



Bodleian Libraries

UNIVERSITY OF OXFORD

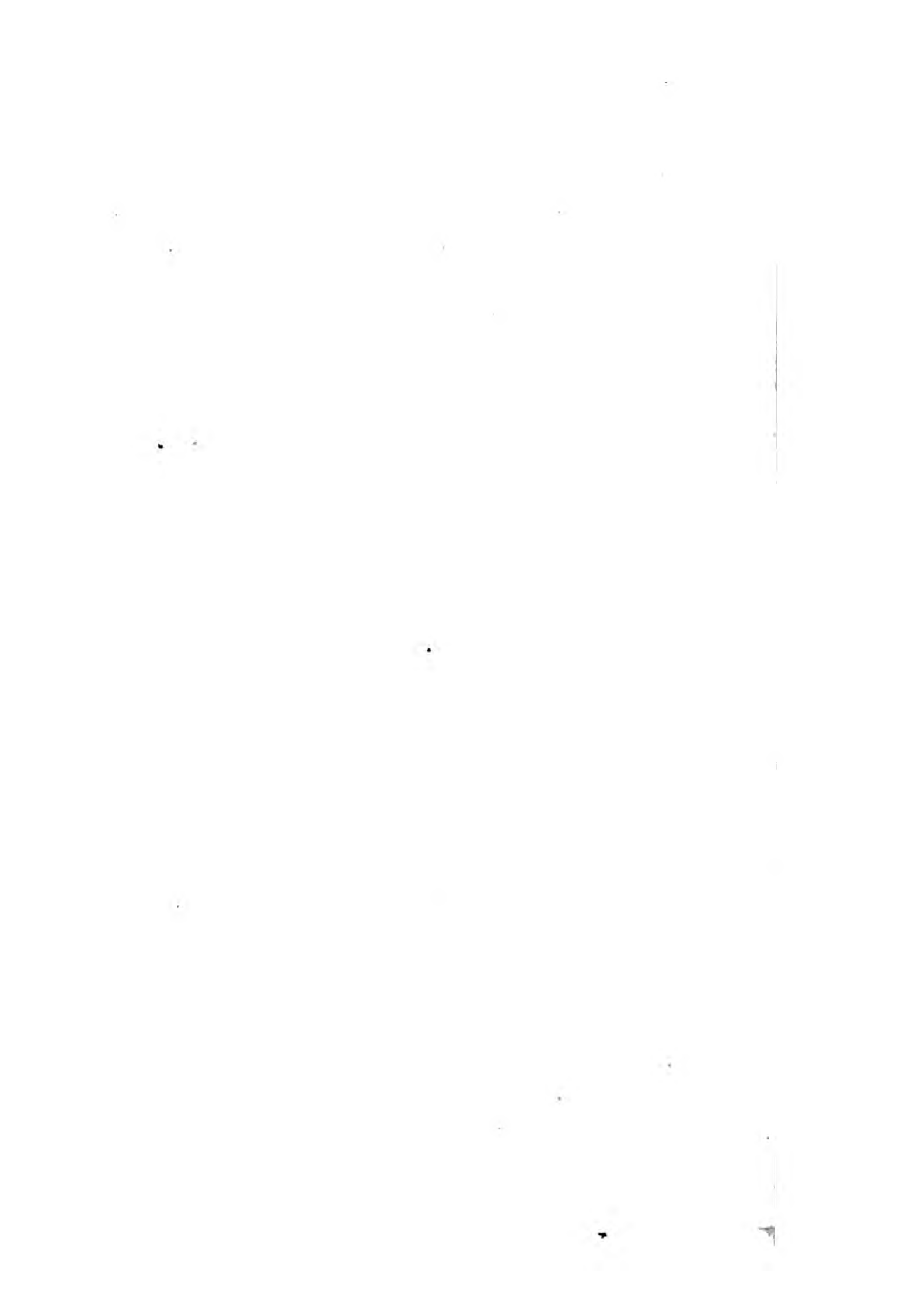
This book is part of the collection held by the Bodleian Libraries and scanned by Google, Inc. for the Google Books Library Project.

For more information see:

<http://www.bodleian.ox.ac.uk/dbooks>



This work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 2.0 UK: England & Wales (CC BY-NC-SA 2.0) licence.



AN
APPEAL,
ON THE
SUBJECT
OF THE
ENGLISH
CONSTITUTION.



Let the galled jade wince; our withers are unwrung.

SHAKESPEAR.

BY JOHN CARTWRIGHT, Esq.

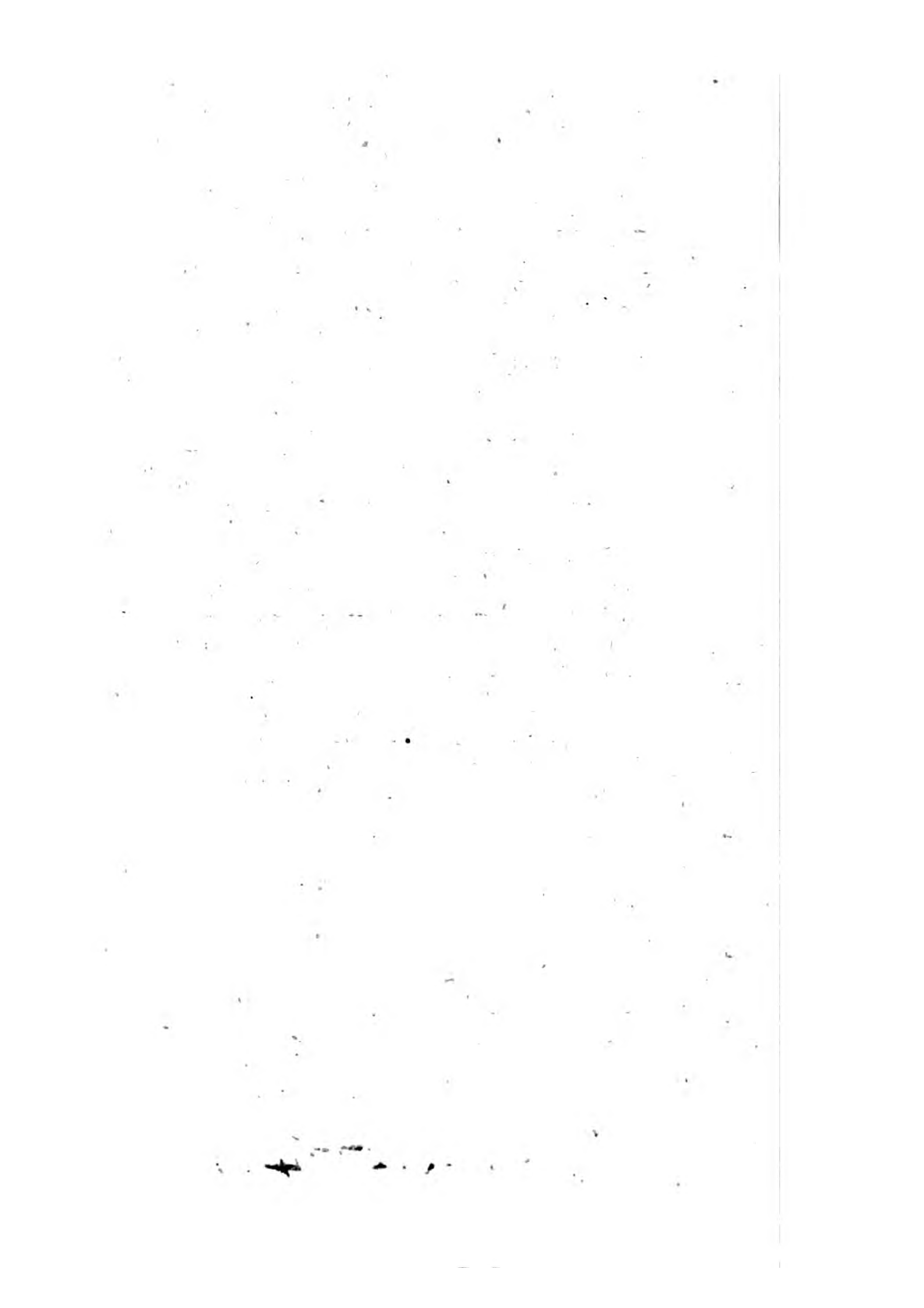
BOSTON:

PRINTED BY C. STAINBANK.

SOLD BY J. JOHNSON, No. 72. ST. PAUL'S CHURCH YARD
LONDON.

g. Pamph. 2774. 1.

(1797)



A N A P P E A L &c.

*To the Freeholders and Taxed Householders
of Boston, and its Vicinity.*

SECTION I.

FRIENDS AND COUNTRYMEN!

AN altercation on trifles would not deserve your notice; nor should it occupy my time: but when that which is essential to our freedom and happiness is struck at, it does not become men to be negligent and indifferent.

In consequence of circumstances which have occurred since the public meeting held at Boston on the 29th. of March, I feel myself particularly, and in some degree personally, called on, to come forward once again, and to appeal to your judgment. On the occasion I mention, some of us petitioned the House of Commons, respecting the unhappy situation of public affairs. Others, who did not then give us the meeting, freely to discuss and argue the case, afterwards held a meeting (on the 10th. of May) and produced, so far as their object was political, a Counter-Petition.

In this Counter-Petition, the political conduct of the first Petitioners is strongly condemned; in as much as, according to the expressed "conviction" of the Counter-Petitioners, a compliance with the prayer of the first Petition, "would tend directly and unavoidably to the subversion of our present constitution." This, my Friends, is no slight imputation upon, either the understandings, or the intentions, of the first Petitioners. As this imputation is brought forward by one part of this neighbourhood, against another part; and as, at this peculiar crisis, the tranquillity and safety of our country, more than at any former period of our history, appears to depend on the opinion of the people, I beg leave to call your attention to the question at issue between the two petitioning parties; and for reasons that will be given in the sequel, it may be of much public utility, if you should, after mature consideration, give your decided opinion upon it. One of the two parties must have been in an error extremely dangerous to the public peace and interest; and as all are interested in the consequences, it will well become you to make yourselves masters of the question, and to decide upon it in the most dispassionate manner, according to the best lights of reason, and the dictates of con-

science. The merits of the question appear to the writer of these pages, to lie in a narrow compass, and to be level with the capacities of plain, unlearned men. His best endeavours to assist in this inquiry shall not be wanting; and they are the objects of the present Appeal.

He thinks he does not appeal to you, as a man who has blindly adopted particular opinions: nor as one who is devoted to any party in the state; but as a man who allows that he is under a moral obligation to his fellow-men, and to that parent of whom all men are the children, to depart from any opinion he now holds, as soon as it shall be proved a false one; and under a like obligation, independent of all parties and all private interests, to support and promote, to the best of his judgment, the true interest of his country; which he conceives can only be done, by supporting and promoting, *the fundamental rights and liberties of his countrymen.*

He hopes what he writes will be read with like dispositions; and that those to whom he now appeals, will, like himself, exercise their independent judgments; being, in matters of opinion, ever ready to take counsel, but disdaining to receive command. To be saddled against the freedom of one's own will with another's political creed; meanly to bear the burthen of his private interest against conscience and the public good; and to obey his call, his curb, or his spur; is to be a mere political horse, and fit only to rank with that four-footed servant of our species: To think, to reason, and to will, on moral considerations, and with independency of mind, is to be a man.

A right reverend prelate has lately told an English people, they have nothing to do with the laws, but to obey them: and we are not without plenty of instructors, to persuade us, that all private persons had best mind only their own private concerns, and leave matters of government wholly to those in whose hands they are placed.

Now there are but two material objections to this kind advice. First, every man besides his private capacity, as a merchant, a farmer, a mechanic, &c. has likewise a public capacity, and public duties, as a member of the state; and secondly, this advice of the prelate, is not very consistent with common prudence, good sense, or morality, for if any free people on earth could once be brought to adopt it, the overthrow of their liberty, and the ruin of all morality would be the certain consequence. At Athens, it was even a law—and a law framed by *Solon*, one of those who for eminence were called the seven wise men of Greece, that the private citizen who bore so criminal an indifference towards his country, as not to take a decided part in its political agitations (on one side or another) should suffer death. But not to carry things so far as this, I still hold it to be unquestionable, that all men should acquaint themselves with the outline at least of those duties which all men owe their country; and that the highest proof of excellence in government is, in its being so organ-

ized, as regularly to keep the whole mass of the people to the exercise of their political duties, as a thing of course.

By the author of the Historical Essay on the English Constitution, it has accordingly been well observed, that, in antient times, the people were taught a knowledge of their constitution and their duties, by the annual exercise of their rights. "The annual exercise," says he again, "of elective power under the Saxon government, was the quintessence, the life and soul of their constitution. The first principle of a government, that is founded upon the natural rights of mankind, is the principle of annual election. Liberty and election, in this case, are synonymous terms; for where there is no election, there can be no liberty." p. 7. II. Should this mode of educating man in his political duties come once more into fashion, it might be very serviceable for the instruction of those in *public*, as well as in private stations.

If, on political subjects, touching the rights and liberties of the people, or measures proposed for their security, any should be listened to with more than ordinary caution, it should seem and for very obvious reasons, to be those who are in *public* offices, from the prime minister down to the exciseman; but here, again, the fashion of the times is the reverse of what prudence would dictate. But let not, my Friends, even the necessary caution here recommended, degenerate with you, into political prejudice, or party spirit. Judge the tree by its fruit. To him who is disinterested, independent in mind and conduct, faithful to the constitution, and ever ready to explain what he means by it, listen with attention, whether he be in or out of place: but when addressed by the selfish, the servile, the *mysterious*, or the versatile, be upon your guard. With respect to attempts by direct power, derived from *property*, to prevent or to quash free discussion, or to suppress the manifestations of public opinion, I have no cautions to offer; as such conduct would speak for itself. This species of open tyranny, is, thank God, fast wearing out: But, although this undisguised tyranny is on the decline, we ought not therefore to conclude that all danger is over. When, on the expulsion of the Stewarts, *prerogative* was curbed, we know to our sorrow what succeeded, A weight of taxes, which the red right arm of *prerogative* never could have laid upon this nation, nor would have dared to attempt, has been imposed upon it, and by means easily to be accounted for, by *corrupt influence*. And so, when property may have lost its arbitrary power, means may and will be resorted to, for obtaining an equivalent, perhaps more dangerous to public liberty. But it is our consolation, that the same remedy which would at once annihilate a corrupt influence in government, and yet leave prerogative in full possession of its "discretionary power of acting for the public good, where the positive laws are

"silent," † would likewise, although it divested *property* of tyrannical authority, leave it in full security of enjoying all that fair and honest influence which must ever result from a benevolent and virtuous use of it.

Without farther preface, I shall now lay before you the petition of March.

**To the Honourable the Commons of Great Britain,
in Parliament assembled.**

The humble Petition of the undersigned Freeholders and Householders assented to the payment of Taxes within the Town of Boston and the Vicinity thereof.

SEEING our Country, notwithstanding the free form of its government, and the capacities for grandeur and happiness by which it has been so eminently distinguished, brought to a low and alarming ebb of adverse fortune, we should be wanting to ourselves and to our posterity, if we called not with the voice of earnest exhortation on your Honourable House, to interpose its wisdom and authority, for averting that torrent of calamity which now pours down upon us with so much force, threatening both the property and the liberties of the nation with one common extinction.

With manufactures nearly at a stand and agriculture scarcely repaying its own expence, it will be impossible long to answer the demands of an increasing taxation. And if, while the produce of our own soil appears to be equal to home consumption, and makes but a scanty return to the husbandman, the money of our country be sent abroad for the importation of foreign grain, the evils of a scarcity of specie must be aggravated.

But when we turn our eyes to a national debt of more than four hundred millions of pounds sterling, contracted in one hundred years; of which debt above one hundred millions are the fruits of a four-years war,—a war of which we profess not to know the object, nor can foresee the end,—we must feel the most serious apprehensions that general ruin cannot be far off, unless, averted by the return of durable peace, followed up by the exertions of a wisdom the most profound, and an oeconomy the most rigorous.

And, indeed, in a country where representation is the vital principle of its constitution, and in which not a shilling can be legally put at the disposal of ministers but by the deliberate act of the representative assembly of the nation,

† *Blackstone's Commentaries* I. 252.

the very phenomenon—the very existence of a debt of such ruinous magnitude, is of more force than a thousand tongues, to proclaim that, in the very structure of the state itself, there must somewhere be a lamentable defect—that in some essential part, its organization must in the highest degree be deranged and out of order.

And when we contrast a public treasury which, from the spirited agriculture, the immense manufacturing ability, and the boundless commerce of this country ought ever, without oppression to the people, to be full to the brim, and even overflowing for the advancement of national improvements; with our present exhausted exchequer and wounded credit; the existence of such a defect in the state—of such a derangement in its organization, appears to be irresistably confirmed.

And when we know that your Honourable House, which is peculiarly the people's part and share of our mixed government, has ever had in its hands the full means of shielding them from wrongs of every kind, and of protecting their property from all improper public impositions; while yet their present grievously-burthened condition manifests that this protection has not been afforded; where, but in your Honourable House itself, can we look for that defect, or derangement of organization, of which we have spoken? where else, can we seek the true cause of a debt, which threatens speedily to crush the nation under its enormous weight? or where, else, can we discover the source of the dreadful power of successive ministers, by which, without check, controul, or even inquiry into their most glaring mismanagements, they have improvidently and wickedly squandered the patrimony of an injured people, and mortgaged the very sweat of the brows of future generations, in the prosecution of war after war; for objects of political folly, of corrupt ambition, of a criminal lust of unconstitutional power.

In a Petition presented to your Honourable House, on the sixth day of May 1793, we find assertions of a multitude of facts, all shewing that in the actual mode of supplying your Honourable House with its five hundred and fifty eight members, the sacred representative principle of our constitution is contemptuously set at nought, and daringly trampled underfoot by men of wealth and influence. Many of those facts demonstrate, that seats in your Honourable House, being attached to real property, particularly in Burgage Houses, may consequently be bought and sold like any other marketable commodity; to the grievous wrong and dishonour of this nation.

And in the said Petition it is particularly declared that three hundred and

seven of the members of your Honourable House are returned, not by the collective voice of those whom they appear to represent, but by the immediate authority of eighty-four individuals and the recommendation of seventy-four other powerful persons; so that a decided majority of your Honourable House, — to the utter subversion of all principle — has no dependance whatever upon popular election; nor holds that political relation to the people, which our constitution requires, as essential to its own existence, and to the preservation of our property and our liberties.

And to exhibit the most deadly of the stabs which our constitution has received, legal evidence was even offered at your bar, to prove that forty one peers of the realm returned eighty-one of your Honourable Members; and and that there were the most reasonable grounds to suspect, the whole number so returned was no less than one hundred and fifty.

If all these be proveable facts—if they be real truths, we need look no farther for the source of national calamities; If the very fountain head of British security be thus poisoned, we see nothing in the present gloomy aspect of public affairs, but what is the necessary effect of a natural cause; and to point elsewhere for correction before the master-evil be done away, were but folly and delusion; insuring, rather than averting, that ruin with which we are threatened.

If our government of King, lords, and commons, to which we cling with such fond attachment, be thus mangled and deformed;—if the representative, the vital principle, of our constitution, be thus almost torn up by the roots, here must begin the work of substantial reform, or our labour will be lost. In this fatal violation of the rights of the people, and of the Independence of your Honourable House, we behold a cause, whose magnitude and prolific faculties are fully correspondent to the multitude and the magnitude of the evils which, notwithstanding the natural capacities of Great Britain for prosperity, have weighed her down in severe adversity to the earth, and now threaten her, very existence as a state with speedy dissolution.—In this fatal violation of our constitution, we at once discover the whole secret of unmerited pensions, of the reversion of lucrative sinecures to unborn claimants—of the expensive multiplication of offices—of the lavish expenditure of public money—of a system of devouring corruption—of the uncontrouled power of ministers—and of the dreadful frequency of war, which throws open to them the flood-gates of patronage and influence, and which in a few campaigns, madly dissipates what the industry of an age is required to accumulate; and, lastly, it is here

Altho we discover the certain cause of the astonishing phenomenon now before our eyes, of our country, preeminently blessed with all the natural means of happiness, sinking under her burthens in distress and misery; a sad example to rising nations; of the dreadful consequences of not perpetually looking with a jealous eye to the first incroachments on the foundations of freedom, which are the only sure foundations of national prosperity.

That the purse of the whole nation, instead of being under the rightful guardianship of representatives fairly chosen by the whole nation, should be at the disposal of a House of Parliament, a decided majority of whose members are said to be appointed by one hundred and fifty four individuals, and so appointed by means of an unconstitutional power and influence; your Honourable House cannot think consistent with any principle of our constitution, of just government, or of right reason: That a revenue of more than twenty millions sterling a year, should be extracted from the industry of the people, and voted away, by any other than a genuine representative of that people, no example can sanction: no precedent, no argument can justify. The condemnation of such a system must now be impressed on every mind; and felt in every heart: It is written in the tears of the wretched, and in the blood of the slain: We hope, we trust in the virtue of your Honourable House, it will not be inscribed on the tomb of our country.

And in the defect of our national representation in your Honourable House, we presume it must also originate, that even in the case of self-preservation, that first and strongest principle of all animated nature, and that to which nature's law gives peculiar simplicity—this nation, as if devoted to its own destruction by self-desertion; as if nothing were valuable in its eyes, but that which was mysterious and obtained at an enormous expence, has utterly departed from her ancient, her simple, cheap, energetic, and infallible system of defence—an armed inhabitancy; to rely almost wholly for her preservation on a navy, which for its means of utility must depend upon the uncertain elements; and on a professional soldiery, which is hired from those classes in society who, of all others, have the smallest interest in the defence of the state, and the slenderest means of understanding the value of our constitution.

Here we beg leave to call the attention of your Honourable House to the wise and manly practice of our ancestors, and to the neglected law of the land. We refer in particular to the statute of the 33d. of Henry VIII. c. 9; —a statute which a fatal partiality for standing armies has suffered to fall into disuse, but which is unrepealed law to this day.

By this statute every able man without distinction, is required to be continually provided with arms for defence of the realm against outward enemies, and even the unprovided servant is to be supplied, and his wages abated to pay for the arms procured him. All Mayors and other magistrates of the towns are commanded to make proclamation of the act four times a year in every market throughout the kingdom; and the same is required of the judges in their circuits, and the justices of the peace in their sessions.

Although, in consideration of the increased expence attending the arms now in use, in consideration also of the utility which may attend the maintenance of a professional soldiery in some moderate proportion, and for other reasons we do not go so far as to recommend a revival of the spirit of this statute to its full extent with an application of it to modern arms; yet, in the present perilous situation of our island threatened with external danger of a magnitude truly tremendous, and requiring for its safety abundantly more armed men than its fields and manufactures can spare from industry, or its exhausted revenues can afford to maintain as a professional soldiery; we humbly submit to your Honourable House whether reviving so much of that dormant statute as shall arm every Householder assessed to the payment of parochial taxes, be not in every view a salutary measure; or rather a measure of irresistible necessity; and that on which it probably depends whether we are long to exist as people, or to become a miserable province dependent on the proud republic of France.

Whatever hopes the Directory may entertain of making impression on our country by arms, those hopes can only spring from their knowing the unarmed state of the inhabitancy, and their concluding that the extreme decay in the representative part of our government, must have destroyed that sympathy between the people and their rulers which is necessary to national strength.

But if your Honourable House should in its wisdom take the necessary measures for having it shortly announced at Paris, that Englishmen had an English constitution in its purity to fight for;—that a vote for electing representatives on an equitable plan was secured to every taxed Householder, and a musquet made part of the furniture of his habitation, we believe that humiliating embassies might be dispensed with; and that this intelligence would do more towards securing an early, an honourable and a lasting peace, than voting to ministers all the remaining millions of our country; or devoting to the farther prosecution of the war, thrice as many human beings, as in the low countries, and in Germany, in France, Italy, and the West Indies, have already fallen its miserable victims; filling all Europe with widows and orphans, and

every where spreading depopulation and poverty.

Deprecating therefore this horrid scourge of our species; alarmed for the safety of our island; earnestly seeking that rigid oeconomy which can alone retrieve our affairs and secure our property; and, above all, anxious for that reform, without which our liberties must perish; we most earnestly entreat, and most solemnly conjure your Honourable House, to take the premises into its most serious consideration, and to afford us that relief and protection which our case so imperiously requires.

To the impartial judgment, not only of the present generation, but of posterity, the foregoing petition may be submitted. And whether the liberties of our country be destined utterly to perish or to survive, those who signed that petition, may with satisfaction and an honest pride reflect, that in the year 1797, they were the first Englishmen who, uninfluenced by the inferior motive, of resentment towards ministers for the injuries received at their hands, or mistaking an evil only *second* in degree, for that which is the first and the greatest in the catalogue of national calamities, penetrated to the bottom the true malady of the state, and pointed to its proper cure. Of one half of their prescription, our governors, in their circular letters, calling on the Householders throughout the kingdom to *arm*, have already acknowledged the propriety: unfortunately, however, taking advice unwillingly, they reverse the natural order of things; beginning to administer the steel and the bracing regimen instead of first relieving by a reform, the vital parts of the system, from that load of morbid matter which is the cause of its debility; a debility which, without previous evacuants, bracers it is to be feared instead of removing may aggravate. At all events, it is beginning the work at the wrong end.

The foregoing petition, as we have seen, appeals to the well-known and broad principles of our constitution; it speaks of facts that may well cause amazement in the minds of those to whom they may be new, and fill the heart of every reflecting Englishman with concern and alarm, and on these grounds it prays for the redress of wrongs which are most injurious and degrading: In short, it states facts, which, if true, will puzzle the shrewdest casuist among our Counter-Petitioners, to prove that we have any constitution at all remaining.

In opposition to all this, the Counter-Petitioners, without denying or even affecting to doubt a single fact, —without combatting any one of our invincible reasons for a reform, —and without shewing that our ideas of the English Constitution are erroneous, or giving their own, —without, I say, doing any of these things, venture to offer it to parliament and to their country, as a naked, unsupported opinion, that such a reform as

we recommend, -- would tend directly and unavoidably to the " subversion of our present constitution. "

At such a moment, and on such a subject, it would methinks, have well become those who so widely differed from neighbours, who had respectfully and solemnly laid their sentiments before parliament, and who had argued the case with that high court of legislation, not thus to have rested on a mere *ipse dixit* opinion, but to have given a reason for the faith that was in them. And when we consider the censure cast by them, either on the heads or on the hearts of the original Petitioners, such a course seems to have been the more necessary; in order, not only to justify that censure itself, but to furnish the censured parties with the means of discovering their own error, if there were one. Nay, so unskilled are the Counter-Petitioners in political manœuvring, and so awkward in parrying reform, that in the very act of defending a certain House, they give it a slap in the face; for what was the tendering to it, *such* a petition, in *such* a cause, but a declaration of their " conviction " that it was as ready to catch at straws, as others could be to offer them.

The words of the counter-petition after dispatching the subject of corn are these; " And your Petitioners further represent, that a petition on to your Honourable House, agreed to at a certain meeting, held at Boston, on the 29th day of March last (at which meeting John Cartwright Esquire was Chairman) did not, as your Petitioners verily believe) express the real sentiments of the Inhabitants in general of that town and neighbourhood, nor of the Freeholders, nor of the taxed Householders, but only the sentiments of a very small number of persons of any of those descriptions; so far as relates to the election of Members of your Honourable House; and that your Petitioners are convinced that a reform of such election, extending the right of suffrage, either universally or to every taxed Householder, would tend directly and unavoidably to the subversion of our present constitution —Your Petitioners therefore humbly pray, " &c. Good God! are there, in the year 1797, English gentlemen who can call this their " conviction ! " What in the name of every thing sacred, past, present, and to come, is it they call our " present constitution " ? Do the facts, touched on in the petition of March, stand for nought? Do the legion of facts staring them in the face, in the petition of 1793, stand also for nought? Is it nought, that peers pour into the House of Commons members by hundreds? Is it nought, if seats in that house are bought and sold, as we buy or sell a field, or an ox, or a pig? Is it nought, if a decided majority of a House of Commons, are not elected by the commons, but have constituents unknown to the constitution? —Surely, to pass by such facts, as so many noughts in the account; is to set up opinion against fact with a witness! and to talk of the correction of such abuses, as a subversion of the constitution, is to shock every principle of just reasoning, and to run counter to the common

sense of mankind, wherever permitted freely to think, and independently to act.

Is there now an enlightened nation upon earth, that does not know *representation* to be the source, and only possible cause of political liberty? what was it gave England such a proud pre-eminence over the other European states, prior to the French revolution? It could not be her share of aristocracy; it could not be her portion of monarchy. These she had only in common with other nations: But it was her popular representation. It was popular representation even imperfect as it was that infused the energy which caused her glory, and that general admiration and envy, of which she was the object. And to popular representation even, that monarchy and aristocracy in this country were indebted for all their value? for while, in other countries, where such representation wanting, monarchy and aristocracy lay heavy on the loins of the enslaved people; here, balanced by a representation, those orders acquired a character of utility and beneficence, and were beloved and revered by a flourishing nation.

And long, long after the taint of decay, began to canker this root of England's prosperity, the tree was adorned with blossoms, and enriched with fruit, sufficient to give her a splendid superiority over the nations, where a withering despotism had blasted the liberty and happiness of man. But, as if a providential judgment had hung over her, ever since, to her eternal disgrace, she first unsheathed the sword against the principle of *representation*,* her own corruptions seem to have overpowered her constitution, and to be rapidly precipitating her fall. Foiled and dishonoured in two iniquitous wars, her dominion rent asunder, her debt grown to a mountain, her arm fevered and convulsed, and her whole frame exhibiting a struggle between liberty, her vital principle; and corruption, the principle of dissolution; consequences, the most fatal are justly to be apprehended, if restoratives congenial with the vital principle be not speedily and abundantly thrown in.

A state may be free, with or without a King; or with, or without nobles: but without *representation* there is no liberty: without a cause, there is no effect. Does not the general reason of mankind bear testimony to this great truth? Does any man, in any country where reason is not in chains,—does any man in *America*,—does any man in *France*—does any man in *Holland*, in *Belgium*, or in *Italy*, conceive any other idea of political liberty, than that it has no other cause than legislative representation? When forming a constitution of free government, does not man universally fly to representation, as necessarily as the sparks fly upwards, or as unsuspended matter must, by its gravitation descend?

* It was to establish a power of taxing the people of *America*, in the House of Commons of England; a power which includes all that despotism can desire that she undertook the American War.

And when this fundamental principle of civil government has taken such extensive and strong possession of the human mind, and is even now before our eyes so rapidly ameliorating the governments on the continent of *Europe*, after the original models of *America*, and of *England*, can there be Englishmen so infatuated, as to wish our own representation might continue in a morbid, paralyzed state, equivalent to non-existence? Or to imagine a torrent which, if the continental despotisms do not turn it aside by timely reform, must assuredly sweep them from their foundations, can in this country be resisted by childish attempts at persuading men to believe against their senses; to act against their dearest interests; and to surrender an inherent right, without which they are not *persons*, but *things*; not men but the cattle, or the swine of lordly proprietors!

Can there, at this day, be Englishmen so little informed as to the market price of a seat in parliament; so ignorant of those seats being a stock in trade, or badges of the meanest servitude and prostitution to unprincipled men; so unacquainted with the foul history of corruption; and so perversely blind to that ruin of their country, which venality has nearly accomplished; as not to see, and to know, and to feel the imperious necessity of reform! Can there, I say, in the year 1797, be Englishmen, pretending to have bestowed on the subject one hour's serious consideration, who can yet be such strangers to the principles and the object of our constitution,—so short-sighted to, or so regardless of, the horrid and fatal consequences likely to result from stimulating corrupt authority to deny justice, and to resist the united power of truth, rectitude, and the human intellect;—and so insensible also to the sweet influences, and the enobling character of liberty, as, in a solemn address to parliament to attempt to rivet the chains of their country, by the crude and astonishing declaration, of being “convinced that a reform † of our elections, would subvert our constitution”! Gracious Heaven! and from whom do we hear this language! From our Countrymen? From the descendants of Saxons? O Alfred—divine immortal Alfred! Thou constellation of all virtues! Thou, in whose manly bosom glowed the love of liberty, steady, ardent, inextinguishable! Thou, whose recorded saying it was, that, “Englishmen ought to be as free as their own thoughts.” Godlike sentiment! Thou who in an ignorant age, with matchless wisdom; and who, on a throne, with matchless magnanimity; didst penetrate the depths of political science—seeing with angel-ken, that *free parliaments, juries, organization, and an armed people*, are the true foundations of national freedom and security; and who, with thine own hands didst lay the deep foundations, and rear to an admiring world, the glorious edifice!—O be the remembrance of thee and of thine imitations, now present to the minds of Englishmen! Let *them* think, as thou wouldst now think! Let *them* act, as thou wouldst now act.

† “TO REFORM. To change from worse to better.” *Johnson's Dict.*

SECTION II.

Our Counter-Petitioners must some how or other have been greatly deceived in their researches: They must surely have picked up the code of *Frederick*, or of *Catherine*, or some other exotic, and mistaken it for the constitution of *England*. Their error is the more to be lamented, because we know their profound attachment to that constitution, and how they would hug it to their bosoms, if they knew but where to find it;—this we know from the associations and subscriptions they formerly entered into for its protection; and from their support of a war which, on the word of a minister, they once fondly, though mistakenly believed to have been entered into for its preservation. Although, doubtless, sincere in their devotion, their Athenian-like altar seems to be inscribed, **TO THE UNKNOWN CONSTITUTION**: That therefore which they ignorantly worship, let us declare unto them. And it is with the friendly and affectionate voice of a fellow citizen, I conjure them to revise an ill-considered declaration, which it pains me to read; and from which I should think they can extract no other pleasure, than what may arise from a candid renunciation of the error it contains.

The subjects of representation and political liberty, having been so frequently and so largely discussed; the petition of March having so strongly shewn the necessity of a substantial reform; and the rising sense of the nation pointing to that haven, as the only one in which the almost foundering vessel of the state can seek her preservation; it cannot be necessary that in reply to a naked opinion, unsupported by a single argument, and at war with every principle of our constitution, I should much enlarge. I would however, observe, that a word has slipped into the declaration of the Counter-Petitioners, which, if I mistake not, will serve us as a key for discovering their error, and tracing it up to its source. If in this conjecture I am right, that error will be the more excusable; because it will soon appear to have been occasioned by a great defect in our system of government, a defect in consequence of which, the whole land is deluged with error and delusion.

I allude to the word, "*present*." By the phrase, "our *present* constitution," it is plain the parties were bewildered; for they were, as they thought, distinguishing a present constitution, from one, or from many, that were past. But who ever heard of *two* English constitutions? much less of twenty, or any greater number that have successively existed? Here we have to lament, and a subject of most serious lamentation it is, that we have not a WRITTEN constitution, to which all, King, lords, and people; ministers, military, and judges; but above all, to which our *representatives* might at all times appeal. The want of such a guide and limit to legislation, such a demarcation to prerogative, such a collection of beacons and landmarks, for shewing to every

eye, the extent of those sacred rights and liberties which are the gift of God and nature to man, and which legislators are forbidden to touch, have, as already expressed, deluged this land with error and delusion; whence great, cruel, and unceasing impositions are practised on the people. Hence it is that the most insidious incroachments on liberty, have passed into laws as its preservatives; and the grossest violations of the constitution have been enacted under pretence of supporting and defending it.

Here, is the storehouse of those crude opinions, differences and distinctions, which unfortunately split us into so many parties, to our mutual inquiet, and our common ruin; and here the prolific source of civil discord, rebellions and revolutions. Under the crafty management of factions, this inexhaustible fund of delusions is a Pandora's box of all political evils that can in turn afflict our nation; raising up, and irritating party against party, unwittingly to be the scourge of each other; that a common interest may no where be found or felt; and that all may finally be subjugated.

And is not that very difference between Petitioners and Counter-petitioners, which has given rise to this Appeal, a case in point? May we then decide it, like men who love our constitution more than controversy; and who having amongst us a certain store of constitutional knowledge, agree to bring it forth for the common good; that difference of opinion may grow into mutual agreement and confidence; and past opposition, end in future union; for the preservation of the laws and liberties of our country!

The Petitioners say, 'Reform our representation: for, without that, the state cannot be saved.' 'No:' say their opponents, 'to reform the representation, will be to subvert the constitution.' These are not shades of difference; but opinions as wide as the poles asunder, and so long as the two parties shall continue to *act* upon their present principles, *one of them*, how unintentionally soever, *must be doing the work of the greatest enemy to that constitution.* It is this consideration which ought to induce us to retrace our steps; to exert our reasoning faculties; to listen to each other with temper; and conscientiously to correct our errors, as soon as constitutional doctrine, or fair argument, shall have made us sensible of them.

SECTION III.

I come now to speak of the constitution itself. To know what it is, is the question. According to the views of two opposite parties, the enemies and the friends of popular freedom, two modes of describing the constitution have been in use. Without meaning to depreciate the knowledge of others, or to boast of my own, (for God knows it lies in a narrow compass) it may be ~~seen~~ that in consequence of these

opposite modes of description, and for want of writing, the generality of Englishmen have very inaccurate and confused notions of the constitution; notwithstanding their habit of appealing to it on all occasions.

According to the first-mentioned of those parties, by the constitution is meant, *the whole mass of our institutions, together with the whole body of our law, written and unwritten.* According to the other party, our constitution consists, of *certain immemorial points of national agreement, and those PRINCIPLES on which the security of our natural rights depends.* If the first were right, what a wretched lot would be ours! If the abridgement of our law, by *Vyner*, fill five and twenty volumes in folio or thereabouts, and occupied more than *half a century* of that laborious author's time, * such a constitution must needs require nine times as many volumes to contain it at the least. Miserable is the condition, says, *Beccaria* of that country, where the study of its law is a science. What then would he say of *England*, if her legal science which finds employment for some thousands of lawyers, made no more than a mere part of her constitution!

Such a description of our constitution as this, perfectly well answers the end for which it is given. A constitution of which not the most learned man can know where to find all its parts, and of which not the most capacious understanding can embrace the whole, what ordinary man shall pretend to scan! Here then, is as wide a field for interpretation, and as complete a labyrinth for bewildering men's senses, as the most subtle adversary of freedom can wish for. Unfortunately, such gross ideas of our constitution have too much prevailed, and even our legislators themselves have for the most part been as ill able as other men, to find their way through this maze of perplexity, or to guard us against the mischievous effects of it. And it is obvious that, if such were in reality our constitution, it would ever be completely at the mercy of the legislature, which is a solecism; for in case of corruption falling on that body, the rights and liberties of the nation might, on this absurd supposition, be constitutionally subverted; and, (to use a phrase now much in favour) *our constitution as by law established*, might, at the good pleasure of our legislators, be legally subverted; and law itself might give us a government as gloomy and tyrannical, as that which has just expired on the isles of the Adriatic.

Thus to confound the law and the constitution is to confound cause and effect: an error which has by no constitutional writer been so well pointed out and corrected, as by the Earl of Abindon. "In the great machine of state," says he, "there are found three principal powers &c." "The first of these principal powers is the power of the PEOPLE; the second, the power of the CONSTITUTION; the

* *Blackstone's Commentaries* I. 27.

“ third, the power of the LAW. Now the power of the people is
 “ first, because, without people there could be neither constitution
 “ nor law. The power of the constitution is second, for it is the im-
 “ mediate effect of this first cause; and if the people and the consti-
 “ tution make the first and the second power, there is no need to prove
 “ that the law is the third power of the state. It follows in the order
 “ I have laid down. As from the people then is derived the constitu-
 “ tion, so from the constitution is derived the law; the constitution and
 “ the law being, in a due course of lineal consanguinity, the descen-
 “ dants of the people.” *

Now, the most conspicuous of our *points of national agreement* is that by which our legislature took the form of King, lords and commons; but the two points most essential, are our legislative *representation* and *trial by jury*. The first should secure to the people their share in the power of making their laws; the latter, the faithful administration of them. In the legislature, we behold the nation's grand *instrument*, for supporting and preserving its constitution; that instrument itself being one part thereof. Now, without dwelling upon the parts about which we have no difference, let us come at once to the House of Commons.

Our business, then is to know whether our House of Commons be, or be not, at present, what our constitution requires; for on that must depend whether it need *reform*, or not. For want of great *points of national agreement* (by which I do not mean legislative statutes) sufficiently clear and decisive on this head, we must resort to *those PRINCIPLES on which the security of our natural rights depends*. And if amongst those principles, we find such as directly apply to the case, and such at the same time as are to be found, as fundamentals, in our law books, and other high authorities, and constantly appealed to for deciding questions in our courts of law, and in parliament, we shall arrive at a satisfactory solution of the proposition before us.

But before we proceed in this course, let us recollect that one of the most striking facts which presents itself in the history of that house is this, that for ages past it has been a *subject of reform*, as may be seen in the statute book. Whether, indeed, on the occasions particularly alluded to, parliament adhered to, or reversed, Dr. Johnson's definition of reform, will be seen in its place. “ TO REFORM ” says he is “ To change from worse to better.” If then it be fact that *changes* have been made, we are not without our precedents; and if it shall moreover turn out, that, instead of *changing from worse to better*, we changed from *better to worse*, our ground will then be strong indeed. If our neighbours object to tampering, in the way of reform, with any thing so sacred as our House of Representatives, in any way that shall *tend to subvert the constitution*, they must, on their own principles, be

* *Thoughts on the Letter of Edm. Burke Esq. to the Sheriffs of Bristol*, p. 227.

the first to approve of *doing away* whatever others may already have done, which shall be demonstrated to have that *direct and unavoidable tendency*.

As all the proofs I can find on this subject, go uniformly to establish in my mind, a creed the very contrary to that professed by our Counter-Petitioners, I confess I have some curiosity to know the evidence on which stands their "conviction," that to reform the House of Commons in the way proposed would be to subvert the constitution. If they believe, because *they are told so*, (for it is said "faith cometh by hearing," then indeed I can understand the *nature* of their creed; since "faith is the evidence of things *not seen*." I would, however, recommend to them, to be a little more circumspect in future, on what, as well on whom, they pin their faith; for, in politics as well as in religion, we have our "false apostles deceitful workers" and it is manifest their present creed is not taken from *the Apostle of Liberty*. *

It being already proved that the *law* and the *constitution* are not the same, nay, that they are essentially and necessarily distinct, it will need no fresh proof, that what may be at this time *law*, respecting our representation and our elections, cannot decide the point at issue; for our dispute is not about the *law*, but the *constitution*. That statutes are liable to be extremely *imperfect* is our every-days experience. That they may also be *oppressive* every man knows: and that they may be **UNCONSTITUTIONAL** is equally certain. Of the frequency of the *first sort* of laws, the perpetual introduction of statutes, for explaining and amending other statutes, are pregnant proofs: That the *second sort* have existed, is it not written in the blood of the protestants who expired in the flames, lighted by order of the odious *Mary*? With regard to laws of the *third class*, it shall be my business to produce them, and to appeal to you on their merits. But of *unconstitutional law*, we have, at one time or other, had abundance, that never was to be found in the *statute book*. Of this we had a disgraceful instance, in the case of libel, long supported by the jesuits and the great *Belial* of the long robe, until the question was set at rest, by the eloquence of an *Erskine*, a *Fox*, and a *Camden*, and by the *constitutional* statute their many exertions bestowed upon their country.

But that, at certain periods *unconstitutional law*, like an overwhelming inundation on the face of the land, has, as it were, blotted out all traces of liberty, take the evidence of *Blackstone*. In the later years of *Henry VIII.* "the royal prerogative was strained to a very tyrannical and oppressive height; and, what was the worst circumstance, its encroachments were established by **LAW**,"—its encroachments were established by **LAW !!!**—under the sanction of those pusil-

* The Appellation bestowed on the late Rev. Dr. Price, author of the excellent *Observations on Civil Liberty*.

† Commentaries, IV. 431.

“ unanimous parliaments, one of which to its eternal disgrace passed a statute, whereby it was enacted that the King’s proclamations should have the force of acts of parliament; and others concurred in the creation of that *amazing heap of wild and new fangled treasons*, which were slightly touched upon in a former chapter.” † In the chapter referred to, the learned judge has enumerated no less than NINETEEN, and then adds, “ all which new fangled treasons were totally abrogated by the statute of 1 Mar. c. i, which once more reduced all treasons to the standard of the statute of 25 Edw. III.” ‡

Having thus cleared our ground, we return to the main question; *whether our House of Commons be, or be not, at present, what our constitution requires.* That constitutional proposition, and great point of national agreement, whereby it is settled, that our legislature shall consist of King, lords, and commons, is so clear, no man looks into a book to seek it; but he who wants to know what our constitution calls a *King*, or a *lord*; and what it is that in *England* has contrived to make royalty and hereditary nobility component parts of a *free* government, and securities to national liberty, while in all other countries where they are found, they are proofs of tyranny and the bane of freedom, inasmuch that the very appellations are synonymous with arbitrary power;—he, I say, who wants this explained to him (for it certainly does not lie on the surface) must carefully peruse the best delineations of our constitution, and *keep perpetually in his eye, the principles of civil liberty on which it is founded.* So also must he do, when he would correctly know what, and whom our constitution calls *the commons*.

Here, however, had it not been for perverse and interested ingenuity, and for a chain of false reasoning founded on *unconstitutional* statutes, there could not, be cause for a moment’s hesitation. Keep but your eye on the *principles* of your constitution, and place but a manly reliance on your own common sense, and all doubt, like a morning vapour drank up by the thirsty beams of the sun, will instantly vanish. Can there be a simpler question, than, *who are the Commons of England?* Is it possible that it can receive any more than one direct answer? And will any honest and prudent enquirer, give to *himself* an *indirect* one? Or will any sound-minded man, suffer the chimeras of any other man’s brain, to deter him from acquiescing on a question so plain, in the sober decisions of his own understanding?

But, for fear of the worst, I mean gravely to prove to you, from *Blackstone* and other learned authorities, that the King, is not a commoner;—that lords are not commons, that you yourselves (to prevent all mistakes) are neither kings nor lords; and finally, that *the commons of England*, are verily, no other than **ALL THE PEOPLE**—the whole nation—high and low, rich and poor,—his Majesty and the lords of parliament only excepted.

† Commentaries, IV. 434.

‡ Commentaries, IV. 86.

After all this labour, the thing I know will not be one whit clearer than it must now be to unperverted reason; and therefore I should save myself the trouble, if, after the specimen we have had of new-fashioned "convictions," reliance could be had on men trusting to their own senses.

But, for giving a truly constitutional idea of a House of Commons, there is a collateral proof of great consequence to be drawn from the fundamental principle of *criminal law*, and here legal authority must be called to our aid. It shall be that of *Blackstone*, who says "The temporal magistrate is impowered to inflict coercive penalties: and this by the consent of individuals; who in forming societies, did either tacitly or expressly invest the sovereign power with a right of making laws &c." — "the lawfulness therefore of punishing such criminals is founded upon this principle, that *the law by which they suffer, was MADE BY THEIR OWN CONSENT*" † In another place he says "A statute is placed among the records of the kingdom; there needing no formal promulgation to give it the force of law, as was necessary by the civil law with regard to the emperor's edicts: because EVERY MAN IN ENGLAND is in judgment of law, party to the making of an act of parliament, being present thereat by his representatives * Such is this judges doctrine while delivering his genuine sentiments agreeably to *the true principles of law*, without constraint or bias: but where he expressly treats of *parliament*, and is thereby put upon his guard not to offend—for who that talks of parliament having "absolute despotic power in these kingdoms" § must not approach such a power with fear and trembling? there I grant he has his reserves, that he is evidently over-awed and embarrassed, and that his language, as we shall shortly see, is at variance with his own understanding.

Did this learned judge, after condemning to death any criminal, *who had no vote for electing a representative*, ever tell such a person, that "*the law by which he suffered was made (or even upheld) by his own consent*?" For the sake of the English law, for the credit of human nature I hope not. To put men to death upon law fictions, or "to bind them in all cases whatsoever" by constitutional fictions, is a violation of principle, to which, as it should seem to me, no unperverted mind can submit. I hope our Counter-petitioners will take care to free themselves from being implicated as favourers of such doctrines. There is but one, sole principle, on which men can be rendered equitably and completely amenable to *the law* of the society of which they are members, that of being parties either personally or by deputy, to the framing and upholding in continuance *that law*. Where the power of exercising this right is wanting, no political liberty can exist. The thing is a natural impos-

† *Commentaries IV.* 8.

* *Commentaries I.* 125.

§ *I.* 160.

liberty. Political liberty without this power, is as complete a contradiction, as physical liberty without a power of stirring our limbs. Whatever is short of political liberty, is not *liberty*, but mere legal protection; † for the whole of *virtual* representation, of which some men talk as ignorantly, as others do of the constitution, is merely this; that it extends to the *minority*, in any election, and also to *those electors who give no vote at all*; because they are all *members* of that *body* which is to be represented. †

Now what *Blackstone* says while discoursing on parliament is this, “ The commons consist of all such men *of any property*, in the kingdom, as have not seats in the house of lords; every one of which has a voice in parliament, either personally, or by representatives. ” § While treating on the most essential point of our *constitution*,—on the very hinge on which turns the political liberty of our nation, such is the vagueness of his expression, such his loose, defective, unintelligible *description* of the commons! But when you find the learned author in his element of *law*, then you come at legal, accurate *definition*. Here he informs us, “ That the commonalty, like the nobility, are divided into several degrees; and, as the lords though different in rank, yet all of them are peers in respect of nobility; so the commoners, though some are greatly superior to others, yet all are in law peers, (equals) in respect of their want of nobility: ” || And in support of this definition he refers to Lord *Coke*.

But still farther to prove his first mentioned description of the democratic part of our constitution a lame one, and that in the very moment of utterance it was rejected by his own strong understanding, his very next words, after the intervention of a single observation, are these; “ And this power (of making laws) when the territories of a state are small and its citizens easily known, should be exercised by the people in their aggregate or collective capacity, as was *wisely* ordained in the petty republics of *Greece*, and the first rudiments of the Roman

† This observation is submitted to the consideration of my learned and able friend, the author of *Lectures on Political Principles*; who has taken some pains, to distinguish between *political* and *civil* liberty; a distinction which perhaps he will not, on reflection, find to be sufficiently obvious and safe. What he calls *civil* liberty, I call *legal protection*. The proper inhabitant of a city or community who as such shares in its political liberty, is the only one who in my estimation is entitled to the name of *citizen*. The native or naturalized inhabitant who does *not* share in its political liberty, is properly a *subject*. In loose conversation we speak of a *subject* or even a *sojourner* in a *free* country, being himself *free*; but accuracy of distinction will shew that he is only *protected*. Protection either of a *subject*, a *sojourner*, or a *slave*, may be complete, and even extend to the greatest indulgence and benefits; but there is an eternal difference between having an equal vote with fellow citizens in making the laws; and in being subject to laws made by men whom other persons by their votes have placed over us. In the former case, we are citizens and have *political* or *civil* liberty: in the latter we can have no more than *legal protection*. A nation under a wise and virtuous prince, governing by despotic power, may have good laws and be protected in the highest possible degree; and all its subjects enjoy *legal protection* the most complete; but it would be an abuse of words to call such a nation *free*.

† *People's Barrier*, 5. 21. § *Commentaries*, I. 153. || *Commentaries*, I. 403.

* state. " If universal legislation could in any case be wisdom, surely universal suffrage cannot be so foolish a thing as some would represent!"

Our cavillers at personal representation tell us we prove too much, and that on our system, women, and children, and babes must be amongst our electors. We say not. As this is not the place for enlarging on the objection, which has been very sufficiently answered, * I shall now only say shortly, that infants cannot succeed to any personal rights till capable of exercising them; and that women being by nature unable to qualify for and to perform various labours of magistracy and office in civil government, and of serving as the military defenders of their country, which are equally duties appertaining to dominion, and necessary to the preservation of political liberty, their right to the latter falls to the ground; and they must content themselves with legal protection; which they will most experience, where man has most political freedom. As legal protection, where fully enjoyed, comes so near in its effects to political liberty, as by the generality of mankind, even of the learned, not to have been distinguished from it, and as NATURE has not only placed the weaker, under the protection of the stronger sex, but has so formed man, that to afford this protection must ever constitute an essential part of his own happiness, we trust that more need not here be said on this subject.

I well know, that the principle of personal representation stops not short of universal suffrage, at which some feel, and others effect, so much alarm. What then! If the principle be true, it is of God and nature, and cannot be overthrown. If it be of men, let reason operate, and it will come to nought. How other men's reason may be affected, I know not; but mine cannot resist the principles, that "Law to bind all must be assented to by all" † and that "No man shall be bound by a law but those who assent." † These I find in our books laid down and appealed to, as principles of the Law of England; where I also find, that "impious and cruel is he to be esteemed, who favours not liberty." †

I might not have touched on the immoveable foundations on which the rights of universal suffrage rest, had not the mention of it been very unnecessarily, or else by way of bugbear, lugged into the Counter-petition. In proposing the original petition, every thing leading to it had been carefully avoided; but it is amongst the constant indiscretions of those who oppose reform, to drive its advocates to the alternative, of either abandoning the principles on which any reform can be claimed of right, or of spreading the doctrine of universal suffrage, by the necessity of vindicating the true principles of representation.

All this is far from maintaining, that a state cannot enjoy the substantial benefits of freedom, without universal suffrage: And when I put

|| Commentaries, I. 403. * Legislative Rights of the Commonalty Vindicated, p. 45.

† Prin. Leg. et Eq. 56.

‡ Coke upon Littleton 124.

my hand to a petition, praying for an extension of suffrage to all householders, it is because I persuade myself that such an extension, might furnish a representation sufficiently substantial for national security, and for producing great national happiness; by means of great political and moral improvement.

It certainly is not, because I have some acres of land,—or because I might have been born in one borough,—or have boiled a pot in another; or had been apprenticed to a blacksmith in a third,—or in a fourth had married the daughter of a fisherman,—or on any such nonsensical pretension, I have a right to vote in the choice of representatives; No: It is because I am A MAN: It is because I am to be amenable to the law of my country; and on that law to depend for property, for liberty, for life, for character; in short for happiness or misery. God, who made me a man, made me conscious of a right to pursue my own happiness by all moral means; conscious of a right to liberty, *without which those means are denied me*; conscious, therefore of a right to representation, without which I have not liberty; and conscious that no other human being can have a right to dominion over the community of which I am a member, without that community's consent. It is on these grounds I stand, to vindicate the rights of my country, and of the humblest and least opulent of my countrymen; and well I know those rights may equally disregard the petulance of cavil, and the subtleties of smooth-tongued sophistry: but I am not so certain, that they will not fall, before either *venality* or the *sword*. Should the former of these mighty powers prove insufficient to repress the exertions and silence the voice of reform, who will undertake to say a barrack-building minister, who has asserted *a right in the crown, to land in this country, and without consent of parliament, any number whatever of foreign mercenaries*, would scruple to use the other, provided influence or infatuation could raise up Counter-petitioners enow to flatter him with a hope that the people were sufficiently divided, to afford him a prospect of success! *

That counter-petitions should not express the sentiments of any description of persons, I mean not to maintain; but when in times like these, all men are called on to rally round the constitution, and to vindicate its principles, it surely is imposed on them as a political and a moral duty of no small weight, to ascertain what those principles really are, before they decide for or against any public measure of high

* In 1685, a member was sent to the tower, for suggesting that an answer from the throne, contained "high words to fright the members out of their duty:" And in 1717, another was committed, for saying a part of the speech from the throne, "seemed rather to be calculated for the meridian of *Germany* than *Great Britain*, and that the King was "a stranger to our language and constitution"

If such were causes of commitment to the tower, whither ought the member to have been sent, who dared to insult the constitution, the parliament, and the people, by the audacious language I have quoted?

importance. The language of the Counter-petition of May, appears to me, and I am persuaded it must now appear to my reader, unconstitutional in the extreme, and dangerous in the highest degree. Were it to be backed by sufficient numbers, not a remnant, not a vestige of English liberty could long be traceable in this miserable land! If our friends and neighbours who, by their signatures, have made that language their own, shall upon due inquiry find their *evidence* to fail them, and upon mature reflection shall perceive their hastily-adopted *faith*, to be the very popery of politics, I trust they will have the manliness to shake it off, and, by declarations of a more English cast, to manifest at once their knowledge, and their love, of the English constitution!

SECTION IV.

Agreeably to Lord *Abingdon's* clear distinction between our *constitution* and the body of our *law*, and to what has been already said, respecting the unfortunate circumstance, of the constitution and the law of this country being blended together in no small confusion; it will be seen, that, after collecting from this mixed mass, all those parts of our constitution about which there is no dispute; we cannot advance a single step farther, except only by means of the light and assistance to be derived from the *principles* and *maxims* stored up in our books of authority; and against which, no man pretending to a knowledge of our law or constitution sets up an opinion; for "principles are the proof of every thing; but are not susceptible of external proof;" and a maxim is "an axiom; a general principle; a leading truth." Our constitution, like our common law, being *unwritten* can only be thus collected. And thus is law itself ascertained when doubts arise. "And hence it is that our lawyers are with justice so copious in their encomiums on the *reason* of the common law; that they tell us, that the law is the perfection of reason, that it always intends to conform thereto, and that what is not reason is not law."* If this be true of the stream, it must be true of the fountain; if the right way of ascertaining *law*, it must be the rule also, for ascertaining the *constitution*.

But cannot parliament, if *Blackstone* be right, by its "absolute despotic authority in these kingdoms," either less, or more, or altogether at its good pleasure, abolish the elective franchise, or even change the constitution? No: no such thing. It is against principles: and parliament has no such odious power. The very existence of parliament itself, is only a part of the constitution; and the first and the highest *trust* reposed by the people in that body, is to preserve the constitution. Besides parliament only operates by its *laws*; and to talk of a *law* making or altering a *constitution*, is as absurd as to talk of a descendant

* *Blackstone's Commentaries*, I. 70.

begetting his own progenitor, † But, from the nature of the *trust*, it is evident the power of parliament is strictly limited and confined, to the making of such laws only, as shall be in conformity *with* the constitution; for otherwise the people could have no security for their liberties if ever parliament were in a condition, and disposed to violate them. †

“ Against the law of reason, or against justice, there is no prescription, or opposed STATUTE, or custom; and if any such be made, they be not statutes, or customs, but CORRUPTIONS. ||

But cannot Parliament take away part of our civil liberty for the better preservation of the remainder? No: not an iota of *liberty* can parliament touch. “ Liberty is planted by God in the very nature of man.” * “ Laws incompatible with the constitution are in themselves void.” § “ What the parliament doth shall be holden for nought, whensoever it shall enact that which is contrary to the *rights of nature*, or the principles of the constitution.” ¶

Almost all that has been written, (and there has been much written) on the notion of its being necessary when we enter into society, to *give up* a part of our liberty, in order the better to secure the remainder; as well as all that has been said respecting a right in parliament to *take away* a part of that liberty for the same purpose, appears to me founded in gross error; and to have originated in not having clearly seen the distinction between political liberty and legal protection, pointed out in page 20. Civil or political liberty, properly so called, is to a nation what physical liberty is to a man in a state of solitude; it consists in the power of *self-government*; or in other words, in the power of making its own laws; whether it be done “ by the people in their aggregate or collective capacity,” or by means of a fair, free and substantial representation. If, then, a nation or people be in *full* possession of this right, or of this power of *self-government*, then is the political liberty of that people *complete*, and *absolutely perfect*; and in the words of the divine *Alfred*, they “ are as free as their own thoughts.”

Can a NATION thus circumstanced be said to have *given up or parted* with any of its liberty? No: And when we consider liberty as the *means* or happiness, and compare the degree and nature of the happiness open to a MAN in political and polished society, with what is within his reach in the solitary wilderness, can it be doubted, that either in respect of quantity or quality, he is infinitely a gainer, by having improved solitary into political liberty? It can only be owing to

† Keep in mind Lord Abingdon's “lineal consanguinity.” See p. 16.

† We have already seen p. 17 18 what a parliament did under *Henry the eighth*. What parliaments hereafter may be capable of doing under a *Pitt*, can only be matter of conjecture. || *Doct. et Stud. c. 2. p. 5 & 6.*

* *Forseſcure de Laud; leg. Aug: 41.*

§ *Elem: Univ: lect: 251.*

¶ *Sharp's Decl: of the Peop: Ri: 236, & Lud: Coke's proeme to 2nd: Inst.*

inaccuracy of thought, and to the poverty of language, when such phrases as *giving up* or *parting with*, liberty, signifying *compromise*, are applied to express such an improvement in a man's condition, in which there is *no compromise*, but pure and *natural* election. The *natural* liberty of a social being, is in *society*: and if confined, like *Selkirk*, to the solitary desert, with brutes only for his companions, would it not be strange, his embracing the opportunity of flying to the society of his own species, should be described as a *compromise*, in which he *gave up*, or *parted with*, the society of his goats? And is it not as strange that, in an age of light and reason, nations should accept of such compromising nonsense, as apologies for incroachments on their liberties! *

Abridgments of *legal protection*, naturally flowing from a *loss* of political liberty, they are generally confounded together, but are in truth different, and ought to be distinguished. Using the word *liberty* in its general and popular sense, we say, and we say truly, that *legal protection*, is amongst our rights and *liberties*: but we are now treating abstractedly on the principles of government, which imposes on us a necessity of restricting our words to determinate meanings, with care and precision. We then affirm, that it will *not* be by the evidence of any act, suspending the law of habeas corpus; nor of any act, to harass, and vex, and degrade the people, respecting public meetings; nor for any act, to create "new-fangled treasons;" nor indeed by the evidence of any other act, for the mere *abridgment* of legal protection, that we can bring *direct proof* of our political liberty having been invaded; for the legislature of a country under *self-government* might possibly do foolish or improper things; or, as a free man, for good cause, might for a while deny himself food, or rest, or treat himself with other severities; so a *self-governed* nation, in a case of extraordinary and temporary urgency, might perhaps even wisely abridge the legal protection of its citizens.

Laws, indeed, which unnecessarily, or wantonly, or with circumstances of oppression or cruelty, abridge legal protection, will of course be strong collateral evidence, and fit circumstances, from whence we may collect and infer, with less or with more certainty, that political liberty has indeed been invaded, and the legislature thereby encouraged to enact such laws; but still, the *direct proof* of such an invasion of liberty having been actually affected, can only arise from the evidence, which ascertains what is the then actual state of legislative representation in the country under consideration. *Such as we find to be the state of representation, such also must be the condition of political liberty.* Whatever be the precise degree in which the people shall possess the means of freely and independently electing the representative body; and of renewing it at their pleasure, in the same precise degree and proportion, and in no other, can that people enjoy political liberty, properly so called.

* About a year and half ago we heard a good deal of it in England.

Well might representation be stiled “ the happiest discovery of political wisdom: ” since it not only gives liberty, with all its blessings; but in case of violations and abridgments, it also enables a people to know by means the most simple and the most certain, precisely *how much of their liberty is lost*; and thus it is calculated to secure modern states, especially all new ones, from such contentions, struggles and convulsions, as in the end destroyed all the antient republics, which, for want of this “ happiest discovery of political wisdom, ” were never long free from storms, and which, wanting the compass we enjoy, knew not, when the storm ran high, how to steer for recovering the port of political tranquillity. How infinitely then, do modern invaders of public liberty, surpass in criminality those of antient times! The antient sinned, probably, *without* knowledge: the modern sins *against* knowledge. The antient sinned, perhaps, from a proud consciousness of superior virtue: but conscious baseness and treachery must attend the modern, sinning against the *ascertained* principles of freedom, and the *demonstrated* constitution of his country!

As already intimated, temporary cases of such extreme peril to the constitution, of such paramount necessity for discretionary and unusual powers, may doubtless, although not without difficulty be imagined; wherein it might be right for the legislature, to put at the discretion of the executive magistrate to a degree extending to safe custody, the legal protection of individuals;—which case of peril, however, in a healthful state of constitutional representation, is not likely to occur: But no case can be conceived, in which it can be right, under any pretence whatsoever, for the *legislature* to *assume* to itself the power of CHANGING the constitution in one iota. Better to let all its functions sleep, and silently to permit the *magistrate*, roused by the unforeseen peril, to *assume* the arbitrary discretion, necessary for saving the state, but for the exercise of which, *he must afterwards come to the legislature for his indemnity*.

All mischief arising from *his* assumings, are thus easily rectified; the *precedent* impairs not the energies of the constitution itself; and therefore cannot become the parent of *new assumptions* of greater magnitude and extent than the first; whereas the very first *successful assumption* of power in a *legislature*, to change a fundamental of the constitution, is, according to all true theory, its actual overthrow. From that instant, it is no longer what it was: instead of a constitution emanating from a people, and prescribed to a legislature as the rule of its conduct; it is a constitution, or rather an arbitrary government, prescribed by a legislature to a people:—a monster of unnatural birth: a creature conceived in transgression, and generating corruption.

The legislature being the maker of *law*, all that relates to *legal protection* is within its province; and so long as representation is substantial and liberty consequently safe, we know a legislature will not betray its

trust: But the legislature NOT being the maker of the constitution, which was made by those who made itself, and who made this *legislative instrument* of theirs a part of their constitution, this constitution must necessarily be wholly out of its power and jurisdiction. For a legislature to remove one stone from the fabric of a constitution were direct sacrilege; for sacred is this depository of the natural rights and liberties of a people, from the touch of any hand but their own. Nay, it is the first and principal object of a constitution, it is of its character and essence, to be *a law to the legislature*; a law which may no more be transgressed by that body, than the statutes enacted by itself may be transgressed by the people.

Lord *Abington*, writing, not as a lawyer, but as a politician, goes so far as to say, "Obedience is due to the laws, when founded on the constitution: but when they are subversive of the constitution, then disobedience instead of obedience, is due, and resistance becomes the law of the land," † But in all ordinary cases, and even as long as there is left any law that will afford a remedy, judicious and moral men will seek redress of grievances, occasioned even by "laws subversive of the constitution," in the peaceful way of *petition*, and by means of reason and argument. Knowing it to be an acknowledged principle of our law, that "Equity suffers not right to be without a remedy;" * knowing how prevalent is the force of truth towards forming the public opinion; and the weight which decided public opinion must have with the legislature; they think not of resistance but in the last extremity; and probably there are few of that description, who would not defer the last appeal, even beyond the period prescribed by *Blackstone* to the patience of an injured people. That appeal says he, is "necessary when the contracts of society || are *in danger* of dissolution, and the law proves too weak a defence against the violence or fraud and oppression." ‡

He tells us also, "The people heard with astonishment doctrines preached from the *throne* and the *pulpit*, subversive of liberty and property, and all the natural rights of humanity. They examined into the divinity of this claim, and found it weakly and fallaciously supported: and common reason assured them that, if it were of human origin, *no constitution* could establish it without power of revocation, no precedent could sanctify, no length of time could confirm it. The leaders felt the pulse of the nation, and found that they had ability as well as inclination to resist it; and accordingly resisted and opposed it, whenever the pusillanimous temper of the reigning

† Thoughts, p. 17.

* Prin. Leg. et. eq. 28.

|| In this and a variety of other passages, this learned author will be found to confirm the definition I have given, p. 16, of the English constitution. ‡ Commentaries I. 251.

“ monarch (James I.) had courage to put it to the trial.” § And he also observes, that when James II. “ attempted to enslave the nation, he found it was beyond his power: the people both could, and did, resist him; and in consequence of such resistance, obliged him to quit his enterprize and his throne together.” †

Here, then, we find the bold language of the animated Earl, delivered with all the manly martial frankness of an antient baron, fully justified by the well-weighed arguments of the legal sage. And when we discover, in the celebrated Commentaries, great depth of erudition, united with strong sense and eloquence, and when we observe our author, while fulfilling the intellectual duties of a Commentator, at the same time feeling as a man; for “ the natural rights of humanity,” and so frequently doing *incidental* justice to our *constitution*, it is seriously to be lamented, as a national misfortune, that he had not originally put to himself these two questions;—1st. what *is* the English *constitution*? and 2dly. Ought I not to distinguish between our constitution and our system of laws? But in whom shall we find perfection? To what individual is it given, to bring to light the whole riches of any science! And perhaps it is amongst the wise dispensations of providence, that even in the most enlightened nations the march of truth shall be difficult and slow. So little had it occurred to *Blackstone*, to form an idea of our constitution, as any thing distinct from our law, that in the index to his four volumes, the word, *constitution*, does not so much as hold a place: and it will be seen by any attentive reader, that the want of this discriminating idea betrays him into frequent inconsistencies. Whenever he reasons as a man, from the feelings of the heart and a sound understanding, his language is *constitutional*; but when, on constitutional points, he argues as the mere *lawyer*, from the contents of the statute book, or from the *practice* of parliament, he is frequently confused and sometimes inconsistent and contradictory. But certain it is, that Lord *Abingdon's* genealogy of *law*, is a key to the principal difficulties to be found in the Commentaries, and by its application, the most material inconsistencies of that noble, but imperfect work, are to be reconciled.

Blackstone as a lawyer, applied to the study and practice of *law*, as professor of the science at Oxford, his commentaries were his original *lectures to law students*, in order to explain to them, not what our laws or statutes ought to be, to be constitutional; but what they were, and how a lawyer in his practice was obliged to consider and apply them.

But, in answer to these observations, it may be remarked, that the Commentaries are lectures to legislators as well as to lawyers, as may be seen in the *Introduction*, where the author addresses himself to our noblemen and gentlemen of fortune, and quotes *Cicero*, as saying “ it is necessary for a senator to be thoroughly acquainted with the constitution.” I shall only reply that *Introductions* to books, like prefaces, are

§ Commentaries, IV. 436.

† Commentaries, IV. 440.

written last; as I must suppose his to have been: for otherwise the reasoning therein ought to have prevented some of the defects of the work; although the main drift of that reasoning, is evidently to recommend to gentlemen to study *the laws* of their country. Besides thus accounting for the omission I deplore, we must remember that when *Blackstone* wrote, the attention of mankind had not been called up, to the essential and eternal distinction between laws and constitutions, by the grand event on the theatre of *America*; where a people not "tacitly," but "expressly" drew up a constitution to be *a law to the legislature*, and to prevent the confusion, and the infinity of ill consequences resulting from a constitution being *undefined*. Neither had Lord *Abingdon*, nor other able men who have written on the subject, at that time thrown light upon it.

For want of having himself made the discovery, and thereby possessed himself of the rich mine of truth to which it would have led him; and at the same time not being uninfluenced by the authority of both legislative and legal *practice*, unquestioned in our courts and in parliament, because of the very ignorance we are now lamenting, *Blackstone* as I shall shew fails in some cases of the highest importance, to distinguish between *constitutional* and *un-constitutional* law. But no man can attentively read the Commentaries, without being convinced, that 'Our constitution consists of certain immemorial points of national agreement, and those PRINCIPLES on which the security of our natural rights depends.' All the quotations I have had occasion to make from that work, are proofs of this truth; but they are few in comparison of what might have been made. And hence, I trust, we shall be able to discover, 'whether our House of Commons be, or be not, at present, what our constitution requires.'

SECTION V.

Our constitution being intended as the armour of our natural rights and liberties, it ought to shield us from all political wrongs, come they from what quarter they may; and, where there is *most power to oppress*, it ought to be *most powerful to protect*. In all periods prior to the revolution, by the nation in general it was ignorantly imagined, our greatest danger lay in the *crown*, and the nation acted accordingly. In the infancy of political science, it was only for such minds as a *Burleigh's* or a *Montesquie's* to discern, that "England could never be ruined but by a *parliament*," * Behold, then the intrinsic, inherent excellence of our constitution, which, if we would be true to it, would effectually secure us against this most formidable of all dangers!

The most essential of the three branches of parliament, and that which holds in its grasp the public purse, *the nerve of its power*, ought

* *Blackstone's Commentaries*, I.

to emanate fairly freely and substantially from the people, and be renewable at their pleasure. Here alone is the balance against that power over us, which our lawyer, misled by its *greatness* erroneously calls an "absolute despotic authority in these kingdoms:" and which with equal inaccuracy he describes as "so transcendent and absolute, that it cannot be confined, either for CAUSES or persons, *within any bounds.*"*

That the authority of parliament extends over all *persons* we should be blind not to see; but that it extends over all *causes*, nothing but a blindness to the distinction between our law and our *constitution*, can make us admit; for over the *constitution*, it can have no authority whatever. Hence, we perceive, that the authority of parliament is in no sense "absolute and despotic" for even in its authority over *persons*, it is *limited* and *controlled* by the constitution. Now the only means of preserving this limit and controul in existence and full force, is, for the people to have over parliament the necessary check, of a fair, free, and substantial representation. In this we see our constitution is *most powerful to protect*, where there is *most power to oppress*; and for this it is, we pronounce it to be a constitution of *intrinsic wisdom and excellence!*

But reverse all this: Let the House of Commons cease to be representative—let it degenerate into a faction that have bought up the boroughs—and let this faction, by that preponderancy which the power of the purse *in such hands* must give it over the other branches, become in effect, a power with "absolute despotic authority in these kingdoms," were, then, would be the excellence and wisdom of a constitution, in which there would be "despotic authority" to *oppress*, without a shadow of power in the people to protect themselves!

No part of our constitution is more entangled with *law*, than what relates to our representation in parliament; but happily for us there is no part so easily disentangled; because here, more than in any other particular, our system of government stands on *natural rights* and *first principles*. The other two branches of the legislature must from the nature of the case, exist merely in consequence of original accident, which grew into a national fashion or taste, and so became a point of *national agreement*, or part of our constitution. It is simply because of such original accident, and the inclination, taste and agreement which it produced, that England made her chief magistrate a King, instead of having made him a doge, a director, a president, a protector, an emperor, or any other creature of the imagination. And that we have lords variously titled, instead of satraps, or senators, or states, or ancients, or wise-men, stands precisely on the same grounds, of accident, taste, and agreement. But, with regard to *representatives*, it is far otherwise. These stand on the foundations of natural right, the first principles of reason,

* Blackstone's Commentaries I. 160. Sir Edward Coke, 4th. Inst. 36.

and political necessity. How important the distinction! How sacred, that part of our constitution!

To every human mind, unperturbed by the authority of error dogmatically inculcated, untainted by the bitterness of inveterate party spirit, and honestly disposed, it must I conceive be an irresistible truth, flowing from first principles and the clearest maxims, that the body of people ought to be fairly, freely, and substantially represented in parliament. By *fairly* is meant, that a fair distribution of suffrage should take place; by *freely*, that elections should be uninfluenced either by power, or threats, or corrupt practices; and by *substantially*, that there should no where be any perceptible deficiency or want of suffrage: for the absence of fair and free suffrage, whatever be the cause, does not produce a *vacuum*; as all such spaces are filled up with corrupt or arbitrary power.

But our Counter-petitioners supposing, as I presume they must, our constitution to consist of ‘*the whole mass of our institutions, together with the whole body of our law, written and unwritten*;’ and well knowing ‘*the glorious uncertainty of the law*;’ talk of course of ‘*our present constitution*’ but, under so monstrous a supposition, our constitution, which is in truth the standard of all legal rectitude, and therefore ought ever to be contemplated as something fixed and certain, would to our inexpressible misery be the most fluctuating thing belonging to us; absolutely changing its identity, not only with every new *statute*, but even every new *decision* of the twelve judges; for it is well known, that every such solemn decision, makes that *law*, and a rule in all judicial proceedings, which was not known to be law before. ||

It is most evident, therefore, that, with such a camelion constitution, we can have nothing to do; and that the epithet of ‘*present*’ is unnecessary and delusive. What! are not *magna charta* and the *bill of rights*, part of our constitution? I answer, No: they are only charters and statutes of a peculiarly sacred character, in as much as they are *declaratory* of the people’s *rights* on certain points; thereby shewing what *in those respects* the constitution is. A figurative mode of expression stealing into all human language, we are accustomed, I acknowledge to to speak of such statutes as *the constitution*; in like manner as we say, the *coffers* of the state, or the *military chest* of the army, when we mean the treasures they contain.

Not even at the revolution was the constitution changed, or pretended to be changed. It was only, by means of a clear assertion of several important rights of the people placed, as it was thought, on more secure foundations. And so indeed, in those respects, it was: although the most important of all their rights, and that which constitutes the only true security for all the rest, as melancholy experience has since taught us, was on that occasion totally overlooked and neglected; notwithstanding

a most extensive invasion of it which at a former period had taken place still continued to operate in its full extent. Of this invasion of right, I shall speak hereafter.

By the revolution, one of the people's rights, that of resisting tyranny, and of electing a friend to the exclusion of an enemy to their freedom, as their king, was asserted in *act*, the rest by *statute*, but the principles, and the form of government, and every point of known national agreement, or, in other words, their constitution remained as before. For destroying a constitution, there are various modes; for *changing*, we are told by modern writers who have not as far as I know been refuted, there is only one. It must as they say be by the general consent and will of a people *personally* declared. Here say they *representation* is inadequate. For a representative to have a right to change that which is entrusted to him as a sacred deposit, or to destroy that which he is elected purposely to preserve, is impossible. That "The law of England will not endure an absurdity,"* is a principle equally applicable to the constitution: and by only exchanging those two words, we shall also have this maxim; "Whatever is destructive of the *constitution*, cannot itself be the *constitution*; for then the *constitution* would be *felo de se*"† It will therefore follow, that our legislators, can no more take from the nation its constitution, or from any part of the people any of their natural rights and liberties, by being pleased to write somewhat, to that effect in our statute books; than our land stewards can take from us our estates, or this man's field, or that man's house, and make them their own, by writing in their account books that it shall be so. What our legislative stewards in former reigns, *did* write in their books, we shall presently see.

It is the proposed examination of these same books, the revision and exposure of some of the dishonest accounts they contain, and the recovery of certain rights and liberties to a very large amount, of which, by false entries, the people as some declare, have been dextrously deprived, that caused of late such an *alarm* and hurly-burly amongst the last set of stewards, their connexions, dependents, and echoes; and they had the address to infect many honest well meaning persons, with an unaccountable dread of having the matter looked into, which dread has not even yet wholly subsided. Nay, these honest folks, who were in the dark, were often carried far beyond the rogues in the secret; for while the latter were only *alarmed*, the former were *panic-struck*; exhibiting their fears in ways truly ludicrous. But all this is agreeable to nature. When stricken with fear we know not why, it is ever extravagant: and a panic-struck, person—his reason lost, and his imagination on fire—mistakes friends for foes, danger for safety, just as it happens: he will even run into the den of a real lion, to escape the pursuit of an imaginary tyger. But the original *alarmists* took good care that accusations,

* 9th. Coke, 220.

† Atkins, 221.

insultations, and hard names in abundance should be showered down upon all who had promoted the enquiry. The ordinary appellation bestowed on them were Levellers, Jacobins, Traitors, Cut-throats and the like.

That unaccountable dread of having the steward's books looked into, which has infected so many well-meaning persons, seems to have seized our Counter-petitioners; for unaccountable indeed, is the declaration of a conviction, that to reform, by allowing every taxed householder to vote, would unavoidably subvert the constitution: And that they should fly to parliament, to counteract reform, by *such* a notable declaration alone, is equally unaccountable. In short, I confess myself fairly puzzled with their paradoxical proceeding. If I could suppose them to joke, I must imagine they amused us with a harmless game at cross-purposes; or with a sort of cypher, whereof the meaning is expressed by contraries: If I suppose them serious, then I must consider them among the panic-struck; who are exactly on a par with such as labour under that whimsical disease, which *convinces* a man that he himself is a goose, or a goose-pie, or a pitcher, or any earthly thing but what he is; and that certain innocent objects around him, are foxes, or devourers, or angry demons, or other deadly enemies of his peace or safety.

These fanciful friends of ours, who seem to partake so largely in the dread of a reformer, and who in the signatures to a reforming petition, seem to see the visions of so many daggers aimed at that dear object of their affection, "our present constitution" forcibly bring to my recollection, a deceased friend of mine, a very honest country parson, who occasionally was subject to the malady I speak of. My friend, even when his nerves began to feel the influence of his disorder, with the most perfect composure could ride past a brown dog, or a red dog, or he could even look on a white dog, or a dog that was spotted; but at the sight of a *black* dog, he was instantaneously seized with peculiar horrors, succeeded by a shivering and an affection of the bowels; and as often as he met a dog of *that colour*, instead of hanging him as he wished to do, he was obliged to dismount and retire. And at times, when the derangement of the nervous system came on without any apparent cause, he was incommoded in another way. The branches of trees appeared to his imagination as uplifted axes, and the waving twigs of the hedges, as so many spears and lances, shaking in the wind and pointed for his destruction.

Knowing all this for real fact, I am the less surprized at the mental malady of our Counter-petitioning friends and neighbours, who, in that which is our constitution's only possible *preservative*, imagine they see its sure *subversion*. I have only to express a hope, that they may

in another respect, resemble my late friend, the honest parson. When his nervous fit was off, he could laugh at himself with great good humour; a dog might be as black as his own coat, without any power over his bowels, or being wished on a gibbet; and no man's eye could dwell with more delight than his on the humble, but vigorous and beautiful hawthorn, at once the defence and ornament of our fields.

Have our Counter-petitioners considered what a whimsical thing the English constitution, if the whole law made part of it, must have been at different periods; and would indeed now be? † How long is it since, according to this interpretation, it must have been part of this wise constitution, that an old woman should be burned, as soon as she commenced *witch*? † And that law suits should be settled, and justice administered, by the equitable rule of *trial by combat*? Was it under the first of our Plantagenet Kings, according to the English constitution, or the *Agreement and Rule of government which the nation had adopted*, that a man who had transgressed the forest laws (afterwards repealed by *magna charta*;) should according to the degree of his offence or the mercy of his judge, have his hands and feet cut off; or his eyes put out; or should suffer castration? † Or was it in the time of Henry VIII. a part of this excellent constitution, that an Englishman might be condemned as a traitor, be hanged till half dead, be then cut down, have his bowels taken out and burned before his face, his head then to be struck off and his body to be divided into four quarters, to be stuck up wherever the King should appoint, for the constitutional instruction of his beloved people, for—for what think you?—for having *believed* the King to have been lawfully married to his former queen Anne of Cleves? *

Do these gentlemen reckon it, part of “our present constitution,” that our armies and all men under forty shall diligently practice *archery*; or that none under the degree of a knight or a lord's son, shall wear

† Such an error was certainly excusable in *them*, for it is plain that *Blackstone*, without reflecting on the absurdities to which it led, entertained this confused notion; for he says “That constitution or frame of government, that system of laws, is alone calculated to maintain civil liberty, which” &c. (I. 126.) and his idea of *civil liberty* was equally confused and incorrect, for according to his definition (I. 251.) it wholly consisted in *legal protection*; without taking in the idea of *sharing in the making of laws*. His civil liberty, therefore might have been enjoyed under a Roman emperor, or a Venetian senate, or a Frederick of Prussia. “And we have seen” says he “these rights (the rights and liberties of Englishmen) consist, primarily, in the free enjoyment of *personal security*, of *personal liberty* and of *private property*. So long as *these* remain inviolate the subject is perfectly free.” (I. 144.) Now the truth is, all these rights may “remain inviolate” at *Petersburg* or at *Berlin*, and yet the people have no political liberty at all.

‡ So late as the 16th year of Charles II. two elderly women were actually condemned by Sir Matthew Hale, and executed at Bury St. Edmunds in Suffolk, for exercising witchcraft; when one of the principal proofs insisted on was, that the bewitched persons frequently vomited crooked pins.

† Blackstone's Com. IV, 423.

* See Blackstone's Com. IV. 86 and 423.

a velvet cap; because laws for those things still remain in the statute book unrepealed? Or that "rogues and vagabonds" and "incorrigible rogues," in case they shall have "any vote in the election of any member or members to serve in parliament shall be subject to a less punishment, than if they have not such votes?"* But the constitution, according to this wild fancy, must at one time have been a mere hermaphrodite, a thing perfectly equivocal, one day, all law, the next, all will and pleasure, according as the wind stood in the neckle will of a capricious brute; for by the 31st, Henry VIII. c. 8, it was enacted, that a royal proclamation should have the same force as an act of parliament.

I have looked into the *written* constitutions of *America* and *France*, and examined them carefully; but I do not find in them any regulations about old rags, nor a single word about kettles and frying pans. It has been the late care of those nations, to have *two* books; one, for their constitution alone; the other, for kettles and frying pans and old rags, whenever they have occasion to legislate about such things. And by having their constitution and law thus separate, other advantages result; their *legislators* come to know what the constitution *is*, and their people are happily secured from talking downright nonsense about it. Gross misconceptions being thus prevented, differences of opinion on the general nature, or on what constitutes any particular part of the constitution, can only exist in slight shades; not likely to beget party-hatred, nor to render any of the people dupes to ministers for promoting evil designs, nor to load the press with perpetual controversy. Another benefit, and no inconsiderable one, resulting from the possession of a written constitution, is so obvious that I need scarcely remind my reader of it: NO UNCONSTITUTIONAL LAW OF CONSEQUENCE CAN GET UPON THE STATUTE BOOK; and if any unimportant one should creep in, it must soon be detected and expunged.

Of an ever-varying, camelion constitution—a constitution unfathomable by the line of human intellect—a constitution of contradictions—a political *seio de se*, let us then hear no more! for if a thing so monstrous were indeed our constitution, it must soon be self-destroyed, leaving our nation to wade through blood and anarchy to some better system.

* Or is this a proof of the boasted equality of our law? See the Act 35th. Geo. III. for compelling incorrigible rogues &c. to serve at sea. If it be argued, that, to remit the ordinary penalties and confer the honourable employment, of defending our constitution, our religion, and liberties, and social order, is not to inflict a punishment, but to confer a favor, and therefore any observation turning on the measure or degree of punishment falls to the ground; I must then reply, that if this honour and this favour be withheld from an incorrigible rogue merely because he has the misfortune to be an elector, it will still be a reversal of the principal which says the "Law speaks to all with one voice."

SECTION VI.

We come now to the consideration of certain statutes to which I have more than once alluded: I mean the disfranchising statute of *Henry VI.* the triennial bill of *William III.* and the septennial act of *George I.*—These statutes have been so long in our books, and acquiesced in as the law of the land, that I am fully aware of the difficulty there may be, in impressing on the mind of my reader, the true character and effects of these laws; and how essential it is, to the very existence of political liberty amongst us,—to the very pretension of our being a free people, that they should be repealed.

No degree of acquiescence, no not an universal approbation of succeeding ages and generations, can sanction pernicious error, nor make that just and right, which is in its own nature incurably unjust and wrong. Or shall I rather use the elegant words of *Blackstone*, and say “no constitution could establish it without power of revocation, no precedent could sanctify, no length of time could confirm it.” † These statutes, as you shall see; are all of them not only *un-constitutional*, but *anti-constitutional*;—not merely *inconsistent* with liberty and the constitution, but, in letter and spirit, to the full extent of their operation,—and dreadful indeed is that extent—liberty and the constitution are *destroyed, extinguished, blotted out*; for, suffer but the principles of the constitution which I have already laid before you, to have their fair, and full effect, and then not one particle, not a trace of the shackles put upon our political liberty by those statutes, could remain.

Those principles of our constitution I have put to the strictest scrutiny of which my mind is capable; and I wish my reader to do the same; for we are both embarked in the same vessel, and must sink or swim together. If, then, we find those principles true, there will be no doubt of my convincing every impartial and honest man, who will indulge me with his attention, that the three statutes in question, are in direct contradiction to those principles, and, not *tendencies* only, but, as far as they go, actual *subversions* of the constitution.

Nor is it too much to say, although perhaps it may at first occasion surprize, that these three statutes have worked a far more radical, and therefore a more dangerous change, in respect to public liberty, than had been wrought to its disadvantage, in those tyrannical periods of English history, which preceded the exertions of *Runnimead*, or the expulsion of *James II.*; and that infinitely more would be done for the security of political liberty, by a repeal of these three statutes, than was done by the joint efforts of *magna charta*, † and the *revolution*.

† See page 27,

‡ “*Magna Charta* only pruned the luxuriances of the feudal system.”

Blackstone's Com. VI. 438.

Numerous and vexatious as had been the oppressions which make the subjects of the sixty three clauses of *magna charta*, not one of them related to the essentials of political liberty, properly so called. In strictness of speech, they were all of them only breaches and violations of *legal protection*; and if we consider who the parties were, who extorted the first charter from *John*, namely, the same as at all times shared with him in legislative power, we ought in fact to consider the assembly held in *Runnimead*, and held by the King's appointment, as a real parliament; in which case it will appear, that all the *legal protection* procured by *magna charta*, was the immediate effect of *political liberty*, or the power of law-making. It does not detract from this truth, considered in the abstract, to say the King was afraid of the swords of the Barons; for how many monarchs have there been, who never would have assented to any proposed law for the redress of grievances, but through some fear or other, and for the most part of the sword ultimately. If the barons and their followers were armed, so are the *Corsicans* at this day (as their late Viceroy can inform us,) whenever they assemble in parliament; considering it as "the only attitude becoming free men." All I have to do at present is with the fact, that the meeting at *Runnimead* was by appointment, and that this great law, *magna charta*, was made by agreement. Those who make laws, have political liberty.

I have already remarked that our greatest danger lay not in the *crown*, and likewise, that a far greater wrong than any that were redressed at the revolution, was on that occasion overlooked, and left still to operate in all its mischievous extent upon the nation. And now I have to observe, that amongst those wrongs which were rehearsed in the *Bill of Rights*, there were but two articles having immediate relation to *political liberty* itself, and they were by no means made the most prominent features of that Bill. And so far is it from appearing, that these symptoms of the grand state disease, led the conductors of the revolution to a right knowledge of the proper nature, and of the great danger of that disease, then lurking in the vitals of the constitution, that these very persons, with the resentment of *James's* tyranny hot in their minds, did themselves, by their triennial act, give political liberty a deeper stab, than any it had received at his hands.

The first of the two cases alluded to, is the King's having violated "the freedom of election of members to serve in parliament;" and upon this head, this mighty bill tamely says, "That election of members of parliament ought to be free." And, in consequence of omissions which had occurred in *holding* of parliaments, although not complained of in the recital of grievances, it says "And that for redress of all grievances, and for amending, strengthening and *preserving* of the laws, parliaments ought to be held frequently."

Here, then, is the sum of complaint, on what immediately affected

political liberty; all the rest is mere abuse of *legal authority*, mere violation of *law*, and of that *legal protection* to which the people had a right at the hand of their King. But it is evident, that, had the science of civil government been as well understood, either in the days of *Runnimede*, or of the *Revolution*, as it is now; and had there been virtue enough to have acted up to such knowledge; then instead of childishly enumerating, one by one, the stripes they had received from the rod of regal power, and as childishly reciting, one by one, only certain specified claims of exemption from the illegal stripes of that rod in future; the true way of securing, not only all these specified rights, but all others which existed, as well as of giving a tranquil establishment and assured permanency to freedom: would have been, with a dignified manliness, and with that simplicity which characterizes true wisdom, to have resorted at once to the first principles of political liberty, and to have demanded and established, a fair, free, and substantial representation of the people in parliament; and then to such a parliament to have left their *legal protection*, in all its branches.

Had they thus placed the political liberty of England on its right foundations; and had an act of such intrinsic wisdom been followed up, by the appointment of a committee of both houses of *such* a parliament, calling in the aid of the learned, to collect and digest, on the known principles of our government, all our institutions and necessary regulations, in the draught of a WRITTEN CONSTITUTION, to have been printed, circulated, and submitted to a three-years national discussion, so that the people might have instructed their representatives how to have expressed their mature opinions on the same, surely such men and such a parliament would have deserved the gratitude of their country in the highest possible degree; and a constitution, so made known, so confirmed, and so fortified, would have been the greatest of all earthly blessings to this nation! *

The remedies which, at the periods I have spoken of, were actually applied, were possibly the best the knowledge of the times afforded; but no one can doubt that, compared with what is here suggested, they were puerile, short sighted and insufficient. Political liberty, in both cases, was the true object: whereas the ignorant patriotism of the times knew not the means of securing it; nor indeed in what it truly consisted; but spent its strength in providing for inferior objects, which may in a certain degree be had even under governments absolutely despotic, so long as a wise prince shall reign, but for the permanency of which there can be no security, but in possessing true political liberty. And are there not those of the present day, who, either ignorant or regardless of our true disease, or not sufficiently aware of its

* Mr. Pitt's Poor Bill has been printed and in circulation one year, and will probably remain under public discussion another year or two, before passed into a law. And such is an ordinary practice in cases of general interest.

extent and danger, seem to have no sense of their country's wrongs, but when they themselves immediately and personally feel the lash; and who idly imagine all would be right, if those who lash them were removed from power? Wretched mistake! Pernicious error! an error which, in as much as it draws attention to inferior evils, has a natural tendency to prolong the existence of that which is of the greatest magnitude, and the parent of all the rest.

As all the wrongs complained of, first under *John*, and afterwards under *James II.* were, when truly understood and estimated, different in nature, as well as far inferior in degree, to those which flow from the three statutes under consideration, we cannot bestow too much pains in ascertaining the distinction, and establishing the fact. The distinction will be clearly seen, by applying to the case all I have said for marking the essential difference between legal protection and political liberty. And if it be once seen that those statutes, without appearing, to undiscerning eyes, to detract from *legal protection*, do in truth, to the whole extent of their operation, annihilate *political liberty*, we can have but one opinion, concerning the necessity of their total repeal. Let us now review them.

Prior to the reign of *Henry VI.* every man (not being a villain or bondman) had a common-law right, agreeably to those principles of our constitution I have so often repeated, to vote in all elections of his county; which right "at the grievous complaint of the commons" concerning the "affection of sheriffs" and other causes of "undue election, to the great slander of the counties, and hindrance of the business of the Commonalty," was unequivocally asserted in a declaratory statute of the 7th. *Henry IV.* c. 15. in these words; "and that all they that be there present, as well suitors duly summoned for the same cause, as other, shall attend to the election of the knights for the parliament, and then in the full county they shall proceed to the election freely and indifferently, notwithstanding any request or commandment to the contrary." And this Act was enforced by another in the 11th. of the same King c. 1.

Then comes the first real stab which the *political liberty* of Englishmen ever received; and it comes, not from the crown, (for the King was an infant not eight years old) but from PARLIAMENT; from that power which if once corrupted, *Burleigh* and *Montesquieu* foresaw, would be the ruin of England. The well-known statute of disfranchisement, of the 8th. of *Henry VI.* c. 7. at one stroke cuts off from the future enjoyment of the sacred inalienable right of election, an immense majority of the whole nation: by enacting that none in future shall elect, who have not freeholds of forty shillings per annum.† What was this but saying to the majority of the nation, 'We whom you in the exercise of

† Equal to 12l. per annum in the reign of Queen Anne, according to Bishop Fleetwood, in his *chronicon preciosum*.

‘ your political liberty, have chosen to be your representatives, (the very
 ‘ end and object of which choice above all other considerations is to
 ‘ preserve that *political liberty*, as your only true and certain security
 ‘ for legal protection, and every blessing of life,) we in whom you have
 ‘ reposed this great confidence, and whom you have thus honoured
 ‘ with the highest of human trusts, are pleased to determine, that, from
 ‘ this moment you shall have *no political liberty at all*; and that
 ‘ the *legal protection* of yourselves and your posterity shall altogether
 ‘ depend on legislators whom a *minority* of the nation shall from hence-
 ‘ forth place over you and them: We know that in so doing, we break
 ‘ through *magna charta*, which promises “ to all free men ” of the
 ‘ realm, the saving and preserving “ all their liberties, and free cus-
 ‘ toms. which they had before; ”* and that we likewise shew equal
 ‘ disregard to near *forty* other statutes, by which the said charter has
 ‘ already been confirmed; *but such being our pleasure, SUCH IS*
 ‘ **OUR DECREE!**—Does this wholesale annihilation of inherent
 and constitutional rights, by the chosen guardians of them, please those
 of our neighbours who cannot endure any thing *tending* to subvert the
 constitution? On their own principles, I have said, they must be the
 first to approve of doing away, by repeal, what has been already done
 in this kind.

In the next place, it is to be observed, that *sessional* parliament^s
 were in regular use for many centuries, and none other known either to
 the *constitution* or the *law* (notwithstanding occasional *practice in bad*
times;) so that by means of such sessional parliaments, the elective
 franchise came into exercise generally once a year; sometimes twice,
 and more often; agreeably to the principles of political liberty. But
 now comes, in the sixth year after the revolution, a statute to give *three*
years continuance to the same parliament; † which thus disfranchises
 for two years in every three, all those who had not been totally disfran-
 chized by the former statute. And this I presume was done, after Mr.
Locke had published his admirable Discourse on Government.

Let me once more appeal to our Counter-Petitioning friends, who
 are so anxious to ward off even the distant danger which threatens our
 liberties. Does not again this statute plainly say: ‘ We your represen-
 ‘ tatives either know nothing, or care nothing, about *principles of go-*
 ‘ *vernment*: As little do we know or care, about *the principles of our*
 ‘ *particular constitution*, or about *your rights*. Your own common

* Magna Charta of the 9th. of Henry III. with Observation from Lord Chief Justice Coke’s comments upon it. p. 105.

The quotation is from the 38th. Chapter, where we also find “ neither we, nor our heirs, will procure or do any thing, whereby the liberties contained in this charter, shall be infringed or weakened. And if any thing be procured by any person contrary to this, it shall be of no value, AND HOLDEN FOR NOUGHT. ” Was *magna charta*, ever formally repealed?

† See the People’s Barrier. Index under the heads of Triennial Bill, Parliament, &c.

sense, and your own consciousness, that your political rights are essential to you as rational beings in a social state, may tell you we had no power and authority to do as we have done; no, nor to destroy one atom of rights so sacred: But *we* tell you, that you having thought proper to make us legislators, a character we know not how to sustain, we have thought proper to take one large stride towards making you political slaves, a character in which you perhaps may make us awkward a figure. Again, we told King *James* who became our sovereign, *not* by our particular election, but by inheritance, that “ by assuming and exercising a power of *dispensing* with, and *suspending* of, laws.” † he had proved himself a tyrant; and for so doing we made war on him, expelled him from the throne; and drove him as an outcast to seek his bread in foreign climes: But we tell you, our constituents, our political creators, you, by the breath of whose lips we are what we are, that we think proper to “ assume and exercise a power of *dispensing* ” with *elections*, the very fountain of our law-making power, “ and *suspending* ” the whole political liberty of the *English nation* at our good pleasure and discretion; and, for the present, WE DECREE ITS SUSPENSION FOR TWO PARTS IN THREE OF ALL TIME TO COME.’ And this is what the profound *Blackstone*, through the error we have noticed, can number amongst the *reforms of parliament* which improved our constitution; whereas it was in truth a most sacrilegious violation, and the very egg of monstrous corruptions. || This impiety of the creature, rebelling against, and tearing away the power of, its creator, the people, does not awaken his astonishment and indignation; but what would he have said, had the lords of parliament so far forgotten *their* creator, the King, as to have forced upon him a law to have transferred the power, of creating peers and bishops from him to themselves?

Well, Gentlemen,—you who tell us Reformers, that we are subverters of the constitution, what think you of this suspension of our liberties? Does this sort of reforming square with your notions of English freedom, or satisfy your understandings, so conversant with the science of civil government? Is this the sort of patriotism you would have us imitate, or the species of political reasoning with which you desire us to enlighten the ignorant? Remembering the “ glorious revolution; ” we heard of in the proclamation of the 2nd. of May 1792, what say you now to the constitutional knowledge, and legislative

1st. *William and Mary*, and *Sess. c. 2* being an Act “ declaring the rights and liberties of the subject, and settling the succession of the crown: ” more commonly called *The Bill of Rights*.

|| Commentaries I, 334.

fideliſty, of thoſe who beſtowed upon us that “ glorious revolution.” †

The laſt of the ſtatutes we have to conſider, is the ſeptennial act. And what is it, but the ſame deſtructive potion as the triennial act, only drugged more plentifully with the poiſonous ingredient of ſuſpenſion. That “ ſuſpended ” *political liberty* only two parts in three of human life; by the ſeptennial act, it was “ ſuſpended ” SIX PARTS IN SEVEN; which, though not in *words* a total ſubverſion and deſtruction of all liberty, yet, in *effect*, all collateral circumſtances taken into the account, was equivalent to a death’s wound. If, as I have elſewhere proved, it be the indiſputable right of Engliſhmen, to create a new repreſentative once at leaſt in every year, † and if “ the annual exerciſe of elective power ” be “ the quinteſſence, the life and ſoul of our conſtitution.”* a figure as correct as it is beautiful, what more could the enemies of freedom wiſh, than, on a ſtate of repreſentation, unequal, partial, and defective as it was in the year 1716, to erect on it a ſuſpenſion of all political liberty for ſix parts in ſeven of human life! We may form ſome conception of the effect of *ſuch a freedom*, towards ſecuring the proſperity and promoting the happineſs of a nation; by eſtimating the value of a man’s *physical liberty*, towards the maintenance of a wife and numerous family, if unhappily ſubject to ſuch a regular *ſuſpenſion* of his faculties as to leave him *awake* only *one day in a week*.

The intoxicating poiſon of the triennial act, produced political ſtupor and approaches of inſenſibility to a public intereſt, and convulſing the nation with the intemperance of party, and the never-ceaſing brawls of faction, gradually unfitting it for the ſober cares, and duties and exertions, of a virtuous and free people. What that nefarious ſtatute began, its odious ſucceſſor has but too fatally accompliſhed. It has debauched and debaſed the political character of our nation. It hath well-nigh wrought an utter oblivion, if not even a loathing, amongſt large claſſes and particular ranks in ſociety, of thoſe principles of liberty, in vindication of which a *Locke* and a *Milton* wrote, a *Hampden* drew his ſword, and the martyred *Sidney* and *Ruſſel* bled.—Are we not then, on the authority of *magna charta* warranted in pronouncing, that ſtatutes which ſo tear up by the roots “ the liberties and free cuſtoms which we had before;” and which are ſo deſtructive of the manlineſs, the morals and character of the nation, “ are of no value, and ought to be holden for nought?” And in the ſpirit, and very letter alſo, of the principles of our conſtituti-

† “ Finding the people could not yet be brought to digeſt long parliaments, they endeavoured to make their peace with the public by the *Triennial Bill*, in which there was a clauſe for their own diſſolution; and ſet on foot an enquiry into their own venalities, which opened ſuch a ſcene of iniquity, as, in the compariſon, made the penſioner parliament of King *Charles II.* ſeem innocent; and which was then thought to have arrived at the *ne plus ultra* of Corruption. *Detect. of Parlm. of Englan.* I. 121.

‡ *Legiſlative Rights of the People vindicated and People’s Barrier.* Turn to the Index of each, for the various paſſages in proof of this truth. * See p. 3.

on, of reason, and of nature, may we not legally say, that these acts radically unjust and founded in error, " be not statutes but corruptions ;" and, being " incompatible with the constitution, are in themselves void." § Surely our reiterated petitions to parliament will in time prevail ; and statutes so dishonourable to parliament itself will be blotted from its books !

As we thus proceed in our comments, on these wretched statutes, are our Counter-petitioners any better reconciled to this unprincipled licentiousness of the political stewards of 1694 and 1716 ; or to the political ignorance, stupefaction, and the degeneracy of the people, which the gross ignorance or the blackest treachery of those stewards hath occasioned ? Or are we Reformers still to be branded as the enemies of our country, and disturbers of its tranquillity ; because we would arouse it from its diseased sleep of political drunkenness and death, ere its vigilant, never-sleeping adversary hath completely woven the web of its destiny.

But the consummation of the mischief is yet to come. In the raw infancy of unpracticed corruption, a parliament partially and defectively elected, might nevertheless be an honest parliament ; for even an absolute monarch may *protect* his people. A triennial, or even a septennial parliament, may on particular occasions be actuated by a spirit congenial with, if not founded on, political liberty ; because it is naturally possible, that illegitimate power should not in all cases be abused : but the misfortune is, and it is the natural course of things, that when *the true barriers* of political liberty are once impaired, abuses inevitably creep in ; as those barriers are more and more removed, abuses increase ; but when it is once seen that the barriers are absolutely given up and abandoned, then corruption like an overwhelming flood bears down all before it.

The almost total destruction of the true barriers of political liberty, by the three statutes in question, which had annihilated a vast majority of English suffrages, and suspended all the rest for the far greater part of human life, left the House of Commons, and, by the links of necessary consequence, the constitution and sovereignty of the country, a prey to the most factious and most corrupt ; and caused it to be seen, that a successful adventure in the Borough Trade, must be the sure road to wealth, to honors, and to power ; and that a combination amongst that class of traders, must give the whole liberties of Great Britain into their despicable hands.

The system, has at length reached its consummation. Of farther improvement, it is not capable. What more can a faction desire, than to have the whole wealth of the nation at its absolute command ?

§ See p 24.

That the whole wealth of Great Britain is at the command of the borough faction, is most certain; if it be true, that *the one hundred and fifty four* absolutely command a decided majority of the seats in the House of Commons. Of the truth of that fact, the Petitioners of May 1793 tendered proof at the bar of the House; and, from that moment to this, have been anxious to bring it forward. Can, then, any reasonable man want conviction, that the evil, whatever be its precise and accurate amount, doth in reality exist? Does any man see aught in the conduct of majorities to stagger such a belief, or even to counteract such a persuasion? Would any other than such majorities, suffer a minister year after year to bring out an expenditure, the double of his estimate? or to expend more money *without* the knowledge and consent of parliament, than he hath expended *with* that knowledge and consent? If Mr. Pitt's pecuniary measures during the war, do not largely contribute towards opening the eyes of the people, as to their situation in respect to political liberty, they shall not be opened, as it should seem, although to perform that office one came from the dead † and if this nation shall not from the evidence afforded by the regular conduct of ministers and majorities, see that it is bought and sold by a despicable faction, it is bereft of its reason, and the hand of God is upon it for its destruction.

Time, taxes, and the complete triumph of French liberty over all its enemies, will ultimately, perhaps, convince the abused people of England, that it is not by attacking the liberties of another nation, but by restoring the lost liberties of their own, that *their constitution* is to be preserved. Seeing, then, that what THE ENGLISH CONSTITUTION wanted, as a security either against Jacobins, or Levellers, or Traitors as deadly as either, was only a single law repealing the three obnoxious statutes we have considered, and regulating the exercise of the elective franchise; what must be the feelings of Englishmen, when they put into one of the scales of political reason, such a pacific, healing, and saving measure; and into the other, the horrid war that has been waged, on the pretence, of *defending our constitution*; while the *reform* which can alone preserve it, is still obstinately resisted by the authors and abettors of the war!

Believing most religiously, that to ward off that reform, was with ministers the principal, and not, as it should seem, the very secret

† " In the year 1791, when all the arrears of the American war were either funded or discharged, the annual interest upon the public debt amounted to 9,289,110*l.* In less than five years, therefore the present Chancellor of the Exchequer will have added very nearly as much to the perpetual taxes, as all the ministers that have ever afflicted this country from the Revolution to the commencement of his administration. The interest of the debt in Dec 1782, (when Mr. Pitt became Chancellor of the Exchequer) was only 8,045,055*l.* so that in fact, he will in five years, have more than doubled the amount, of all the perpetual taxes, that existed before his administration " *Morgan's Appeal to the People*, p. 37. where it is shewn that Mr. Pitt's additions amount to 8,191,957, per annum.

base of the war, to their account, in the way of criminal accusation, I lay the whole of its pecuniary burthen: and when I contemplate all the consequences of that burthen, and when I review all the horrors of the war itself; it is not in the power of language to convey an idea of my feelings;—A war that hath depopulated my country to form armies; and impoverished it to maintain them;—a war in which those armies have been employed solely against a nation struggling for its liberties, and which ardently wished for peace instead of war with England: a war in which our lusty battalions left their native land, to fight they knew not why, and in which we have seen them, not only thinned in battle by the sword, but miserably perishing, with circumstances of unspeakable horror, in winter retreats over frozen deserts; and still more miserably, swept off, the victims of a pestilential air in burning climes! and when for carrying into effect such projects of unprincipled and unfeeling men, a heavy load of taxes is to lie a dead weight in perpetuity on the struggling industry and the comforts of the people, words are wanting to express the criminality attaching to the authors of calamities, at first so full of horror, and afterwards, in their consequences, so extensive, so oppressive, and so lasting!

Over the authors of such a war, in such a cause, surely the vengeance of their nearly-ruined country cannot long sleep!

SECTION VII.

It requires but little skill in political combinations, and in the proper distribution of power in a state, to see that in this country the combinations and distribution, are such as to violate all principles, and to frustrate the most essential ends of government. Representation is gone: and for a substitute, we have got a combination of corrupt and illicit traders in patronage and influence. Legislative and executive power ought to be totally separate and distinct, and never so much as to come into contact, except merely in the person of the sovereign when he gives assent to laws: instead of this they are in the same hands. Men serving the crown, and holding under it offices of power, of honour, and emolument; and men serving the people, as their representatives and protectors against the incroachments of the crown, ought to move in totally different spheres and elements; but we see them not only mixing in the same element, and partaking in the same councils, but—as if the ruin instead of the prosperity of freedom were the object of our constitution—we see the very same men officiating at the same instant in both characters; and we see a *Treasury Bench* and a *swarm of placemen* in an English House of Commons!

Can we be surprized that things do not go well in a state so conducted? Can we be surprized at the dismemberment of the noble?

colonies the world ever knew; — at wars of iniquity and madness, provided they do but increase patronage, and corrupt power, and quash reform; — can we be surprized at a mill-stone of debt, an insolvent bank, and the rapid approaches of public bankruptcy; — at every token of falling empire; and at taxes on the people in such infinity, that no man can name an untaxed article; nor even appear out of his door, without being badged for the purposes of revenue like a parish pauper; or, if he forget his badge, without being heartily fined for the emolument of the Exchequer, and its swarm of informers?

Can we, when we perceive that political liberty is annihilated, be surprized that barracks should be created; † or that we should hear of “a vigour beyond the law,” and of a right to import mercenary armies, even without the consent of a parliament that was *capable of enduring the language*? or, finally, can we be surprized to see a vile apostate from reform and virtue, bestriding our country like a proud colossus, and with the very engine of spurious representation riveting its chains, extinguishing its glories, and consigning it to wretchedness and dishonour? Having elsewhere shewn that, while things continue in their present situation, ministers must of necessity be identified with, and in fact completely dependent upon, the borough faction, they and the faction are consequently to be considered as one corps, combined in one common interest necessarily hostile to that of the public, and, — in theory monstrous, in practice, madness; — uniting in the same hands the whole power of the crown and the whole power of the commons. † Thus, then, against all principles, are the legislative and executive functions united, and we see the same men with the power of creating offices, and the power of furnishing salaries; with the power of forming schemes of expence, and the power of voting themselves the money; with the power of plunging their country into a war whenever it may suit *their corrupt views*, and the power of granting to themselves the supplies. Can faction, in the lust of dominion want more? Can a country, for its sins, be visited by a greater curse?

And I wish that gentlemen who cannot digest a dinner without toasting *the King*, as a magistracy they hold in peculiar veneration, and over which they would have us believe they watch with incessant vigilance and jealousy; I wish these gentlemen to consider, whether the

† “ Nothing, then, according to these principles, ought to be more guarded against in a free country, than making the military power, when such a one is necessary, to be kept up, a body too distinct from the people. Like ours, therefore, it should wholly be composed of natural subjects; it ought only to be enlisted for a *short and limited time*; the soldiers also should live intermixed with the people; no separate camp; NO BARRACKS; no inland fortresses should be allowed.” *Blackstone's Commentaries* I 414. Our soldiery of the standing army are *not* enlisted for “ a short and limited time,” but *for life*, or as long as able to serve.

‡ *Commonwealth in Danger*, p. 100. *Letter to the Sheriff of Lincolnshire* p. 52.

statement set before them, does not manifest that his Majesty's independence is violated in the most atrocious manner, by the faction I speak of. These gentlemen must know, there is not a prerogative of his Majesty, nor a branch of his government, which is, or can be exercised, without the advice, and concurrence, and responsibility, of his ministers; except only that of *choosing* the ministers themselves; for even in the prerogative of mercy, the King undoubtedly acts by advice; and a minister who should corruptly misadvise, would be amenable to parliament. If, therefore, the King depends for his revenue on an unconstitutional faction of *one hundred and fifty four* men, can his majesty have any choice of ministers open to him, except only amongst such as are capable of identifying themselves with this corrupt faction, and sacrificing to it the interests of the public? What a situation is here, for King and people!

There are those who do not in the least dispute our right in *theory*, but who pretend that a fair, free, and substantial representation, would prove no better in *practice*, than what we have. A grosser insult to the human mind, it is not within the reach of my small capacity to conceive. Is not this declaring, there is no difference between the possession and the *deprivation*, of political liberty? And that whether men are the *servants*, or the *masters* of their country, their conduct will be the same? Does not all human experience prove the contrary? Transfer but the proposition from national to private concerns, and its stupidity must strike every mind. Was ever man so mad, as to imagine that if his servants were wholly independent on himself, and *septennially* appointed by *some one else*, his affairs could prosper?

To argue against a genuine representation, is to prefer corruption to purity, insult to respect; fraud to fidelity; and robbery to honest service. And is it not also to pronounce all who ever exerted their talents or shed their blood for the *rights and liberties* of mankind, fools, and idiots, and worthless persons? But who contemplates an *Alfred* without affection, admiration, and reverence! Who despises the labours of those who laid the foundations of our constitution, or who have transmitted to us in their writings the inestimable treasure of its *principles*? If those who obtained us *magna charta*, the *habeas corpus* act, the *bill of rights*, and the act for declaring that both *law and fact* come within the cognizance of *juries*, have deserved and received the gratitude of their country, for the mere *legal protection* against oppression from *the crown and its servants*, which those *laws* have more or less at different periods afforded; what honours, what inexpressible gratitude and reverence must be due to those, who shall secure to us *genuine representation*, or in other words, *political liberty*, the only security for *assured and permanent* LEGAL protection, while at the same time it affords a complete CONSTITUTIONAL protection against an abuse of power in PARLIAMENT

And shall we profane the sacred name of *civil liberty*, by so denomi-
nating that mere partial protection against the illegal rod of office, or
that which prevents the incroachment of James upon the estate of
John; or the invasions of William on the property of Thomas; while yet the personal freedom of all men, and the estates and property
of the whole nation, lie at the mercy of a few persons who have mono-
polized *the power of making the laws*? Is despotism other than despo-
tism, whether in the hand of *one* or of *one hundred and fifty four*? Is
civil or political liberty, other than the *self-government* of a nation, by
a legislature in which a fair, free, and substantial representation is the
vital part?

Supposing despotism, whether in the hand of one, as at Constantinople;
of a senate, as lately at Venice; or of any faction in any country, which
has by usurpation secured that root of all power, *the power of law mak-
ing*; to consult only its own interest; is it not its truest policy to veil
as much as possible from the public eye its arbitrary power, and to legis-
late according to *forms* in use amongst freemen? is it not also its wis-
dom, to afford complete *legal protection*, against all invasions except its
own, and to inculcate the notion, that men so protected enjoy *civil
liberty*? Will not every wise despotism encourage the breed, and im-
prove the pasture of its sheep, that its fleecings may be the more benefi-
cial? Will it not attempt to protect industry, promote manufacture, and
encourage commerce; that it may continually squeeze the sponge of
human exertion, and suck to itself the profits of all human labour? How
this nation has been already squeezed, how its very blood has been suck-
ed let a debt of *four hundred millions sterling*, since the passing of the *trien-
nial act* declare!

For some knowledge of what has already befallen this country, in
consequence of not having been fairly and substantially represented,
it is recommended to the reader to peruse *The Use and Abuse of Parliam-
ents*; also *A Detection of the Parliaments of England* published in
1744; and the late masterly speech of Mr. Fox in the debate on Mr.
Grey's motion for a reform of the House of Commons. A passage in
that speech will illustrate what I have advanced respecting the sovereignt-
ty of the *one hundred and fifty four* "I cannot," says the speaker,
"approve of the very ungracious manner in which I sometimes hear
"expressions of contempt for the opinion of constituents; they are
"made with a very bad grace in the first session of a septennial parlia-
"ment, particularly if they come from individuals, who in the con-
"cluding session of a former parliament did not scruple to court the
"favour of the very same constituents, by declaring that they had vo-
"ted against their conscience in compliance with their desire, as was
"the case with an honourable Alderman of the city of London. But,
"Sir, there is one class of constituents whose instructions it is consider-
"ed as the implicit duty of members to obey: When gentlemen

" represent populous towns and cities, then it is disputable whether
 " they ought to obey their voice, or follow the dictates of their own
 " conscience; but if they represent a noble lord, or a noble duke, then
 " it becomes no longer a question of doubt; he is not considered as a
 " man of honour who does not implicitly obey the orders of his single
 " constituent. He is to have no conscience, no liberty, no discretion
 " of his own; he is sent hither by my Lord this, or the Duke or that,
 " and if he do not obey the instructions he receives, he is not to be
 " considered as a man of honour and a gentleman. Such is the mode
 " of reasoning that prevails in this house. Is this fair? Is there any
 " reciprocity in this conduct? Is a gentleman to be permitted, with-
 " out dishonour, to act in opposition to the sentiments of the city of
 " London, of the city of Westminster, or of Bristol; but if he dare to
 " disagree with the Duke, or Lord, or Baronet, whose representative
 " he is, then he must be considered as unfit for the society of men of
 " honour " †

" This, Sir, is the chicane and tyranny of corruption; and this,
 " at the same time, is called representation. In a very great degree the
 " county members are held in the same sort of thralldom. A number
 " of Peers possess an overweening interest in the county, and a gentle-
 " man is no longer permitted to hold his situation than as he acts
 " agreeably to the dictates of those powerful families. Let us see how
 " the whole of this stream of corruption has been diverted from the
 " side of the people to that of the crown;—with what a constant, per-
 " severing art, every man who is possessed of influence in counties,
 " corporations, or boroughs, that will yield to the solicitations of the
 " court, is drawn over to that phalanx which is opposed to the small
 " remnant of popular election; I have looked, Sir, to the machinations
 " of the present minister in that way, and I find that, including the
 " number of additional titles, the Right Honourable Gentleman has
 " made no fewer, than *one hundred and fifteen* peers in the course
 " of his administration; that is to say, he has bestowed no fewer than
 " one hundred and fifteen titles, including elevations from one rank to
 " another! How many of these are to be ascribed to national services,
 " and how many to parliamentary interest, I leave the House to in-
 " quire. The country is not blind to these arts of influence, and it is
 " impossible that we can expect them to continue to endure them."

It cannot at this rate be long, ere a large majority of the House of
 Commons will be returnable by *peers only*. And thus we see that if
 Mr Pitt has been foiled in his attempts to overthrow the new consti-
 tution of France, he knows but too well how to subvert the old one
 of England. How long will the treacherous apostate, be permitted to

† On the subject of instructions to representatives, the reader would find great satisfac-
 tion from reading *Lectures on Political Principles*, p. 150.

continue in this career! How long will it be ere our island with one voice shall demand the disbanding of that desolating borough-corps which, under this great captain of corruption, has made such inroads on our liberties, and laid this aggrieved nation under such heavy contributions!

If any desire to know what is yet to come, from the law-making of borough parliaments—for in the progress of uncontrolled power there is neither stop nor stay—let them turn their eyes to *Ireland*. “It was objected” says Mr. *Grattan*, “with more success, that the constitution of boroughs, however in theory defective, has worked well in fact; but it appeared to us that this was an historic error—we stated in answer to that objection, that the birth of the borough inundation, was the destruction of liberty and property; that James I., the king who made that inundation, by that means *destroyed the titles* of his Irish subjects to their lands, without the least ceremony—the robbery of his liberty was immediately followed by the robbery of his property; for rely on it, the King that takes liberty, will very soon take away property; HE WILL ROB THE SUBJECT OF HIS LIBERTY BY INFLUENCE, AND THEN HE MAY PLUNDER HIM OF HIS PROPERTY BY STATUTE.* There were at that time, the historian adds, interior grievances; what were they? *martial law and extortion by the soldiers, in levying the Kings duties*; a criminal jurisdiction exercised by the *castle chamber*, and a judicial power by *the council*. These inferior and those superior grievances, amounted to no law at all. How could it happen, says the historian, that the King could do all this with so small an army, seize the properties of the subjects, and transport the inhabitant? I will presume to conjecture—the King had another instrument, more subtle and more pliable than the sword, and against the liberty of the subject, more cold and deadly, —a court instrument, that murders freedom without the mark of blood; palls itself in the covering of the constitution, and in her own colours, and in her name, plants the dagger—A BOROUGH PARLIAMENT.” †

* Mr. *Grattan* it is plain, sees the true distinction between taxing and plundering. If money be *given* and *granted* to the executive power, by the *real* representatives of the people, they are TAXED: if voted away by any other description of persons whatever, they are PLUNDERED. If, through the operation of unjust and anticonstitutional LAWS, all aids to the executive power, should come to be voted by persons who did not represent the people, could such a people be said even to have *legal* protection?

† The passion for arbitrary dominion, like every other vice, is short-sighted. Its very instruments become in the end its destruction. Kings form standing armies, which in time set up and put down, create and murder, Kings at their pleasure. Kings contrive borough parliaments, which, although for a while convenient instruments, at length turn the tables: finding, like standing armies, their own strength, they in the end seize to themselves the solid dominion. What is likely to be the final consequence to *Kingly power*, from representative assemblies depending neither on Kings nor people, it is for Kings and their honest counsellors well to consider.

Again : " He, the Deputy, had, said the historian, two great objects
 " —one was to fleece the people of Ireland, and the other was to cheat
 " them?—to get the money, and elude the graces. He succeeded : —
 " Why? Because there was another, a third instrument, worse than
 " himself—A BOROUGH PARLIAMENT :— That borough parliament
 " met, it voted six subsidies, and redressed nothing. This is virtue
 " and public spirit, in comparison to what it did after : After commit-
 " ting these crimes for which the Deputy justly lost his head—after
 " having seized part of the province of Connaught—after the inflict-
 " ing martial law—monopolies—raising an army against law—and
 " money to pay that army against law—after fining and confining
 " against law—THE BOROUGH PARLIAMENT vote that Deputy an
 " extraordinary supply, and in the preamble of the act they pass on
 " that deputy an extraordinary panegyric, with such a thorough con-
 " viction of his iniquity and their own, that they after *impeach that*
 " *very minister for those very acts*, and record a protestation against
 " the record of their own panegyric, to give way to the meanness of
 " another BOROUGH PARLIAMENT, who, on the return of his fami-
 " ly, cancel the record of the protestation to restore the force of the
 " panygeric :—Massacre—confusion—civil war—religious fury follow-
 " ed naturally and of course. Here you see (in a borough parliament)
 " hatched and matured the egg that produced the massacre, and all
 " that brood of mortal consequences."

So much, then, for the *practical* effects of BOROUGH PARLIAMENTS in Ireland, where the proprietors of boroughs, and the servants of the crown, have had the voting away of the people's money.

Behold the plain sense and sober wisdom of English *America*. In *seventeen* nations, you do not in a single instance see the same men the moving springs of *executive* power, and at the same time *legislators*, to bestow approbation and support on their own acts ; nor do you see any of those servers of God and Mammon, who pretend to serve two masters in opposite interests with equal fidelity. Neither are any such to be found, under the new constitution of *France*. * You do not see *Roube*l or *Reveilliere Lepaux* skipping, like harlequins, from the cabinet to the legislature, from the legislature to the cabinet ; here, in the shape of executive directors ; there, in the form of popular deputies ; here, declaring war ; there, voting to themselves supplies ; one moment, issuing rash and insidious proclamations to the people ; and the next, as representatives of the people, *moving* addresses, and pronouncing panegyrics on their own performances ; nor do you see them in the morning, penning as executive directors a message to the council of elders and council of five hundred ; and in the evening, as members of those coun-

* See *Legislative Rights of the Commonalty vindicated*, p. 9. 179. published twenty years ago ; in which the doctrine is laid down.

gils, *protruding* and voting thanks for the most gracious message from the Directory. No; neither in *America* nor in *France* do we see any of these things; † and yet, even in the latter country, where we know the calamities and severities of that revolution which has given them freedom, must have made a vast number of individuals in the highest degree disaffected and hostile to the government, we see the government completely supported by two councils of popular representatives, amongst whom it cannot command a single vote. The man in either of those countries who should maintain the doctrine (so common in another country which shall be nameless) that, without an influence to command a majority, government could not be conducted, might think himself well off, if he escaped the reputation of a knave, by being branded as a fool.

Considering the lamentable ignorance of our constitution, which rendered it possible for such statutes as the disfranchising Act, the triennial and septennial acts, first to pass at all, and then to continue so long unrepealed, we must not wonder, if we find even parliaments of our own day, not yet so fully impressed with, and attentive to, the distinction between the constitution and the law, so clearly pointed out by Lord *Abington*, and so ably established by other modern writers, as to be free from mistakes. A very palpable mistake, which an attention to his distinction might have prevented, may be seen in the two well known Acts of Mr. *Pitt* and Lord *Grenville*, passed in December 1795; both of which speak of "the government and constitution of this realm as by law established;" from whence it clearly appears, parliament had fallen into the error, of supposing the *descendent capable of begetting the progenitor*; an error sufficiently refuted, I trust, in these pages. *

But if law could make us a constitution, it could of course unmake it again; because those who make laws, can also repeal them. What a blessed situation we should then be in with the happiness of having it in the power of the *one hundred and fifty four*, to make and unmake constitutions for us at their good pleasure! || But, in the debate on the *Duke of Bedford's* motion, of the 30th. of May, where was the recollection, and where the fairness, of my good Lord *Grenville*? If the *Morning-Chronicle* of the next day report faithfully, his Lordship then said, that "to take away the elective franchise" [almost totally to disfranchise all corporations at a brush, to make a new distribution of the country into departments, to strike at all property, secure contests, and

† Nor will they, if our remark, p. 7. be founded in a knowledge of human nature be seen in *Holland*, in *Belgium* or in *Italy*, nor in the new republic just starting up on the Banks of the Rhine.

* See in particular p. 15. 16. &c.

|| I perfectly well recollect that the crown and the peers must also be parties: but that recollection, whether I consider the mere nature of those branches of the legislature, or the large share of the people's branch to which both have already helped themselves, does not the more reconcile me to the making or unmaking constitutions for us, in the present state of our representation.

change the whole frame of our constitution,] “ was a violation of ”
 [inheritance and of] “ fundamental rights, which the two houses
 “ of parliament were not competent to enact, and to which his Majesty
 “ could not give his assent.”

Now, for the benefit of such of my plain country neighbours, as are not versed in the dexterities of orators, I have inclosed in hooks all the gibberish of this piece of eloquence, thrown in by the orator for obscuring the question, which in its own nature is a very plain one. I have already shewn by what means the sovereignty and the purse of the nation, have, in effect, fallen into the hands of the faction of *one hundred and fifty four*; which all intelligent friends of reform think the ruin of our constitution and liberties: Lord Grenville, in the same speech, calls this, “ the present happy system.” The Duke of Bedford, while arguing for a change of men and measures, had declared that, “ the most salutary change, would be a change in the representation of the people:” Such a change said Lord Grenville, almost in the very words of our Counter-petitioners, “ went to the direct overthrow of our present system, in church and state,” †

This, however is only clumsy assertion; but his Lordship’s dexterity consists in mixing with what I call his gibberish, a mention of “ the elective franchise ” and “ fundamental rights ” and then, upon the strength of these ingredients in his premises, drawing his conclusion against the competency of the King and two houses of parliament united, to violate the rights mentioned in his premises; the whole of which he aims artfully to pass off as “ fundamental.”

Although it was convenient at the moment, to throw about his dust, of “ departments, ” “ contests ” “ corporations, ” “ property, ” and “ inheritance, ” his Lordship could not be so grossly ignorant of the constitution, as really to think and believe the elective franchise, which is truly a right inherent and “ fundamental ” in every English commoner, was, like a property in chattels, capable of being justly accumulated in private hands; or monopolized by the celebrated corporations in Cornwall, to the prejudice of common right; and so made a saleable commodity, transmissible with estates in old houses, or THE STONES IN A WALL, * as an inheritance, for commanding the seats in the house of commons. Nor, although his brother of Buckingham dispos-

† “ I speak therefore on the question, though personal to myself, because I believe that his Majesty’s ministers possess the confidence of the people; and because their continuance in power, is essential to the preservation of the present happy system.” See the Speech.

* Certain Stones in the park wall at *Midhurst*, marked 1, 2, 3, &c. shewing the spots where once stood burgage houses; each of which stones on a day of election, either voted itself, or communicated a power to some person to vote for it. I am told that these stones, which, when I saw them some years ago, were rather vain of their “ elective franchise ” and “ fundamental rights, ” and ostentatiously shewed themselves to every traveller on the adjacent road; have grown more modest of late, and retired to the inside of the wall or elsewhere out of sight.

of six of those seats, and his cousin of *Camelfora* of two, and other peers have the disposal of about *one hundred and forty more*,* which do for the present scandalously pass as an *inheritance* from father to son, we cannot pay so ill a compliment to his Lordship's understanding, as to imagine him so ridiculous, as to dream of seats in the House of *Commons* by hundreds, being the "fundamental rights and inheritances of *peers* of the realm. It is, therefore, perfectly clear, that the words I have inclosed within hooks, are either nonsense or superfluous; and that those which remain, contain all the constitutional meaning to be found in the passage.

But, were this point even doubtful, it cannot possibly be disputed: but that I have his Lordship's complete support to the doctrine maintained in these pages, that, "TO TAKE AWAY THE ELECTIVE FRANCHISE" of Englishmen, "IS A VIOLATION OF FUNDAMENTAL RIGHTS, WHICH THE TWO HOUSES OF PARLIAMENT, WERE NOT COMPETENT TO ENACT, AND TO WHICH THE KING COULD NOT GIVE HIS ASSENT" † Repeal, then, O! ye Legislators, those violating and spurious laws I have pointed out; *which have absolutely taken away the whole of the elective franchise from a vast majority of the people, and which deny it to the remnant of them for six parts in seven of human life!* From the doctrine maintained by Lord Grenville, his lordship must know that the statutes referred to, "BE NOT STATUTES BUT CORRUPTIONS;" and being "INCOMPATIBLE WITH THE CONSTITUTION, ARE IN THEMSELVES VOID"

Before Lord Grenville shall again play the orator, on the sacredness of "fundamental rights," which not even the united powers of the legislature may violate, it is to be hoped that his Lordship will be prepared to inform us, how those *peers* of the realm who *have* violated the "fundamental rights" of the commons to the degree I mention, are to be dealt with. "With regard to the election of knights, citizens, and burgeses; we may observe, that herein consists the exercise of the democratical part of the constitution: for in a democracy there can be no exercise of sovereignty but by *suffrage*, which is the *declaration of the people's will*. In all democracies therefore it is of the utmost importance to regulate by whom, and in what manner, the suffrages are to be given. And the Athenians were *so justly jealous*, of this prerogative, that a *stranger*, who interfered in the assemblies of the people, was punished by their laws with *death*: because such a man was esteemed guilty of high treason, *by usurping those rights of sovereignty, to which he had no title*. In England, where the peo-

* See page 4.

† Was it then, for nothing, that my Lord Grenville, and his cousin Pitt, who knows as well as Lord Abingdon that law is *not* the creator of constitutions, used the phrase, "the government and constitution of this realm as **BY LAW** established?" It is a question very fit for the reader's meditation.

“ple do not debate in a collective body but by representation, the exercise of *this sovereignty* consists in *the choice of representatives.*” § Mr. Pitt some years ago, was highly scandalized and offended at one particular *stranger*—the Nabob of Arcot—having “interfered in the assemblies of the people,” so as to seat in the House of Commons seven or eight members: and has not my good Lord Grenville one particle of indignation, for those *coroneted strangers*, who so treasonably interfere in “the choice of representatives” of the Commons, as already to usurp *one hundred and fifty* of the seats in the democratical part of the constitution! And where I would ask is the difference in the *intention*, (which is the essence of every crime) between him who is the *violater* of a constitution, and him who to the utmost of his power supports and upholds *the violation*, proving by his arguments that he perfectly well knows the crime he is committing. And is not this noble lord, who is reported thus to have built his argument on *the main principle of the reformers*, one of those who have been most strenuous in prosecuting others even unto death, for maintaining and acting upon that principle,? Such is the wide difference, in a certain state of a government, between private individuals asserting true principles in support of reform, and men in power insidiously applying the very same principles, to uphold the corruptions which destroy freedom, and ruin a nation!

And here the reader will find my remarks on *Blackstone* fully justified: for his ideas of the *constitution* were so extremely confused and inaccurate, and his notions of parliamentary power, through the influence of his professional studies, so extravagant, that he says “Parliament can *change* and *create* afresh even the constitution of the kingdom and of parliaments themselves; as was done by the act of union, and the several statutes for *triennial* and *septennial* elections.” † It is perfectly astonishing that the penning of such a paragraph, should not stagger a mind naturally so strong as his, and lead it to consider not only on the *principles* to be sacredly attended to for preserving the purity of parliament, but on the proper *limits* of parliamentary authority; especially as he was by no means blind to consequences. “For if ever it should happen,” says he “that the *independence* of any one of the three branches of the legislature should be lost, or that it should become subservient to the views of either of the other two, there would soon be *an end of our constitution.*” ‡

And he adds these remarkable words “The legislature would be *changed* from that, which was originally set up by *the general consent and fundamental act of the society*; and such a change, however effected, is according to Mr. Locke (who perhaps carries his theory too far) at once an entire dissolution of the bands of government.”

“ and the people are thereby reduced to a state of anarchy, with liberty to constitute to themselves a new legislative power.” The word “ perhaps ” in this passage is evidently a mere apology to his courtly readers, for quoting a doctrine he approved; for had it been rejected by his understanding, it ought to have been altogether rejected in his reasoning. Here then, we find a *constitution* distinct from *law*, a “ *general consent and fundamental act of the society*,” which is so sacred it cannot be changed without even dissolving all the bands of society; and it is pronounced that such a dissolution has actually taken place, whenever any one branch of the legislature is become either *dependent* or *corrupt*.

In the idea of “ changing and creating afresh,” the power of *abolition*, *destruction*, and *annihilation* is necessarily included. Now, retain but the proper distinction in your mind, between a *constitution* and a *law*, and then it will be seen our learned lawyer, in the passage first quoted, maintains that which is equivalent to asserting, that a child may at his discretion rightfully imbrue his hand in the blood of his parent, and destroy and annihilate his existence. But in the last passage, taken from his introduction, and consequently last written, he sets all right again. Now, mark the danger of error respecting the *principles* of government; and the extreme to which a *Blackstone* is carried, by not fully understanding the nature and happy simplicity of *political liberty*. While describing our *constitution*, he speaks according to a natural sense of what is right, when he says, “ the legislature of the kingdom is entrusted to three distinct powers, entirely *independent* of each other; first, the King; secondly, the lords spiritual and temporal, which is an aristocratical assembly of persons selected for their piety, their birth, their valour, or their property; and thirdly, the House of Commons, *freely chosen by the people from among themselves*, which makes it a kind of democracy;” † And he had a faint notion of the reform which was wanting, when he observes, “ not that I assert it is in fact quite so perfect as I have here endeavoured to describe it; for, if any alteration might be wished or suggested in the present frame of parliaments, it should be in favour of a *more complete representation of the people*.” ‡

But when contemplating the possible *corruption of parliament*, knowing “ that England can never be ruined but by a parliament,” § and being convinced that to preserve “ the rights and liberties of Englishmen from violation, it is necessary that the constitution of parliament be supported in its full vigour,” § he does not, as the parliamentary reformers now do, shew *how* this “ full vigour,” when once lost is to be restored; he does not, as they now do, enlighten the public mind, by explaining the true and sole foundations on which *political liberty* stands; nor does he, like them, inculcate this peacable

† Commentaries, I. 50.

‡ Commentaries, I. 172.

§ Commentaries, I. 161.

§ Commentaries, I. 144.

doctrine—“ If it shall once be seen and felt by parliament, that the nation in general understand their rights, their petitions will then undoubtedly bring about the wished-for reform; and although the disease be in parliament itself, the cure will nevertheless be performed by the authority of King, lords, and commons, in parliament assembled;” but, apparently conceiving a parliament once corrupted, as incapable of self-regeneration, he calls the corruption of parliament “ a dissolution of the government, ” and points to no other means of getting rid of the misery of such a situation, but to the rights and powers inherent in the people, who may by a new “ general agreement and fundamental act of the society, ” “ constitute to themselves a new legislative power; ” which of course might be in what form they should please.

With such doctrine as this in the oracle of our *Law*, have a *Skirving*, a *Palmer*, a *Gerald*, and a *Muir*, been transported to *Botany Bay*, for being parliamentary Reformers! While apostates from liberty and the constitution are the rulers of the land.

Since the foregoing observations have been in the press, we have witnessed a most extraordinary event in the government of France. That the constitution of that country has been grossly violated is manifest; and that the cause of liberty is thence for a while likely to suffer in the estimation of mankind is much to be lamented. Whether an absolute and imperious necessity dictated the measure, or it was the effect of a factious and arbitrary spirit, time will probably unfold.

The odium of the measure alluded to, seems to have been chiefly thrown upon the Directory; and, if false accusation were part of it, their criminality is great; but the Legislative Councils have been the grand violators of the constitution. To arrest traitors in the act of rebelling or in the act of conspiring to overthrow the government, was on the part of the Directory a duty; and having carried the parties before the police, and laid the case before the legislature, the executive functions on such an occasion were at an end; nor does it appear the Directory went farther: but the two councils have acted as if no constitution, but their own good pleasure existed; having assumed and exercised extravagant and unwarrantable powers without the smallest regard to justice or to law.

It was their office, first, to have decided whether or not there was ground for accusation; and then, in case of agreeing there was ground, to have created by their proclamation the High Court of Justice prescribed by the constitution, and to have delivered up to that court the persons accused. Instead of this, as if possessed of despotic power, they refuse the accused any trial at all, but condemn them unheard, and inflict on them an horrid sentence, in a mode the most iniquitous; that is, by an *ex post facto* law.

Notwithstanding the degree of influence which may still be supposed to remain with the priests, the nobles, and the royalists, and that the fabric of their government has not yet had time to settle well on its foundations, it is difficult to conceive that nothing short of such flagrant injustice could save the state. If, indeed, such a violation of the forms and provisions of their constitution, were absolutely necessary to preserve its existence, against a faction bent on the restoration of despotism, the French rulers will owe it to their country and to mankind, to produce in due time the proper vindication of their conduct.

A *Pretender* is a very convenient bug-bear. It was in *England* the existence of a *Pretender*, and the intrigues imputed to his partizans, which furnished the pretended necessity for our *Septennial Act*. It may therefore not be uninstruative to compare the two cases. By a gross violation of justice in *France*, in the persons of a considerable number of eminent persons, the crime of the government is as it were personified; it stalks in our view like a character on a stage; it becomes palpable to the dullest intellect, it touches the most torpid feelings, and thus it makes an indelible impression on every mind; besides which, the act is so recent, as to have the same effect as if still present before our eyes. Whereas respecting the injustice committed by the parliament of *England*, in passing the *Septennial Act*, the case as to the present generation is far otherwise: the act passed fourscore years ago, nor did its baneful operation attach particularly on distinguished men, as martyrs on the occasion to excite our sympathy, and body forth to our imaginations the violation of our constitution. In our case, a greater share of constitutional knowledge, a more refined sensibility, and an elevated sense of the value of political liberty, are necessary for comprehending and feeling the injustice of the act; although the wrong were infinitely more extensive in its nature than that which a few Frenchmen have recently experienced, and inexpressibly more pernicious in its consequences. If any in *France* have been injured, they are *individuals*, accused of the greatest of political crimes, an attempt to subvert a free government and erect on its ruins an odious despotism, through the means of assassination and civil war: whereas in *England* the parties grievously wronged were *the whole nation*, and by means which, as far as they go, are a complete subversion of freedom.

The true distinction of conduct between the French legislative councils of 1797, and the English parliament of 1716, is this: the French legislators have violated the *legal protection* of a few citizens accused of the greatest crime? whereas the English legislators violated the *political liberty*, of the whole people: the former trampled on certain principles held sacred in every free government, which ever regards in an eminent degree personal security and a pure administration of justice; but the latter trampled on the very first principle of all freedom and that from which not only personal security and a faithful admini

lation of the laws must flow, but without which no one of the benefits of the social compact can be assured to a people.

The French Councils have as it were stunned liberty by a rude and violent blow; but as the body politic is not thereby maimed or mutilated, as the constitution remains in all its forms, and the *political liberty* of the people has not been inroached upon,* the injustice may not only end with the act, but it may serve as a lesson for securing the people against a repetition of such violences. If worthy of liberty, they may consequently vindicate its principles and strengthen its foundations, and this very violation may be the cause of so doing. But it is not so, when the injury a people receives, is the deprivation of their political rights and power, and the consequent annihilation of their *political liberty*. From that moment, they have lost all peaceable means of self-preservation, they are as a helpless herd before their drivers, divested of their characteristics of manhood, deliberation and free will, in all that relates to the management of their common concerns, and their whole property lies at the mercy of those who have deprived them of their freedom, and who will never want pretexts for new taxes as long as the people have a shilling remaining

To the French nation, the present act of violence may prove valuable experience; because they are in a condition to profit from it; but the only knowledge which the people of England have gained from the Septennial Act, and the two former statutes of the same stamp, is, that the right of having a constitutional influence where laws and taxes originate hath passed from them; and that they are left, for redress of the greatest of all political wrongs, to the effect of humble petitions, to be addressed to men who have every motive for rejecting them, which can arise from aristocratic pride, pecuniary interest, and corrupt ambition.

* I must not be understood to insinuate that, by the constitution of France, the people are in full possession of political liberty. In truth I think their system very defective. A representation of a representation is not a representation of a people. The ideas are clearly distinct. Such a representation is a political *soup maigre*, on which a vigorous and healthy liberty cannot long subsist. If the electoral assembly, instead of choosing the legislators, acted only as a committee for recommending proper persons to the choice of the people, they might in extensive departments answer a valuable purpose: whereas nothing but their own annual appointment by a suffrage nearly universal and the established exclusions can prevent their degenerating into somewhat equivalent to our rotten borough. It is in these electoral assemblies the seeds of corruption will be first sown. If once they can be made subservient to faction, the constitution must be reformed, or it will be gone for ever.

The constitution says, "The members of the legislative body are not representatives of the departments which nominates them but of the whole nation." This puts me in mind of a pleasant child, who called a square picture-frame round. The mother said, "my dear it is square:" the child maintained it was round. "You know my dear," rejoined the mother, "the difference between square and round, and you see this frame is square." "Please mamma," replied the child, "to let it be round." Please, therefore, good electors of France, to let your representatives be not your representatives; and please to have a representation of a whole, without a representation of the parts; notwithstanding this representation is to be created piece-meal, in and by the parts!

In this situation, we must not be surprized they should be told by an upstart episcopal lord of parliament, "they have nothing to do with the laws but to obey them;" nor that a new created peer and secretary of state should have the effrontery to declare, that the only laws which could give them redress, are what "the two houses of parliament are *not competent* to enact, and to which his Majesty *could not* give his assent." What! are king, lords and commons competent to enact laws which destroy our liberties, and incompetent to repeal them! — In the present fermenting state of the human intellect on political establishments, are such councils for the peace of our country, or the preservation of our constitution? — Are they within the meanest notions of prudence or decency? — And is it to such hands our affairs are entrusted, in a conflict which has shaken every throne in Europe, and in a political storm requiring pilots of consummate wisdom and the most conspicuous integrity!

But to return from this digression on the late legislative measure in France which has attracted so much attention, to the author we were considering, it may be observed, that so little indeed did *Blackstone* understand the nature and true principles of political liberty, and so far was he from noticing the mortal stabs it received by the three statutes in question, he even enumerates amongst "the laws for ascertaining limiting, and restraining the royal prerogative," and for asserting "our liberties," "the act for triennial, since turned into septennial, elections;"* and as a lawyer he quotes the original statute of disfranchisement, as an authority, and with approbation; notwithstanding his natural feelings of liberty and sense of equity as a *man*, had on the very subject he was then discussing, and only in the preceding page, extorted from him this declaration. "If it were *probable* that every man would give his vote freely, and without influence of any kind, then, upon the true theory and genuine principles of liberty, every member of the community, however poor, should have a vote in electing those delegates, to whose charge is committed the disposal of his property, his liberty, and his life." †

Here, then, is the sole ground and pretence, on which the first mortal stab was given to the political liberty of England: a bewildered lawyer's "probable!" the crafty statesman's "probable!" the wealthy and proud man's "probable!" But he who wants to find the *VENALITY* which *has* ruined our country, must not with these bewildered or those arrogant men look *downwards*, but in a contrary direction. The right to political liberty being inherent, unalienable and fundamental, it is not to be held at the discretion of any. To those who are without political liberty, legal protection is precarious; and their condition correctly considered, is that of political slavery. It consequently follows, that either to take away, or to withhold political liberty, is tyranny.

* Commentaries, I. 334.

† Commentaries, I. 170.

* Probable ! ” Good God ! shall the human species whom thou hast created rational and free, be thus despoiled of liberty and consigned to the unspeakable miseries of enslaved nations, for such stupidities in argument ! — What pity it is *Blackstone* had not better known the use of his own maxim, that “ The supposition of law is, that neither the King nor either house of parliament (collectively taken) is capable of doing any wrong ? ” †

Montesquieu, with his eye fixed on *England*, had said, “ All the inhabitants of the several districts, ought to have a right of voting at the election of a representative except such as are in so mean a situation, as to be deemed to have no will of their own. ” Upon which the author of the admirable Lectures on Political Principles, observes, “ No meanness of condition, short of slavery, corresponds with the description. That which verges nearly on it, is the condition of a courtier ; of the families of an ignorant, vicious, or needy nobility ; or of a priesthood uniformly devoted to interest and views of preferment : — these are the persons to be excluded, if baseness of mind, or meanness of talents and circumstances are to be considered as reasons ; — not the honest, the laborious peasant ; not the ingenious or industrious artificer, whose talents are the pillars of society. ” *

“ Crimes there may be, which should disfranchise particular citizens on conviction, but all orders, affected by the laws, should have suffrages, in constituting legislators. ” *

As abstract arguments, however clear and strong, do not affect all minds alike, it may not be amiss to put the injury done the commons of this country into some visible shape, and to place it in a familiar point of view. Let us then put it in the form of a numerical calculation, supposing the original pasturage on the common of liberty, to be expressed by the number *seventy*. This common-right then, by the first incroachment, or violation, under *Henry VI.* is reduced from *seventy* to *seven* ; and by the last, under *George I.* is cut down to an unit. From *seventy* it becomes only *one* ; and even this *one*, by the borough-traffic, is soon reduced to what is algebraically expressed by the word *minus*, signifying *less than nothing*. Such then, be the forms and flourishes what they may, is the true state of our account, as written in the book of our national stewards. What signifies to us, the superb binding, sparkling crowns, and gilded coronets, which decorate the gaudy cover of the book, if such within be its melancholy contents !

But some may say, we are not even yet “ *convinced* ; ” because we of a certainty know, that we ourselves and thousands besides have *votes* ; and therefore according, to your reasoning, as we understand it, *we at*

† Commentaries, I. 244.

* Page, 153, 155. Although, in the passage here quoted, there is a degree of satire which may probably prejudice the reader against the work referred to, he may be assured he will find it a work of very superior value.

least, have political liberty. I answer: Attend but to the whole of my reasoning, and the fallacy will disappear. *Political* liberty is essentially different from *physical* liberty. As far as no physical cause prevents my using my hands or my feet, I may, either in *England* or in *Algiers* play on the fiddle or dance a jig, although others around me should be chained hand and foot; and so far it is very clear, I enjoy *physical* liberty; which is altogether a personal enjoyment; whereas political liberty is a *social* enjoyment or condition. A man's *political* liberty, then, is his *share* of the *self-government* of his country, or of that liberty it exercises in *making its own laws*. If a *decided majority* of that legislative assembly, which ought to be purely representative, be no longer elected by the people, but appointed by an oligarchy, the political liberty of the country is not merely diminished, but subverted and destroyed; because the oligarchy have established over it, a power which is completely arbitrary, and can make what laws it thinks fit.

If a country so circumstanced be no longer a free country, where is the *political* liberty of *the individual*? If the power of the country to make its own laws, have become a non-entity, where and what, is the individuals *share* of such power? A share in a non-entity, is a non-entity. And although a man were stuck as full of votes, as the firmament with stars, if his country have lost the power of making its own laws, by representatives of its own choice, *he has unquestionably lost his political liberty*. After this, trudging to the county town to dispose of his vote, and trudging to market to sell butter and eggs are entirely on a par: like playing on the fiddle, or dancing a jig, they are equally evidences of *physical* freedom, or of legal protection; but that is all.

Thus, then, my friends and countrymen, I have appealed to your understandings and to your hearts, in the cause of liberty. With what success, remains to be seen. I persuade myself the appeal will not be altogether fruitless; because I believe I speak the words of truth; and truth, I know is powerful. Whether, with respect to the politics of the day, you be ministerial or antiministerial, the cause is equally your own; and it is equally your interest to agree with me, if I be right. Whatever may be my own sentiments of our present ministers, those sentiments, I am sure, have in no wise influenced my arguments, touching the fundamental principles of civil government in general, or of our own constitution in particular. No change of ministers has ever changed, or, I trust, ever will change, the complexion of my politics. They were the same as now, when Mr. *Fox* was in power: they were the same as now, when Mr. *Pitt* was in opposition: and they were the same before the French revolution, as they have been since. This at least furnishes a presumption that, whether or not I have found truth, I have at least sincerely sought it. Party politics, therefore, I have none; but such as I have, give I unto you.

SECTION VIII.

There is a short passage in the Counter-petition, on which different judgments have been formed; and by which some curiosity has been excited. In identifying the prior meeting to which the Petitioners allude, they do not, after saying of what *description of persons* it was composed, *where* it assembled, and *when*, stop at *that* usual resting place; but, in a parenthesis they add, ("at which meeting JOHN CARTWRIGHT ESQ. was chairman.") Some will have it, but surely without sufficient grounds of probability, that a personal compliment was here intended. The contrary will be learnedly, sagaciously, and evidently proved, by the three very solid reasons which follow; Viz

I. As the parties were assembled in a *patriotic* meeting, such a proceeding would have been out of character, and quite inconsistent with the new order of things in meetings of that kind; for the old practice of *personal compliments* is exploded, and the rule now is to stick to *principle* only.

II. In the light of a compliment, the parenthesis is undoubtedly subject to considerable difficulty; for a critic will naturally ask, in what does the compliment consist? Does it consist, merely in announcing to the Commons of Great Britain in parliament assembled, that a certain citizen had, at a certain civic meeting, been invited to the honours of the chair? Or does it consist, in advertising him by name in the news papers; and holding him up to the Borough-holders in the House of Commons, as Chairman of a meeting of Incorrigibles, treasonably conspiring against *their majesties, the one hundred and fifty four*?

III. It could not be meant as a mere *private* personal compliment, because the parenthesis had its *public* uses; so that if any compliment at all were intended, it certainly was of a secondary nature, and made subservient to the principal design. In fact, our ingenious Counter-petitioners, ruminating on the plot of their little piece, perceived this parenthesis was an important feature of the drama;—the very main spring of the machinery, and admirably contrived for stage effect. Likewise remembering their drama was of that peculiar species called the *solemno-ludricum*, or solemn burlesque, by which *inward* mirth only is intended to be excited; and well knowing how difficult it must be, for the House of Commons to command its risible faculties, while with demure solemnity they should tickle its fancy by telling it, that *its own reform would subvert the constitution*, it was absolutely necessary, by some sudden and vehement shock of its delicate nerves, to produce a strong anti-risible sensation, and excite for the moment, either anger, or terror, or horror, or other grave and sober passion; in order that it might be able to keep its countenance during the performance. How could such an effect be so certainly produced, as, during the innocent and gentle *exordium* of the piece, by causing to burst unexpectedly, on the gaze of

the astonished and alarmed house, this anger-rouzing, terror-moving, horrible "black dog" of reform!—this very Raw-head and Bloody-bones of Universal Suffrage!—What an admirable thought! What a grand idea!—How sinks in the comparison, O! *Burke*, thy dagger of alarm, with our Counter-petitioners black-dog of reform!—Nor was this happy stroke of Rhetoric without its effect; for it is an undoubted fact, that a large majority did not so much as once laugh—till they got out of the House; except inwardly; but that, indeed, to do justice to this admirable solemn-ludric drama, we may be sure they did most heartily.

The *parentesis* of the counter-petition, it was incumbent on me, in common civility, not to overlook; and there is another passage in their curious composition, which, because of the Proposal I have to make, must not be passed over unnoticed.

The Counter-petitioners say the original petitioners, "did not, as they verily believe, express the real sentiments of the inhabitants in general,"—"but only of a very small number of persons &c." Had we, indeed, assumed the unwarrantable power of speaking, either expressly or by implication, for other men; or had we, either in the title or the language of our petition, pretended that we expressed the general sentiments of the town and neighbourhood, such a declaration on their part might have been, not only a proper reprimand of our presumption and flippancy, but a duty also to that house of parliament, on which such an imposition had been attempted.

But as we had made no such attempt, surely this extraordinary declaration, favouring a little of the very error, for which we seem to be rebuked, might as well have been dispensed with; as neither very proper nor very decorous, in a petition to parliament. When our Counter-petitioners represent that the neighbourhood do *not* agree with us, who think a reform wanting, I want to know, whether they intend parliament to understand, that the neighbourhood *do* agree with them, in thinking a reform would subvert the constitution, or that amongst the "inhabitants in general of Boston and its neighbourhood," there is *no opinion at all*. The compliment in either case, methinks is not very great. Between the advocates for substantial reform, and those who say it would subvert the constitution, there is certainly room for some shades of opinion; and, with such as may wish to form a correct judgment, there may also be cause for hesitation and deliberation, before they solemnly express that judgment. I therefore want to know the grounds, on which these gentlemen have assumed a right to intimate to parliament even in the modest form of an opinion, what *their neighbours* do, or do not think.

Parliament had but two safe and rational modes of forming its own judgment, on the balance of opinion in our neighbourhood. *The number of signatures* for or against reform, would, as far as it went, be

decisive. Its next guide ought to be, *the intrinsic merit or demerit of the proposition itself*. If evidently just and beneficial, parliament ought to conclude, that undecided opinion must at least lean that way, and that it would daily increase in decision and strength: if unjust and pernicious, parliament ought to presume, that opinion in its favour must be weak, and would daily decline. But as forming its judgment on the "verily believes" of the petitioning parties on either side of the question, would be extreme weakness; so I do not perceive any great wisdom, in offering to a house of parliament such a ground for belief and confidence.

But are our Counter-petitioning friends so perfectly sure, that only "a very small number" of the inhabitants of Boston and its vicinity can think with *us*; or that *a very great majority*, must necessarily think with *them*, that a reform would subvert the constitution? On this ground, I am so far from fearing to meet them, that I invite them to an honourable contest, by a patient, fair, and complete canvass of the real opinion of the country. I challenge them to an exertion of their utmost might; and earnestly exhort them to call forth all their strength of constitutional knowledge, reason and argument. Nay, in a confidence that nothing but what is congenial with the true spirit of our constitution and the laws of honourable controversy will be resorted to, and that no attempts will be made to suppress a genuine declaration of sentiment, I will very willingly throw into their scale, the whole weight of ministerial influence, and even then I shall not despair of the cause of reform, proving triumphant.

The canvass I mention, is the object of the Proposal with which this Appeal will conclude; and the whole, indeed, is little else than my challenge in full form. Widely as we have hitherto differed in opinion, we must on both sides be perfectly agreed, that the question is truly important. *We* say to the legislature, 'Reform our representation, that our constitution may survive:' they say 'No: if you grant the reform, the constitution will be *subverted*.' This is, clearly, a question for **THE PEOPLE**. And it is only by their acquiring on it a knowledge so complete, as to leave no hesitation on their minds about publicly declaring their opinions, that we can hope for either the preservation of our constitution, *whatever it be*, or for any tolerable tranquillity and unanimity in support of a good government.

It has been from a strong sense of the importance of this great question, that I have endeavoured, in the present Appeal, to place it in a clear light. To such as may think me in any particular misled or in error, the field of discussion is open, and I request to be set right. At all events let not our country be deprived of truth, for want of investigation; nor let our endangered constitution suffer by our silence: But, on the contrary, let us, like rational beings, endeavour to ascertain what **that**

constitution is; like Englishmen entitled to parliamentary representation, let us inquire what parliamentary representation MEANS; like men born to freedom, let us be certain that we know in what freedom CONSISTS; and, like friends, neighbours, and christians, let our amicable contest, animated though it may be with the ardency of argumentation and freely as we may use the honourable weapons of disputants, yet be a contest in which it shall be manifest, that we only contend, who shall most effectually serve our common cause and country; and which party shall, in fact, confer on the other, the highest political obligation: And so shall this virtuous contest, whether we be serious or sportive, whether the eye flash with fire or the cheek dimple with the smile of satire, be conducted in the true spirit of manly candour and brotherly affection.

Hitherto our adversaries both in and out of parliament, either confident of matchless strength, or conscious of inward weakness, as the reader shall please to determine for himself, have very much affected the laconic in their discourse. Within doors, the cause of reform has at different periods been pleaded in a style of the most masterly eloquence, by a *Saville*, a *Sawbridge*, a *Grey*, a *Sheridan* and a *Fox*; as well as by a *Richmond*, a *Pitt*, and other sincere patriots, whose arguments, drawn from constitutional rectitude and political expediency, penetrated with conviction every mind: They have uniformly been answered by the laconic eloquence, of previous questions and votes.

We too, who have without doors exerted our reforming oratory, have by no means been sparing of speech; and, by much practice in drawing petitions, we are thought to have attained a tolerable knack, at making them unanswerable. When, indeed, we address ourselves to those who do not abound either in the *good things*, or in the *wisdom of this world*, we have no cause to complain of our success: But when we reason with our rulers, of political righteousness, temperance, and judgment to come, all the answer we get, is, "Go thy way for this time; when we have a convenient season, we will call for thee."

Our counter-petitioning friends, by their costiveness of words, might very well pass for humble dependents, paying their court to Felix; and whatever be the cause, they closely imitate the conduct, of all those who being immediately interested in upholding the system of rotten-borough representation, for their private emolument, would have us believe it is the constitution, and therefore avoid as much as possible saying any thing about it. Presuming that any opposition to the reform of an evil which we hold to be of the greatest magnitude and most fatal consequence, ought, if it were but for the sake of decency, to be supported by very strong and very many reasons; we, in favour of reform, deal out arguments in plenty: In return, they give us "verily believes." We urge plea upon plea, reason upon reason, and motive upon motive: They tell us of unargued "convictions." We shower down upon

them reiterated interrogation, enthymeme, and demonstration; and all the artillery of our logic: they coolly give us in exchange, *inference without premises*. We “urge them vehemently and provoke them to speak of many things;” Like the fat knight of facetious memory, they like not this compulsion: “Give a reason on compulsion! If reasons were as plenty as blackberries, they would give no man a reason upon compulsion.” In the warmth of our zeal, we appeal to the heart, the conscience and common sense, of every human being, and to that God who planted in the glorious garden of man’s mind, the principles of reason, of justice, and of liberty: They very laconically call us *subverters of the constitution*; and the only appeal they make, is to *a vote of a borough parliament*.——We are now to see, whether or not the challenge just given will induce them to be more communicative of their stores of political truth; and if they will have the charity to bestow upon us for our instruction and guidance, any of those reasons which they have been so careful not to expend unnecessarily.

Let us my friends, have but a single handful of their REASONS and the House of Commons shall be heartily welcome to all the “*convictions*” and “*verily believes*” they can persuade it to accept. That indeed was the right theatre on the occasion before us, for *such* exhibitions; as, not serious confidence, but inward mirth, as already explained, was the sentiment to be excited by the solemn-ludric little drama of our Counter-petitioners. The contemptuous insinuation of *our* insignificance in numbers, and the solemn parade of *their* own vast superiority, were therefore very properly introduced, in order to heighten the ridicule of the mirth-moving fact that was follow. They formally attack our petition signed by only *one hundred and thirty four* good men and true, friends to liberty and reform; and they make this formal attack in a counter-petition, saying, rather than insinuating, that “*a very small number*” only are of *our* opinion; and in proof of this declaration, they exhibit to the House their own very numerous signatures, amounting to no less than——*ninety seven* “*verily believers*” Reader, thou must not laugh: By the rules of the solemn-ludric, thou art required to keep thy countenance, and if thou findest it should be inwardly: and the more particularly so, out of respect to those ministers of religion who, with grave faces, signed this serio-comico counter-petition, hatched and brought forth amongst themselves on a visitation day.

Here then, for the present, we lay down the controversial pen, to take its rest, until our challenge have aroused the champions of “our present” system of rotten-borough representation, to brandish theirs and give us a thrust or a dash, in return for such as we have bestowed upon them. If the writer, when the subject invited, have indulged in pleasantries, his own doctrines and conduct are equally fair game to a

mirthful opponent, whenever they shall furnish just occasion for a smile or a laugh, and if any one will laugh him out of ruinous error, he shall receive his serious and most sincere thanks.

Having on numberless occasions made known his political opinions, and never having in any one instance promoted the interests of party to the prejudice of the public, while the inherent rights of men, and the fundamental rights and liberties of his country have invariably been the polar star of his political course; he has the satisfaction of knowing there is not an Englishman who may entertain towards him political enmity, to whom he cannot with propriety say;—‘ Your political enmity is misdirected: Turn it upon those who have undermined the constitution of your country, which I have toiled to secure;— upon those who have violated your rights, which I have a thousand times defended;—and upon those who have aimed the shafts of destruction at your liberties, which I, at the hazard of my own, and to the neglect of my private affairs, have strenuously laboured to preserve. Let both of us cease to listen to the pompous nonsense of party, and the vile delusions of faction; but, bound together by one interest, and one moral principle, to seek truth and promote justice, let us strive to extend this bond of union, until it shall embrace and secure whatever we comprehend, when we speak of our country.’

SECTION IX.

The PROPOSAL I have now to offer, is borrowed from one lately circulated in some parts of the South. Its object is merely to collect the *public opinion* on the great question of REFORM. The plan is extremely simple, and is as follows;

1st. To circulate in every parish, for the signatures of such *taxed Householders* as may approve thereof, a Paper in the form, No. 1.

2ndly. To have the result published in one Newspaper at least, by the person who collects the signatures, and in the form No. 2; which form should be printed, and communicated to every person applied to for his signature to the first mentioned paper.

No. I.

We, who have hereunto subscribed our names, do declare it to be our opinion, that the Representation of the people of Great Britain in the Commons’ House of Parliament, is defective; and that it ought to be reformed, according to the principles of our excellent Constitution.

No. II.

I do hereby certify that in the parish of _____ in the county of _____ there are _____ Householders Inhabitants who are assessed to the payment of parochial taxes, and that _____ of them have

signed the following Declaration; "We who have" &c. [See No. 1]
witness my hand, this ——— day of ——— 1797 F — F. —

And that the parties I challenge may not complain of unfairness, on my canvass, I give them notice, that these forms will be accompanied with a paper in the form No. 3, for the purpose of instructing the uninformed. Having endeavoured in that paper to compress much constitutional information into a small compass, the paper may have its defects and its omissions; which, for the sake of the public, it is to be hoped they will correct and supply.

No. III.

TRUTHS respecting LIBERTY and PROPERTY; and the means of preserving them by a REFORM in the Representation of the People in the House of Commons.

PRINCIPLES.

I. POLITICAL LIBERTY is the common right of all nations and of all men.

II. The political liberty of a NATION, is its power of *self government*.

III. That nation is not *self-governed*, which does not *make its own laws*, either in an assembly of the people (only to be done in very small states) or by a Legislature, in which the nation is FAIRLY AND SUBSTANTIALLY REPRESENTED.

IV. There is no *representation*, where there is no *free election*.

V. The constitutional legislature of Great Britain, consists of King, lords of parliament, and THE COMMONS IN PARLIAMENT ASSEMBLED.

VI. If a *single member* of the House of Commons be seated there by any other means than that of *free popular election*, the political liberty of the nation has received a wound.

VII. If one half of the House of Commons were chosen by *five hundred* electors, and the other half by *five hundred thousand*, common right would be grossly violated, and political liberty highly endangered.

VIII. If a *majority of that House* should cease to be elected by a *majority of the men competent and entitled to elect*, the nation would cease to be *self-governed*; and, consequently, its *political liberty* would be destroyed.

IX. If, with impunity, either commoners could usurp seats in the house of lords, or lords of parliament could usurp an appointment to seats in the house of commons, the constitution would be shaken to its foundations.

X. The **POLITICAL LIBERTY** of MEN, not being a mere personal, but a *social* condition, it is not complete unless the following essentials be enjoyed: Viz.

- 1st. They must be *members* of a *self-governed* nation.
- 2dly. They must enjoy a fair share in electing the representatives of the nation.
- 3dly. Their rights of election must *not* be subject to any *unjust or unnecessary denial or suspension*.

MAXIMS AND OBSERVATIONS.

I. As nature sustains the human race by the produce of the earth from year to year;— as she lays mankind under the necessity of arranging, according to the succession of the four seasons, those fundamental operations on which their very existence depends; and on which all the comforts, conveniences, arts and elegances of life are built; thus compelling the nations to adopt an *annual* regulation and superintendence of their affairs; it is hereby clearly pointed out by Providence to every nation, not to elect a representative assembly for less than one complete revolution of the seasons, called a year.

II. And, on the other hand, as each succeeding year brings with it its peculiar influences over the affairs of nations; so it is expedient that popular representatives should *not* be chosen for a longer term than one year; that so it may be in the power of the people, always to choose persons the most fit for the services required of them; as well as to get rid of representatives, who may have been unequal to the task, or who may have neglected their duty, or betrayed their trust.

III. But that the people should elect a *new* parliament *every* year, is not only a matter of the highest political *expedience*, dictated by the laws of nature, and of self defence, but it is a *positive right*, essential to *political liberty*; because if a parliament should continue for two years, or for three, or for four or for any longer term, then the rising generation, as they successively, by arriving at man's estate, become intitled to share in the election of legislators, are denied a sacred birth-right, and their political liberty, *which is the source of all other rights and liberties in civil society*, is unnecessarily *with-held* and *suspended*; which is palpably unjust.

IV. THE SEPTENNIAL ACT SUSPENDS THE POLITICAL LIBERTY OF THE WHOLE NATION FOR SIX PARTS IN SEVEN OF HUMAN LIFE!

V. *Political liberty* ought to be distinguished from *legal protection*. They, whose property and persons are defended by the *laws* of a country, against all persons *except the legislators*, have *legal protection*; and such *legal protection* was remarkably complete under the late King of

Prussia, the most perfect despot in Europe; who suffered none but himself the sole legislator, to injure his subjects: But *political liberty*, besides making legal protection *certain*, instead of *precarious*, defends a people even against the legislators themselves; for if those who make the laws are annually chosen by the people, they are dependent on the people; they are then the servants, instead of the masters of their country; and they will of course be its defence against unnecessary wars, unnecessary taxes, and unnecessary restrictions on personal liberty; nor will they enact *oppressive laws* of any kind.

VI. Where *political liberty* is wanting, *law* may become an engine of the most cruel oppression: and while any of the people can punish private persons who rob or defraud them, either by open force or *under false pretences* of a few pounds, or of a few shillings; the whole nation, without help and without redress, may be pillaged by a minister and his corrupt associates, of just as many MILLIONS as they shall be pleased to take, and as often as they shall be pleased to renew their exactions.

FACTS.

The following particulars are extracted from a great variety of facts stated in a Petition which was entered upon the Journals of the House of Commons, on Monday the 16th. of May, 1793.

I. "That at the present day the House of Commons *does not* fully and fairly represent the People of England."

II. "Your petitioners complain, that the right of voting is regulated by no *uniform* or *rational* principle."

III, "They affirm, that seventy of your Honourable Members are returned by thirty-five places, where the right of voting is vested in burgage and other tenures of a similar description, and in which it would be to trifle with the patience of your Honourable House, to mention any number of voters whatever, the elections at the places alluded to being notoriously *a mere matter of form*."

IV. "EIGHTY-FOUR individuals do by their own immediate authority send ONE HUNDRED AND FIFTY SEVEN of your Honourable Members to Parliament."

V. "Your Petitioners are convinced, that in addition to the *one hundred and fifty seven, one hundred and fifty* more, making in the whole THREE HUNDRED AND SEVEN, are returned to your Honourable House, not by the collective voice of those whom they appear to represent, but by the recommendation of *seventy* powerful individuals, added to the *eighty-four* above mentioned, and making the total number of patrons altogether only ONE HUNDRED AND FIFTY FOUR,, who return A DECIDED MAJORITY of your Honourable House."

VI. " At the commencement of every session of parliament, your Honourable House resolve, as appears by your Journals, ' That it is a high infringement upon the liberties and privileges of the Commons of Great Britain, for any *Lord of Parliament*, or any Lord Lieutenant of any County, to concern themselves in the election of Members to serve for the Commons in parliament.

" Your Petitioners inform your Honourable House, *and are ready to prove it at your bar*, that they have the most reasonable grounds to suspect that no less than ONE HUNDRED AND FIFTY of your Honourable Members owe their elections entirely to PEERS; and your Petitioners are prepared to shew by legal evidence, that FORTY PEERS, in defiance of your resolutions, have possessed themselves of so many burgage tenures, and obtained such an absolute and uncontrouled command in very many small boroughs in the kingdom, as to be enabled by *their own positive authority* to return EIGHTY-ONE of your Honourable Members."

VII. At the commencement of that parliament which (*within the lifetime of old persons now living*) first suspended the elective franchise of the English nation, by the *triennial act*, the national debt was little more than *half a million*: † At the end of this year it will be above *four hundred and thirty three millions*. ‡

VIII. Mr. PITT, when he became minister, found the interest of the national debt — *eight millions, forty-five thousand, and fifty five pounds per annum*. At the end of the present year it will be *sixteen millions, two hundred and thirty seven thousand, and twelve pounds per annum*. " So that in fact, he will in five years, have *more than doubled* the amount of all the perpetual taxes, that existed before his administration." †

IX. ——" the last year, " (a year in which were funded nearly *forty three millions sterling* †) " has been distinguished, for the first time in the annals of this country, by a *far greater expenditure WITHOUT*, than *with* the previous consent of parliament." ‡

X. It was moved to censure the minister for *thus* disposing of public money; but the present House of Commons skreened him by a *vote*; and the last House of Commons permitted the same minister, with impunity, to assert within its walls, that " the crown had a right to land in England, foreign mercenary armies at its discretion, *without the consent of parliament*;" and both these Houses of Commons have granted him large sums of money for numerous *Barracks* in different parts of the kingdom; although *Judge Blackstone*, in his *Commentaries on the Laws of England*, speaking the language of our constitution, says " the soldiers should live intermixed with the

† Sir J. Sinclair's History of the Revenue p. 93.

‡ Morgan's Appeal of 1797, p. 51, 37, 42, 9, 54.

" people; no separate camp; NO BARRACKS; no inland fortresses
" should be allowed." *

XI. Should peace be obtained within the present year 1797, the future annual taxes, for discharging the interest of the debt and defraying the expences of government, must be *twenty-six millions* per annum; † exclusive of tithes, poor-rates, and all other public assessments, amounting to at least *ten millions* per annum more. If the war continue debt and taxes must have an enormous increase.

	£.	s.	d.
XII. In the 1796 the fees only paid at the War Office amounted to — — — —	42731	11	11
In the same year Mr. Lewis, as first Clerk, and Deputy Secretary at War, received as Salary,	1120	0	0
And as Fees, — — — —	17318	6	3
Total received, by one Clerk in Office, in one year	18438	6	3

In the same Office and the same year, two Clerks who had *retired*, one upon a pension of 50*l.* per annum, the other on a pension of 55*l.* per annum, but who it seems were still *allowed* to share in the Fees, received in that form, and shared equally between them, — — — —

	12020	18	8
--	-------	----	---

Brothertoft Farm, July, 1797.

POSTSCRIPT.

Instead of the 6th. observation in p. 71, the reader will please to accept the following.

VI. Where *political liberty* should be wanting, *law* might become an engine of the most cruel oppression. In such a state of things, it might doubtless be in the power of private persons to obtain a redress of *private wrongs*, provided they were able to support the expence of going to *law*. But, while *legal protection*, on being paid for, might be thus had by one individual against another, and the criminal who took a few pounds, or a few shillings, might be punished; yet the whole nation, that is, *every man in his public capacity*, as a member of the state, might be fleeced by grievous and ever-multiplying taxations, *according to law*; while the ministers who contrived and executed the wrong, would obtain protection from punishment, and support in their oppressions, by carrying on a traffic of corruption for places, pensions, peerages, and other gratifications, with those who, without any dependence on the people, should hold the public purse.

* I. 414.

‡ Morgan's Appeal, p. 54.

And thus it might be, that while men had only *legal protection*, but were without *political liberty*, ministers and their associates in a corrupt system would be without either controul or responsibility; and the PROPERTY of the nation would lie at their mercy a defenceless prey, to be taken in just such proportions as the patience of the people (a patience probably improved by military instructors) should allow; and as the moderation of ministers (a moderation promoted by the possession of uncontrouled power) should prescribe.

