so much; yet it is but a small part of what might have been said on the subject, upon which I have taken the liberty to trouble you.

—— ——

I am not afraid of the just *prerogative* of the crown.
It is a part of the constitution, and it is salutary. " The
" people's liberties strengthen the King's prerogative,
" and the King's prerogative defends the people's li-
" berties." So said that unfortunate Prince Charles
the First. But he said it falsely and deceitfully, apply-
ing it to his own depraved principles of government,
in which he was nursed up to his ruin, by a father who
never sat in *that chair*, but he taught like a Royal Pro-
fessor the doctrines of arbitrary power to your —— an-
cestors, who were but unapt scholars. What the self-
deluded, and self-destroyed King said deceitfully, I
think sincerely, in the just sense.

Neither, — —, do I fear the *power* of the Crown, in the hands of the gracious Prince now reigning. He made

made it his early declaration from the throne, that our Liberty was as dear to him as his own Prerogative: And I trust a long line of illustrious descendants sprung from him, will inherit his zeal for the liberties of this country, the LAWS of which transferred the imperial diadem of these realms from those who were not worthy of it, to his Majesty's august house. The freedom of the subject is the brightest jewel in the crown. It is the super-eminent prerogative of the Kings of England, by which they excel in glory all the Sovereigns on earth, that they rule over FREEMEN, not over *slaves*. The Brunswick line esteems it so. They have shewn it.

But, — — I dread principles, the scars of which this nation yet bears: —— Principles destructive to the people, dangerous to the Prince: —— Principles that lie at the root of all the illegal prerogatives usurped, and all the arbitrary power exercised by a Charles or a James. — These principles I will resist, adopt or countenance them who will. I will resist them not more from regard to Liberty, than from love to my Sovereign and his family. They are poisonous principles, and they are infectious. If it were possible to deceive even the *elect* family, — to impose upon a Prince of that house *chosen* to maintain our Liberties; it could only be done by principles found in the mouths of the professed friends of Liberty, who have got access to the Royal ear by such professions. The safety of the crown, as well as the security of the subject, requires us to shut up every avenue that could lead to tyranny: And he who would unbar those gates which exclude it, is not, in his heart, far from the lust of it. I will suspect no man without a cause. But I will trust no man with what the constitution has not made a trust;—with any power that *must* do a general mischief; tho' in a particular emergency, it *might* have a *chance of* doing some good. Such a power I will not trust in the Crown; no, not for a case of *necessity*. —— For as Lord Falkland, while he remained the advocate for Liberty, and before he listed in the service of King Charles's despotism, said, speaking of the ship-money judges, and their cri-

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minal opinion, "When that *necessity* which they would "have so absolute and certain, takes place, the law "of the land ceases; and that of general reason and "equity, by which particular laws at first were framed, "returns to the King's throne and government, where "*Salus Populi* becomes not only *Suprema* but *Sola Lex*; "at which, and to which end, whosoever should dis-"pense with the King, dispenses with us, to make use "of his and one another's."

—— ——

Men are but men. Unwise and unsafe trusts, are the surest inlet of treacherous, and infamous breaches of trust. The History of England shews how quickly, and shamefully, heroes for liberty have become tools of despotism. But, to use words I *have heard* from a certain *noble Lord*, when such expressions served his turn, — If we see an *arbitrary and tyrannical disposition somewhere*, the call for watchfulness is loud. Danger knocks at the gate. A *tyrannical* subject wants but a tyrannical disposed master, to be a minister of arbitrary power. If such a Minister finds not such a master, he will be the tyrant of his Prince, as much as of his fellow-servants and fellow-subjects. I should be sorry to see my Sovereign in chains, even if he were content to wear them; — to see him unfortunately in chains, from which perhaps he could with difficulty free himself, till the person who imposed them runs away; which every good subject would, in that case, heartily wish might happen, the sooner the better for all. We are a FREE PEOPLE; and I am for a FREE KING.

F I N I S.