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A  
L E T T E R

FROM A

Member of Parliament

TO HIS

FRIEND in the COUNTRY;

Giving his Reasons for opposing the farther  
Extension of the

EXCISE LAWS;

AND SHEWING,

That had the late Attempt succeeded, it had  
been destructive of PARLIAMENT, and fa-  
tal to the CONSTITUTION.

*—Vi quidem regere Patriam, aut Parentes, quanquam &  
possis & delicta corrigas, tamen importunum est, cum prae-  
sertim omnes rerum mutationes eadem fugam aliaque  
hostilia protendant. Frustra autem nisi neque aliud se  
fatigando nisi Odium querere, extrema dementia est; nisi  
forte quem inbonesta & perniciofa lubido tenet, potentia  
paucorum decus atque libertatem suam gratificari.*

SALUST.

*Invitum qui servat idem facit occidenti;*

*—et libera vina referre.* HOR.

L O N D O N :

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13 1733



A  
L E T T E R

FROM A  
Member of Parliament  
TO HIS  
FRIEND in the Country, &c.

S I R,



S you are pleased to desire  
my Thoughts on the late  
Scheme for extending the  
Excise Laws to the two  
Commodities of *Tobacco* and  
*Wine*; and exprefs some faint  
Doubt, whether, upon the  
whole, it would not have  
been beneficial to the Nation; and are so  
candid as to give me the Reasons that weigh  
most strongly with you in Favour of it; to  
which you profess you have not yet received  
a satisfactory Answer; give me Leave, with  
the same Freedom and Candor, to endeavour  
to answer your main Argument, and hint to  
A 3 you

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you the Reasons that influenced me to give my Negative to it; some of which were so gently touch'd, if at all hinted at, that I less wonder they should escape your Intelligence, than that they should your Observation.

You say (and with a great deal of Justice) if Frauds can be prevented, in Payment of Duties, to which, by the Laws now in being, the Publick is entitled; and This only by an Alteration in the Manner of collecting them; and which, without laying any new Duty on the Subject, will make a Difference sufficient to ease the landed Interest of at least One Shilling in the Pound; which Difference the fraudulent Trader now puts in his own Pocket, to the Prejudice of the Publick in general, and of the fair Trader in particular; can any Man hesitate a Moment whether he should come into such a Method?

This, I think, is your Proposition in its full Force; and my Answer to it is, that nobody would oppose it, if This was really the Case, and such a Method of collecting the Duties was practicable, without invading the *Liberties* and *Privileges* of *Englishmen*. But, supposing Frauds are so extensive as they are suggested to be; which I am as far from admitting, as I am from believing this Scheme wou'd prevent them if they were; give me Leave, in Answer to your Questions, to put another to you. If I, who am a landed Gentleman, chosen to represent a Corporation, can ease my self by charging my Constituents with Burthens on their Trade, and by subjecting them to Inconveniences and Hardships, which are inconsistent with and destructive

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tive of Liberty; do not I betray my Trust, and evidence a Partiality to my self, unpardonable in a Man, much more in a Gentleman?

I know, Sir, none would abhor a Breach of Trust more than yourself, tho' it were to be attended with the greatest Accession of Fortune. But, in this Case, you would add Folly to your Iniquity; for every Shilling, raised to the Publick by this Method, would cost the Consumer more than double that Sum; for the Merchant or Dealer, on casting up his Account of Profit and Loss, wrongs himself if he does not throw into the Account not only the *prime Cost*, or *Money* he paid originally for the Commodity as well as the *Duty* and *Interest* of both, but likewise his *Trouble*, *Hazard*, *Loss of Time* and *Vexation*, from this *new Generation of Officers*; and That very justly; for a Man will no more give up his Time, his Ease, or any other Convenience in Life for nothing, than he will his Money. This is evident from several Branches of the Revenue already subsisting, as every Man has experienced to his Cost; and This has made inconsiderate People complain of it as a Grievance, that the Government cannot lay on a *Penny Duty*, but the Dealer taxes them in a *Penny* more; and yet they may observe the Dealers in those particular Branches have not grown rich faster than they did before this *imagin'd, arbitrary Tax* laid on their Customers. This might suffice for a Proof of the Truth and Justness of my Observation, that in Affairs of *Taxes* and *Impositions*, we go upon a fundamental Mistake; which is, that nothing

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nothing but Commodities can be the Subject of them.

To illustrate this farther, I will suppose a Law that every Man in *England* should be obliged to walk a Mile, every Day, to pay a Penny, and be subjected to severe Penalties to perform it in Person, would not This be really a Tax beyond the Penny? — On a Gentleman doubtless it would, of as much as he would give to be eased of it; and on a Labourer, of as much as he could earn in the Time, and yet the Publick would avail itself of the bare Penny. This you will easily grant; and yet no less is your Mistake in supposing no new Burthen would be laid by substituting the *new Excise Laws* in lieu of Those of the *Customs*.

As to the Practicableness of the Scheme, as far as it relates to Tobacco, I do not wonder you give it up upon reading the Papers I sent you; to which, as it is unnecessary to add any Thing, I shall say no more of it, but refer you to those Papers\*.

As to the other Branch of *Wine*; it was the greatest Fallacy that ever was offered to

\* *Answer to the Considerations on the Craftsman, so far as it relates to the Tobacco Trade.*

*Observations on the Case of the Planters of Virginia.*

*Considerations on the Nature of the Tobacco-Trade to Virginia and Maryland.*

*A Reply to the Vindication of the Case of the Planters of Virginia.*

*Observations and Remarks on the Bill for repealing several Subsidies on Tobacco, &c.*

a House

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a House of Commons to represent it as no new Duty. The Law, as it now stands, charges every Hogshead of *Wine* with such a Custom upon Importation; which, once paid, I may mix, adulterate and compound my Wines as I please, without defrauding the Revenue; since having paid all the Law requires, the Revenue has no farther Demand upon me; it is to all Intents my own, and the Publick has no more to do with it, though I make Use of it as an Ingredient in twenty Hogsheads of Liquor, which I sell by the Name of *Wine*. It is true I defraud the Publick, that is, my Customers, if I sell them for *Wine*, what is not both as pleasant and wholesome as *Wine*; and so does a Cyder-Merchant, who mixes Turnip Juice with his Cyder; so does a Goldsmith, who mixes his Gold or Silver with too much Alloy. These may be called publick Cheats; but how is the Revenue affected by This? Or how can That be concerned whether the Money be in the Merchant's Pocket or mine? — And here the whole Reasoning of the Patrons of this Project is founded on the Ambiguity of the Term. The Publick, which is used indifferently in both Cases, though in the two it hath a quite different Meaning; in the one it signifies the Revenue; in the other, the Customers of the Vintner; and a Highwayman or Pickpocket may as well be said to rob the Revenue, as a Vintner, who sells compound Liquors for *Wine*. Both may be the proper Objects of penal Laws, as far as their Frauds are prejudicial to the Community; and if a Vintner makes unwholesome or poisonous Mixtures, let him

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him take his Fate at the Old Baily; but not give a Sanction to such Mixtures, by taxing them towards the *Revenue*; which, besides the Immorality of it, would on their own Supposition be as certainly a *new Tax*, as taxing a whole Manufacture, instead of one Material used in compounding it, which they themselves suppose *Wine* only to be. I only just hint, that if your *Vineyard* answers the Expectation you have from it, this *Excise* would not have spared it, by any Thing I can learn, though it laid no Duty on the Subject. It might easily have been a Tax on you of 100 or 200 *l. per Ann.* if they had allowed it to pay as *Portugal Wines*; but, if they had pleased to consider it as *French Claret*, it had been as much more.

Whether this intended Alteration would have interfered with the advantageous *Treaty of Commerce* with *Portugal*, by which it is agreed we have so great a Ballance in our Favour, I cannot determine, not having seen the *Bill*. But these Difficulties as well as those of gaging *Wine* without Damage, and several others, though unfurmountable to a common Capacity, I doubt not the great *Genius*, who gave Birth to the *Project*, was armed against, and would easily have overcome.

If I have not misrepresented the Scheme, or gone upon any false Supposition, (as I think it will appear to those, who have perused and compared their various Labours on this Head, that I have not) I could, by improving their subtle Hint, increase the *Revenue* to any Degree, I would not only licence Vintners to *poyson*,  
but

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but in order to tax every Highwayman I would oblige every *Traveller*, because not to be distinguished to take out a *Permit* to travel the Road; the public Frauds committed on the Highways making it more reasonable to place *Officers* there than giving them Power to enter the Houses and Cellars of free Subjects; fair and unfair Traders promiscuously. This, Sir, you will grant, would be improving the Doctrine of Indulgences, though a vast Revenue to the Church of *Rome*, to a greater Height than ever they had Invention to do; by extending it to the temporal Immunities, which they never thought of, or at least never ventured at; and though it be liable to some trifling Objections, yet it has this unanswerable Argument in Favour of it, that tho' it might indeed annoy the Subject, it would improve the *Revenue*. The Manner, in which I have treated this Subject, may possibly appear too ludicrous; but I assure you, Sir, I have not wilfully misrepresented it; neither can I discover in what Part the Parallel does not strictly hold. These political Physicians did not pretend to vest the *Excisors* with Power to destroy any Wine that did not please their Honour's Palates; the Quantity only and not the Quality, being the Subject of their Inspection; and whether it was the Juice of *Grapes*, *Sloes* or *Arsenic*, pay the Excise and poyson on.—I expected, I confess, when this *Project* was in its Dawn; when they set out with Exclamations against *poisonous Adulterations*, that these *Magistrates of Health*, weary of loading their Countrymen, had at length relented, and notwithstanding the Prejudice it might be to the Woollen Manufacture  
B  
ture

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ture, taking Compassion on their Fellow-Subjects, had given their Brains a new and unusual Turn, and were going to extend the Power of the *College of Physicians* from Apothecaries Shops to the Cellars of the Vintners; and though one can hardly hear some Names, but, by a strange Concatenation of Ideas, they immediately bring to one's Mind *standing Armies* and *Taxes*; yet, I own, I was so weak as not to dream that so much affected Humanity at setting out could at last terminate in nothing but a *Scheme* for a *General Excise*. — But, as *Taxes* and *Impositions* on the Subject have been the Study of *some Men's* Lives, so in this Instance they have not deviated from themselves; but by this consummate Stroke seem to have exceeded not only all that went before them (and I hope all that will succeed them) but even their own *Genius's*, fertile of Burthens and Oppressions.

I need not observe to you, that the *Duties* on *these Commodities* are so far from being deficient in answering the Funds they were raised for, that there is a *Surplus* upon them, which goes to, and constitutes a Part of the *Sinking Fund*; and as the Original of laying them was the Distress of the Kingdom, and the Necessity the State was under to support a *War*, at a Juncture, which threatened the Liberties of all *Europe*; when they have answered, and more than answered that End, one would think it an ill Time to extend them, after *twenty Years* ceasing of that Necessity. — But we find to our Cost, that *Taxes*, tho' the *Off-spring of Necessity*, like other Issue, are apt to survive their Parents. I shall say no more on

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on this Head, it not being my Design to enlarge on what you have seen in Print, or have heard from your other Correspondents.

I shall next consider the *Scheme* as affecting the Constitution in general; and surely, in this View, it calls for the most serious Attention of every *Englishman*; as there is not a Subject, who is not more or less interested in the Consequences of it, should it ever be attempted a *second Time*.

You are sensible, Sir, the Harmony, that has subsisted between Kings and Parliaments, has been from the Necessity they lye under of each other, and the Convenience each is of to the other (as indeed all Friendships, both publick and private, owe their Original, and generally their Continuance to the mutual Necessities Men are under, or the mutual Advantages, either of Pleasure or Profit, they reap from each other.) This is so far true, at least in the Opinion of the Antients, that the *Romans* called Friends *Necessarii* or *Necessitudines* as often as by any other Name. His *Majesty* is *necessary* to us for the End of Government, *Protection*. We are *necessary* to him for the Means, *Money*. Now whatever tends to weaken or destroy this mutual Necessity, must of course destroy the Harmony, by taking away the fundamental Cause of it. That This would have been the Case, had the late Attempt succeeded, will be evident, if you consider that these Duties were to have been given in *Perpetuity* instead of a *Land Tax*, granted annually, and appropriated to the current Service of the Year, as the Wisdom of Parliament judged necessary. — And indeed I



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cannot help attributing the Frequency and Length of Sessions of Parliaments, since the Restoration, to the frequent Necessities, which the extraordinary Supplies we have been obliged to raise have put the Crown under, to cultivate the best Understanding possible with this Branch of the Legislature. — For This we are obliged to the extreme Care of our Ancestors; who, in no Age, nor under any Administration, would part with this Jewel out of their own Hands; tho' at all Times there have been Ministers corrupt and wicked enough to attempt to wrest it from them. But This is what they have principally had in View to secure, as the Foundation of the Constitution, which once remov'd, the whole must fall to the Ground. — The more any one peruses the ancient Statutes, the more strongly he must be convinc'd of This. — But surely all those old Acts of Parliament, which bind up the Prerogative from raising Money without Consent of Parliament, suppose no succeeding Parliament could be *weak*, or *wicked* enough to pass an Act, which would make any future Consent unnecessary. — They suppose a constant Want in the *Crown*, and as constant a Power in *Parliament*, which no *Parliament* would ever part with, to give or refuse, as the Demands of the *Crown* appeared to them reasonable or unreasonable; and they always consider'd themselves as *Trustees* of the *People*, to give their Money as the Emergencies of the State required it; and only upon those Emergencies; of which they always reserv'd the Power of judging to themselves. By the  
Stat.

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*Stat. de Tallagio non concedendo*, the King obliges himself and his Heirs to *levy no Tax, without Consent of Parliament*. But let us suppose this Parliament, when they had obliged the King [*Ea. 1st.*] to this Concession, had taken the Step we have lately seen attempted, and had granted to his Majesty and his Successors for ever, a Sum, suppose 500,000 *l.* to be raised annually on the Subject, to answer current Supplies of future Years; should we not have said, they had acted a foolish and inconsistent Part; that they had no sooner ty'd up the King to a *Dependency on Parliament*, but themselves had immediately releas'd that *Dependency*, and enabled him to govern without them? And would not the *Kings of England* ever since have been able to have done That, under the Sanction of such an Act, which, for want of such servile Compliance then, has been treated as *Tyranny* and *Usurpation* on the *Rights* of the *People* whenever attempted, and has cost several of them their Crowns, and some their Lives? Consider, Sir, what is the great Business of a Session now. Do not we first consider what Necessities the State labours under; on what Terms we stand with our Neighbours; and what Occasion we have, more or less, to be on our Guard? And is not the annual Fluctuation of the Affairs of *Europe*, both at home and abroad, the Measure, by which we are supposed annually to adjust our Expences? How much of our Time is taken up in the two *Committees of Supply*, and *Ways and Means* (so much indeed that Ministers look cold upon us if we attempt any Thing else) but, for God's Sake, what becomes

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becomes of these *two Committees*, if we at once charge ourselves and our Posterity with an annual Sum, to be raised for ever, whether wanted or not? What have *P* ———ts to do hereafter, when we shall have granted, not only for our selves, but for them, these Supplies our Ancestors were so wise and good, as never to grant for above a Year; and That at the End of a Sessions, when all Grievances had been redress'd? What will the King have to thank them for, who is now graciously pleased to honour us with his annual Thanks for the Supplies we annually, with so much Chearfulness, raise? I confess I am at a Loss to find, why it would not be as unfair in us to anticipate our Successors, as we should have thought it in our Predecessors to have anticipated us?

Had the *Crown*, during the *cruel Administration* of the Lord *Strafford* and Archbishop *Laud*, had such Means as these in their Hands, they had been under no Necessity to rack their Inventions to raise Money contrary to Law. No Shipwrights had been wanted; no Invasion of the Subjects Property; a bare Misapplication had serv'd the Turn; by which, as nobody in particular had been oppress'd, who would have complain'd? No one can imagine the *King* would have been under a Necessity of calling a *Parliament* on the *Scots* Invasion; no, he had gone a shorter Way; it was but seizing the Money raised by Law, which lay unappropriated in his Exchequer, and the Business had been done. Tyranny, the *Star Chamber*, and all the other Miseries of *arbitrary Power*, in all Probability, had still subsisted, and

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and been for ever established; and though a Face of Parliament might have been kept up, when the Sting was taken out, yet when their Means of giving Money, and the King's Necessities of asking it, had been prevented, all their *coercive Power*, all their *Terror to evil Ministers* had been taken away; for, if they had grown troublesome, all the Mischief that would have attended the Dismission of them, would have been, that Grievances must have remain'd unredress'd, but the Money had been secure. I cannot help looking upon it as a weakening of the Constitution to grant Money, not appropriated to the Payment of Debts, for above a Year; but to grant it for ever, is for ever destroying it. *Pasquierus*, Advocate-General in the *K. of France's* Chamber of Accounts, tells us, that *Charles the Vth* procur'd by Consent of the three Estates these Aids for Defence of the Realm, to be granted for three or four Years together; and that this Consent of the People at first was That, which gave the Occasion to the King to take it without Consent; from whence he concludes, that *France* being un Relme de Consequence, must not easily admit, tho' once, what they would not agree to for ever.—But were not we in this Instance doing for ever what he so much blames *France* for doing, tho' but for so short a Time?—Were not we doing, at one Stroke, what he mentions as the dreadful Consequence only of what they did? It may possibly be objected to me, that this Money, tho' raised on the Subject for ever, yet being reserved to the future Appropriation of P——t, a King without Injustice cannot seize it, though under the most



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most specious Pretences of the publick Good. I grant you, Sir, that without Injustice he cannot do it, and for that Reason we are secure under his present Majesty. But I dare say, you will allow that the *Liberties* of a People stand on a very precarious Bottom, which depend on nothing but the Justice of their Princes; especially considering how few Princes we have had since the Conquest, who have not gone as far as their Power would give them Leave; and how many by endeavouring to extend the Prerogative and throw off the Shackles of Parli—ts, have fallen Victims, if not to their own Ambition, yet to the Avarice of their Ministers. For, some of these Princes, though in Appearance far from either weak or ill-intentioned, yet corrupted by the arbitrary and slavish Doctrine and Counsel of flattering Divines and Lawyers (too often the Pests of Courts) have been persuaded that their *own Will* was the *Rule of Law*, and their *own Opinion* the *Standard of Conscience*.

It is absurd to imagine, that when the Necessity, that Princes are under to call a Parliament, as the only Way they have of coming at the Subjects Purfes, has been scarce sufficient to reconcile them to it, that when they can have Money in their Coffers without Parliaments, they will grow fonder of them; and a Parliament is like to make a wonderful Figure, and to have a vast Influence on the Crown, when they meet together, not to give Money, but only to circumscribe the King by directing him how he shall spend what he is already in Possession of; and the People are likely to be exceeding solicitous who they send to

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to represent them, or indeed whether they are represented at all, when they know their Representatives may possibly load them with some *new Tax*, but have no Power to ease them of the least Part of the *old*.—This would, I apprehend, have been the Situation of P—ts, in Relation to the King and the People, had we been infatuated enough to have changed an *annual Tax* into a *perpetual Excise*.—I confess *these two Commodities* only would not have been sufficient to answer this Purpose; the *Malt-Tax* had still been wanted. But you are not so weak as to imagine they would have been contented with thus laying their Hands on *Tobacco* and *Wine*? No, Sir, these were but the *Game* of the *Day*, singled out from the Herd; and when they had been hunted down, the same plausible Pretence of Frauds might, with equal Justice, have been extended to other customable Commodities. That you may not doubt of This, I'll here venture to borrow an Argument from an *honourable Gentleman*, which he brought against receiving the *Druggists Petition*. “This, (said he) is a leading Card to a Petition against all Excises; for it is vain and foolish to think they will stop here. When the Reasons urged against These hold equally strong against other excised Commodities, can any one be so weak to imagine, if we give Ear to This, they will not be likewise urged by the Dealers in those others, where they may be brought with equal Justice.”—The same Weakness and Folly had been justly imputed to us, had we not seen the Tendency of *excising Tobacco* and *Wine*, on

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Account of *Frauds*, and that the Argument would have been as strong for excising other Commodities lyable to *Frauds*; and doubtless the Reasoning is equally good in both Cases.

You have heard and read a great deal, on this Occasion, of the Effect this Act would have had on the *Liberties of the Subject*, by depriving them of a *Tryal by Juries*, and of the extraordinary *Tryal* (if it deserve the Name of a *Tryal*) that was to be substituted in the Room of it; so that it may seem impertinent in me to mention any Thing on this Head; for which Reason I shall be very short, and avoid repeating what Arguments you may have already met with. By this Act the *Tryal* was to have been by three *Judges*, in a summary Way; that is, within the common Forms. — As to the Justice of This, I shall make no Remarks of my own, which I think intirely needless. I shall only quote you a Passage or two from my Lord *Coke*; the one is in his *reading on Magna Charta*, c. 14. relating to *Tryals by Juries*. — “Against  
“ this ancient and fundamental Law, and in  
“ the Face thereof, I find an Act of Parlia-  
“ ment made, that as well Justices of Assize  
“ as Justices of Peace, without any finding or  
“ Presentment, by *Verdict of Twelve Men*, up-  
“ on a bare Information for the King before  
“ them made, should have full Power and  
“ Authority to hear and determine; — by  
“ Colour of which Act, shaking this funda-  
“ mental Law, it is not credible what horrid  
“ Oppressions and Exactions, to the undoing  
“ of infinite Numbers of People, were com-  
“ mitted

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“ mitted by *Empson and Dudley*.” He goes on, and calls it an “ *unjust and injurious Act*,” and says, “ The ill Success hereof, and the  
“ fearful Ends of these two Oppressors should  
“ deter others from committing the like, and  
“ should admonish P——ts that, instead of  
“ this ordinary and precious *Tryal per Legem*  
“ *Terræ*, they bring not in *absolute and par-*  
“ *tial Tryals by Discretion*. — And Part of the  
“ Indictment against these Men was *Treason*  
“ for *subverting the Laws and Constitution in*  
“ *proceeding without Juries, and procuring the*  
“ *Murmuring and Hatred of the People against*  
“ *the King, to the endangering him and the*  
“ *Kingdom*.”

In his Reading on the Statute of *Marlbridge*, c. 1. on these Words. “ *Provisum est, concor-*  
“ *datum & concessum, quod tam Majores quam*  
“ *Minores justitiam habeant & recipiant in Cu-*  
“ *ria Dom. Regis*. These Words (he observes)  
“ are of great Importance; for all Causes  
“ ought to be heard, order’d and determin’d  
“ before the Judges of the King’s Courts,  
“ openly in the King’s Courts, whither all  
“ Persons may resort, and in no Chambers  
“ or other private Places; for the Judges are  
“ not Judges of Chambers, but of Courts;  
“ and therefore in open Court, where the Par-  
“ ties, Counsel and Attorneys attend, ought  
“ Orders, Rules, Awards and Judgments to  
“ be made and given, and not in Chambers,  
“ or other private Places. — Nay, that  
“ Judge that orders or rules a Cause in his  
“ Chamber, though his Order or Rule be just,  
“ yet offendeth he the Law, &c.” So that  
we should not only have made a Change in  
C 2 the

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the *Constitution*, but have enacted for *Law* what before by *Law* was *criminal*; and that in Contradiction to a known Maxim of *Law*, which says, *ad questionem facti non respondent Judices*.

The Lord Chief Justice *Hale* says, "The Excellency of this *Trial by Juries* is, that it is openly, and not in private, before a Commissioner or two, and a Couple of Clerks, where Witnesses will often deliver what they'll be asham'd to testify publicly.

I forbear to enlarge on the Absurdity of this Method of *Trial*, as it would give a Judge greater Power than is in the royal Person of the King himself; or indeed ought reasonably to be lodg'd in any Person on Earth, where he has no *Law* but his own arbitrary Will to direct him in his Determination. The *Law* distinguishes between *Voluntas Regis in Camera* and *Voluntas Regis per Legem*; and if the King grant a Patent, the *Law* won't allow it to be good, unless it pass the legal Forms; but by This a Judge's Determination must be good, nay final, without any Form at all; and the *Voluntas Judicis in Camera* is good, tho' the *Voluntas Regis* be not.

It has been said indeed that the Merchants would prefer this *Trial* on Account of the Shortness and Cheapness of it. This is a melancholy Consideration, if true, that the exorbitant Fees and Delays in *Law* are grown to such a Height that the Remedy is worse than the Disease; and People will rather sit down under a Loss than go through the tedious and expensive Forms that Justice is shackled

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shackled with; but This should rather turn our Thoughts towards reforming than destroying what was always esteemed so great a Blessing, and so distinguishing a Felicity of *Englishmen*. But, if we may believe the Lord Chief Justice *Hale*, he tells us, in his *History of the Law*, that this *Trial by Juries* is the shortest as well as the cheapest and most certain Method. His Words are these.

"Thus stands this excellent Order of *Trial by Juries*; which is far beyond the *Trial by Witnesses*, according to the Proceedings of the Civil *Law*, and of the Courts of Equity, both for the Certainty, the Dispatch and the Cheapness thereof. It has all the Helps to investigate the Truth that the Civil *Law* has, and many more; for, as to Certainty,

"I. It has the Testimony of Witnesses, as well as the Civil *Law* and Equity Courts.

"II. It has this Testimony in a much more advantageous Way than those Courts, for the Discovery of Truth.

"III. It has the Advantage of the Judges' Observation, Attention and Assistance in Point of *Law* by Way of Decision, and in Point of *Fact* by Way of Direction to the Jury.

"IV. It has the Advantage of the *Juries*, and of their being *de vicineto*, who oftentimes know the Witnesses and the Parties.

"V. It has the unanimous Suffrage and Opinion of twelve Men; which carries in itself a much greater Weight and Preponderation to discover the Truth of a *Fact* than any other *Trial* whatsoever; and as this Method

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“thod is more *certain*, so it is much more  
 “*expeditious* and *cheap*; for oftentimes the  
 “Session of one Commission for the Exam-  
 “ination of Witnesses for one Cause in the  
 “*Ecclesiastical Courts*, or *Courts of Equity* lasts  
 “as long as a whole Session of *Nisi prius*, where  
 “a hundred Causes are examined and try’d.  
 He concludes his *Treatise*, with observing,  
 “that *this Method* of Trial seems to have been  
 “one of the of the *first Principles*, upon which  
 “our *Constitution* was *erected* and *established*.

I have heard (for I am no Lawyer) that we  
 have an Instance of the Truth of this great  
 Judge’s Observation, in the *Court of Piepom-  
 ders*; and of the Shortness of this Trial, as it  
 may be managed in the Court; the *Steward*  
 is *Judge*, and *Offences* committed are try’d by  
*Merchants* and *Traders* using the Fair or Mar-  
 ket, yet this Court takes its Name from its  
 Dispatch, and sits *de hora in horam*.

I am sorry to see so little Regard paid to  
 the Constitution; and that there should be  
 found an *Englishman* that can make so bold  
 with it, to think of altering it in so extensive  
 a Branch, as what concerns the Property of  
*Merchants* and *Traders* in a trading Nation  
 must be.—Had our Ancestors taken such da-  
 ring Steps, it is not to be imagined they had  
 transmitted it to us so pure through so many  
 Ages, as we now enjoy it, by their Care and  
 Constancy. But the least Offer at a *Change*,  
 though in Instances that could affect but few,  
 and though covered with the most specious  
 Pretences, was held suspected by them, and  
 sometimes rejected without giving any other  
 Reason than that it was a *Change*. Of This, tho’  
 we

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we have many Instances, I shall quote but  
 one, and That is Stat. of *Merton C. 9.* —  
*et rogaverant omnes Episcopi magnates, ut con-*  
*sentirent quod Nati ante Matrimonium essent le-*  
*gitimi, sicut ille qui nati sunt post Matrimo-*  
*nium quantum ad successionem hereditarium, &*  
*omnes Comites & Barones una voce responderunt*  
*quod nolunt Leges Anglia mutari quæ hujusque*  
*usitata sunt & approbata.* — Here, tho’ so  
 much was to be said for This, that they were  
 already legitimate by the *ecclesiastical Law*,  
 and *cannon Law*, and seem’d in it self but  
 reasonable, yet being an Innovation, they  
 unanimously as such rejected it, without giv-  
 ing any farther Reason for it. And truly  
 the great Lord *Falkland’s* Remark is a very  
 wise one. *The great Danger of Mutations*, says  
 that noble Lord, is, that all the Dangers and  
 Inconveniences they may bring are not to be fore-  
 seen.

The additional Weight *this Scheme* would  
 have given to the Crown, by subjecting such  
 Numbers (most of whom, in all Probability,  
 have Votes for Members of Parliament) to  
 the Mercy of Officers appointed by the Crown,  
 though a trifling Consideration, when com-  
 par’d with others; yet, I think, consider’d by  
 it self, a very serious and weighty one; espe-  
 cially considering the vast *Swarm of Officers*,  
 which the Exigences of the State have made it  
 necessary to introduce since the *Restoration*.  
 The Lord *Coke* observes that in his Time the  
 Number of *Vergers, Marshals and Cryers* was  
 a Means of Extortion and Grievance to the  
 People; and so it is, says he, in all other Cases,  
 of what Profession or Place soever; besides, it  
 takes

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takes away the Credit and Estimation of the same. Had the Lord Coke liv'd to see the Numbers now employ'd in collecting, and the Powers given them, he would not, I presume, have made this Remark on *Vergers* and *Cryers*, at a Time that an Addition of *six Hundred in one Year*, and of *two or three Hundred in another*, is treated as a Trifle, as indeed it is, to the Legions we are subservient to, unknown to our Forefathers and their Constitution; tho', as they are all list'd in the Cause of *Liberty*, we submit to them with Patience and Chearfulness. *Liberty*, Sir, This is the Charm, *Liberty!* I cannot repeat the bewitching Name too often. Who in his sound Mind would not for *Liberty* submit to leave any Business at a Moment's Warning; to be call'd out of his Bed at Midnight; to be fetch'd from his Dinner, tho' feasting and relaxing his Mind with his most particular and dearest Friends? For what is a Dinner or Sleep to *Liberty*? Who would not be at the Beck of this Goddess, and leave his Doors open to her both Day and Night, and receive her with open Arms, let her assume what Shape she pleases; nay, tho' she should present herself in the Form of a *dirty Exciseman*? — He, that will not receive her in any Shape, is unworthy of her. Our Forefathers Houses, their Cellars, their Wives were open to a *slovenly Monk* or *bare-footed Fryar*; and shall we repine at the same Freedom in a *Protestant Gentleman* of the *Excise*, whose daily and nightly Business it is to secure to us our *Property*, and consequently our Ease and Quiet, the chief End of *Property*. — I speak it to the

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the Honour of my Countrymen, (if I may be forgiven the Harshness of the Expression) they are Slaves to this Deity. They pay more to her than Servitude would cost them; but it is a chearful Offering, because a voluntary one. Forgive me, Sir, this Excursion. The Subject is apt to warm and transport an *Englishman*.

I shall mention but one more Inconvenience that *this Act* would have brought with it; which, trifling as some People may think it, would alone have determin'd me to reject it; and That is, that a Man might have been undone through the Fault of his Servant, without being criminal himself; and I own, however weak it may make me appear to Men in Power, I have that Tenderness for my Fellow-Subjects, that I would not consent that, for any Advantage to the Revenue, the *meanest Englishman* should be under a Possibility of being *ruined*, and at the same Time *innocent*; and herein I only copy after our Law, and indeed the Law of Humanity, which says, *better ten guilty escape than one innocent* suffer. It is true, our Law says, a Man shall be chargeable for his Household; but That is to be understood civilly and not criminally, as in this Case he would have been.

You may, perhaps, by this Time, repent your Request to me; since, in Compliance with it, I have detained you so much longer than you might reasonably expect; but I could not pass over a Subject of such Importance intirely in a superficial Manner, since the *Scheme* is still applauded every Day, by its *Patrons*, both in Print and Conversation, as the *wisest* and *honestest* that ever was offered to the Legislature;



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ture ; which I think, in some Measure, calls on those, who oppos'd so much Wisdom and Honesty, to excuse themselves at least as well as they can. We are told the People are very easy and happy, but that they don't know it. All their Uneasiness, it seems, arises from an unnatural Alliance form'd between a *Jacobite* and a *Republican*, who write a Two-penny Paper every *Saturday*, which operates so strongly on the Minds and Principles of his Majesty's Subjects, that all the strong Antidotes they can devise are so far from curing, that they don't so much as abate the least Symptom. Strange Charm of Nonsense and Dulness! that a Paper, so silly as not to be judg'd worth reading by a prime M——r, should at the same Time give him so much Inquietude ; by working so far on the Imaginations of a People as to make them believe they are *poor*, when they are *rich*, and *Slaves* when they are *free*, and that the Means prescrib'd for the *farther Extension* of their *Liberties* and *Wealth* are *destructive* of both. I have known some Individuals, Men of tender or decay'd Constitutions, that, by the Force of Fancy, could be persuaded into Apprehension of any Distemper; tell them they look'd pale, and their Colour would forsake their Faces; ask them if they had a Fever, their Pulse would beat high; suspect they were in an Ague, they would shiver. But Messieurs D——rs and F——g are the original Inventors of the *grand Specifick* of affecting the *Hypochondria* of a whole Kingdom at once: a Thing unheard of before, yet wonderful as it may appear, and impossible to the Ignorant, they have, by long Labour and Practice,

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Practice, arriv'd at the *Secret* of a *Republican-Jacobite Composition*; which will exhibit a healthy, flourishing Island at one View, under the Personage of a *Malade Imaginaire*. This, their Enemies are so far from denying, that they may venture to appeal to them for the Truth of it, being at once the Witnesses and sad Examples of its Efficacy.

The M——l Writers, unable to defend their Proceedings by Reason, have gone another, tho' not so candid a Way to work, and represented all that oppos'd them as *Jacobites* or *Republicans*; and, by the Help of these two Sounds, have been vain enough to think of imposing on the Nation the greatest Fallacies and Absurdities. These Names may pass tolerably, with such as will take their Words; which he who depends on, is sure to be deceived; but whoever is at the Trouble of enquiring for himself will find Numbers of the most loyal and faithful of his Majesty's Subjects joining in Opposition to *this Scheme*, whatever Sentiments they may entertain of other Parts of their Conduct. — Some of us have exerted ourselves for this *royal Family*, in Places and on Occasions, where such *loyal Behaviour* was as *unpopular* as a *general Excise*; and for my own Part, I take God to witness, whatever my Conduct has been in that Respect, I was actuated by the same Principle, on which I oppos'd this Bill; the *Honour* of my *King* and the *Liberty* of my *Country*; — and all we desire, in Return, is Justice, and the common Protection of Subjects. But, it is the Nature of *Englishmen*, if they must be *Slaves*, they will be very little solicitous, who are to be their *Masters*.

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Whatever Reproach we have met with on this Occasion, I own, for myself, the grateful and kind Approbation of my Countrymen makes me ample Amends for my Share in it. And indeed, to have done well for those, who are not insensible either to the Benefit, or their Benefactors, is the greatest Satisfaction a rational Mind is capable of; and tho' the cruel *Proj*—*r* should still triumph, even in his Defeat, and like *Hector*, should engage the Gods in his Quarrel, and scatter Threats and Disgrace on his Country's Friends, and his Enemies; tho' from his Influence, where all good Men wish it less, all our past Merits and Services should be cancell'd, and of the People's Guardians we should become their Sacrifices; yet we shall still have the Pleasure of enjoying the *Laus Publica*, which all wise Governors have endeavour'd to cultivate; but which, on this Occasion at least, is transferred from him to those, who have oppos'd him.

To conclude, if from what I have said, I have shew'd you the Precipice, which we have escaped, and am so happy as to convince you that this *Scheme* would have destroyed the very *Being* of *Parl*—*ts*; I hope you will be of Opinion that the Day it met with its Doom should be enter'd as a *Red-Letter-Day* in future Calendars, and celebrated as long as a former Deliverance, which tho' more bloody in its Execution, yet, in its Consequences, would not have been so fatal to the Constitution. And I hope, that as long as the 5th of *Nov.* is commemorated, the 11th of *April* will not be forgotten. *I am, S I R, &c.*

F I N I S.