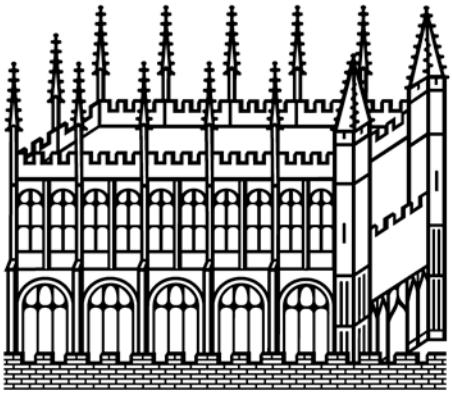

Bodleian Libraries

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.

Gough
Islands.
8.

BODLEIANA BIBLIOTHEC
B. J. 11. 544

AN

AUTHENTIC NARRATIVE

OF

THE OPPRESSIONS

OF THE

ISLANDERS OF JERSEY.

To which is prefixed

A SUCCINCT HISTORY

OF THE

MILITARY ACTIONS, CONSTITUTION, LAWS, CUSTOMS, AND COMMERCE OF THAT ISLAND.

———Deus interſit———Dignus vindice nodus.
HOR.

VOL. I.

LONDON:
PRINTED FOR S. HOOPER, No. 25, LUDGATE-HILL.
M.DCC.LXXI.

PREFACE.

A Voyage to Jerſey, in the laſt Summer, gave riſe to this Narrative; and furniſhed me with the manuſcript materials of which the hiſtory that accompanies it is formed. It is the cuſtom of mankind to determine on the merits of national tranſactions, from the extent of the kingdom, the number of the inhabitants, the riches, ſplendor, arts, ſciences, public buildings, numerous armies, ſignal victories, and extenſive commerce, which have formed the purſuits and events of it: the ſuperior ſize of external objects imparts an imaginary greatneſs to the actions of the individuals of large empires, which are equally illuſtrious, when performed by the natives of obſcure and little ſtates; and it creates a degree of admiration and regard, which ariſes from the idea of magnitude alone. But it ſhould be conſidered, that in all ſtates and of all proportions, men are actuated by the ſame principles; that the riſe of ſociety, the progreſs, decline, revolutions and ruin, which their ſeveral conſtitutions undergo, whether from cauſes internal or ex-

ternal, are perfectly analogous: and that the ſame paſſions, intrigues and operations are alike active in all.

It is certain, that in the ſmaller dominions the machine conſiſts of fewer parts; is more ſuſceptible of being carefully examined; and better underſtood; and the cauſes of its operations leſs deluſively aſcertained. Truth is, on that account, in ſuch inſtances, more probably to be the reſult of an equal reſearch. At the ſame time thoſe reflections which ariſe on the various circumſtances of the human conduct and of national progreſſion, are of equal advantage and application, whether they be made on the immenſe and populous empire of China, or on the little iſle of Jerſey.

Jerſey is, indeed, of ſmall contents, and not of numerous inhabitants; yet, many of the Grecian ſtates, of whoſe actions Thucidides has given the hiſtory, were not ſo large; their inhabitants leſs numerous; and their actions not more illuſtrious. Homer has written one Heroic Poem, and employed a great part of another, to celebrate the actions of Ulyſſes, king of a leſs iſland, and ſovereign of fewer ſubjects. There is at preſent in Europe no ſmall number of princes whoſe dominions are neither ſo extenſive, nor the inhabitants of ſo great a number. And this iſland has not been unproductive of men deſerving record, both in the deeds of arms, and in the adminiſtration of public juſtice. Whatever may prove to be the popular opinion of giving

to the world the hiſtory of ſo ſmall a ſtate, I ſhall make no apology for the publication of the Narrative. To be of ſervice to two and twenty thouſand human beings, is an opportunity that ſeldom happens to a private man among the millions that live and die.

The moſt pernicious and deteſtable of human beings are iniquitous magiſtrates. To offer an excuſe for bringing their miſchiefs and malverſations to public view, and themſelves to anſwer for their actions, is an inſult on common ſenſe. It is a conceſſion that the invaders of the rights of humankind, the infractors of national compact, and the peſts of ſocial happineſs ought not to be diſcovered to the world. It expreſſes a diffidence of the rectitude of diſcharging that duty of a good citizen, which every man, from the nature of being a part of the community, and on the principles of gregarious union, is bound to perform. In fact, it would be an apology for killing vipers.

To delineate the infinite calamities, which are engendered by ſuch men, in order to make them odious, would be to prove, that the ſtreets are wet in rainy weather. The univerſal deteſtation is at all times ready; and to deliver their actions on authentic evidence, is all that is required to incite execration. To offer arguments to evince, that perſons who are delegated by a ſovereign to examine the conduct of opprobrious, oppreſſive and arrogant magiſtrates, who deſpiſe the laws of

God, the king and their country; and then conceal their crimes; countenance their eſcapes from chaſtiſement; deceive the king; and leave the people, under the ſemblance of redreſs, in a more deplorable ſituation than they found them; would be to apologize for a man, who, knowing another deals in the trade of poiſoning, ſecretes the demonſtration of the facts, and patronizes, by theſe means, his continuance in the commiſſion of murder.

The ſecond volume of this publication is intended to diſcloſe a ſmall part of that multiplicity of facts, which I am enabled to adduce, of the proſtitution of juſtice to the views of cruelty and avarice. And when it is conſidered that they have been continued for twenty years; tranſacted in a ſmall iſland; ſubject to the ſovereigns of theſe realms; and not thirty leagues from the ſhores of England, it muſt appear incredible, that they have been unknown to the miniſters of the paſt and preſent reign: yet ſuch is the amazing truth.

The exiſtence of theſe facts muſt be diſproved; or thoſe whom I accuſe are nefarious criminals. But ſuch is their ſituation, that the inſular records, affidavits, certificates and numbers of living teſtimonies muſt be deſtroyed; and they muſt perſiſt in fire and murder to clear the path that leads to exculpation. If theſe are refuted I ſtand condemned of having invaded the moſt reſpectable characters, thoſe of upright magiſtrates; and I

will

will ingenuouſly confeſs it: but if I am ſupported by truth, in what I have related, let the offenders be called to juſtice. If they are blameleſs, I will reſign myſelf to puniſhment. If not, the applauſe of every virtuous man is my due: and then let all the others damn me and my works together. For no ſatyre is ſo ſevere as the approbation and countenance of ſuch men.

The tranſgreſſions of theſe magiſtrates are extremely ſuſceptible of being made the ſubject of much unjuſt calumny on the conduct of the miniſtry. Miſrepreſentation, falſehood, and deceit can eaſily apply them to the inflaming of the people againſt miniſters. And theſe, according to the preſent mode, will be continued to the king. Credulity will catch the fallacy, and receive it for the truth; the ſpirit of faction will divulge it thro' the realm; and reaſon contend in vain to efface its influence.

Corſica and Falkland iſland have been the ſubject of much clamour and cauſeleſs defamation. On the firſt, the miniſters were execrated as the enemies of liberty. On the latter, as thoſe who have immolated the honour of the kingdom to the preſerving of themſelves in office, power and riches. Jerſey is of as much conſequence, and productive of as many advantages to this nation, as if it formed a part of Great-Britain. To France it is of more value than fifty Corſicas: and the prince who does not poſſeſs the barren iſle of Falk-

land, can be no great loſer. The importance, therefore, of Jerſey is a juſt call on miniſterial attention. The internal peace of the iſlanders is neceſſary to be preſerved, in order to prevent complaints: and the diſpenſation of juſtice is the claim of all mankind. Were the facts contained in this Narrative ſecreted from adminiſtration, they would be ſeized with avidity by thoſe in oppoſition; and by the latter they would be imputed to the former: theſe facts will verify the importance of the iſle, and the oppreſſions which the inhabitants have ſuffered. A late ſpecial commiſſioner has been ſent to examine their grievances, and to redreſs them. He has diſguiſed the truth, and concealed their real ſituation. Their miſeries are yet unrelieved. Theſe then are not only unknown, but their oppreſſors are permitted to reign and perſevere in tyranny. In ſuch caſes falſehood hath wings, and truth, on halting feet, can ſeldom overtake her. Arguments are brought to evince the innocence of miniſters: they are unanſwerable in reality; and are diſregarded in the popular opinion. As no powers can refute the facts; no means can be found to ſatisfy, that the miniſters were not the willing ſupporters of their continuance. And as thoſe, who permit the tyrannies of others, are tyrants in themſelves, that heinous crime will be imputed, and will reſt upon the miniſtry. Iniquities concealed can never be redreſſed; and that want of diſcovery is the

ſource

ſource of innumerable complaints againſt adminiſtration, as bad men; when the real cauſe ariſes from the ignorance or iniquity of thoſe that are employed by them. From this circumſtance it frequently happens, that the firſt inſtance in which a miniſter hears of the miſdeeds of his under-agents, is an accuſaſation of himſelf in the public papers; and thus he is made the tranſactor of thoſe things which are unknown to him. The falcon, oppoſition, quits the purſuit of ſparrows for the partridge; the guilty and ſub-miniſterial offender eſcapes, and the miniſter is aſſailed: for he alone is the game worth killing.

He that can prevent, and yet ſuffers another to fall into a river, at the riſque of being drowned, in order to ſhew his zeal for his preſervation, by drawing him out, may be a ſubtle and ſelf-intereſted companion; but he cannot be either a friend, or an honeſt man: and to preclude the calumny of ſnarlers againſt a miniſter, by anticipating the means of their miſchief, is preferable to the beſt defence of the ableſt writer.

Whilſt I remained in the iſland, every day, and almoſt every hour, afforded freſh relations of deteſtable oppreſſion; and diſpenſations of unrighteous judgment by the magiſtrates; and more particularly by two ſuch brothers, as the womb of woman had never produced, before their birth; nor nature combined in miſchief, to curſe a deſerving people. And were not my relations authenticated

ticated as they are, I ſhould, in vain, expect to be credited, even by that predominant ſpirit which ſo coercively leads the multitude to the belief of heinous accuſations.

The gentlemen of Jerſey, whom I had ſeen in England chearful, free and open, in that iſle were dejected, reſerved, and ſilent. But in the company of ſuch in whom they greatly confided, to whom they related their tales of miſery, and alleviated the horrid weight that hung upon their ſouls. Men, who had dared the utmoſt rage of war, both in the land and naval ſervice; who are ready to repeat the ſame dangers, with equal intrepidity, in defence of their king and country, trembled at the deſpotic ſhadow of the bailly's deputy. When their relations were heard, their terrors were too juſt; for, againſt him valour availed them nothing: they had no arms, nor means of reſiſtance, but, like St. Sebaſtian, they were tied to trees, and ſhot to death by the arrows of thoſe infernal brothers. They had ſo long and ſo repeatedly been diſcomfited in their applications to the throne; their complaints had been ſo artfully averted; and their calamities encreaſed by theſe men, in proportion to their eſcape from conviction; that, although a petition was then before their ſovereign and his council, and colonel Bentinck his majeſty's commiſſioner in the iſland, to examine and to report their real ſtate, and to indicate the means of relieving them, deſpair had magnified the impro-

probability of ſuccour, and leſſened the expectations of it to almoſt an inviſibility. In fact, theſe brothers are inexpreſſibly horrible. If ever they addreſs the Deity, and are touched with gratitude, it is on thoſe occaſions in which they have nefariouſly enriched themſelves, by acts of oppreſſion and injuſtice. And they eſtimate the greatneſs of their annual happineſs in proportion to the miſeries which they have inflicted on their fellow-ſubjects.

A few days made me acquainted with the colonel, and with his capacity for the buſineſs in which he was engaged: and a ſubſequent event, which is related in the ſixth chapter of this work, created a ſuſpicion that he had no intention to diſcharge that duty with fidelity. The manuſcripts of Mr. Le Geyt enabled me to attain a knowledge of the conſtitution, as it was firſt inſtituted by king John, and the various alterations which it hath undergone by patents, grants and orders of kings and councils. What it was in its original ſtate I knew from authors on the feudal government, and the Grand Cuſtumier of Normandy.

By the examination of the former, it was found, that endleſs had been the diſputes between the magiſtrates and the people: that, although palliatives had been repeatedly adminiſtered to eaſe the preſent anguiſh, the internal cauſe remained; and that the beſt laws muſt prove to be unavailing in a government

ſo

ſo perverſely conſtituted. It was thereby viſible, that if every object of their petition was granted, the extirpation of their oppreſſions was impoſſible, whilſt the ſtate remained under its preſent form. It was alſo manifeſt, that anciently it exiſted as it ought; but that in order to avoid the miſchiefs of iniquitous magiſtrates, who were in the reign of John equally prevalent, both in England and in that iſle, they had changed the form of the conſtitution; and with a view of obviating the evils of their judges, which, tho' afflictive, were remediable, they had conſtituted a government, that, conſidering the propenſities of man, muſt infallibly ſeduce all magiſtrates to become tyrants. The true remedy is, therefore, to return to that ſpot from which, in the time of John, they had unhappily departed.

The conſtitution of Jerſey is an object too inconſiderable to engage the ſtudy of great and miniſterial men; but the happineſs of two and twenty thouſand people merits the care of the greateſt potentate and moſt ſkillful ſtateſman, that hath ever exiſted: and whoever may neglect it, will deſerve the malediction of all mankind.

The evils of a ſtate are not to be cured by caſual ſtrokes of quackery. In thoſe, the principles of the diſeaſe muſt be known; the good be cheriſhed, and the bad exterminated. With a view to that purpoſe I have undertaken to explain them; and, although they may

may not be exhibited with that perſpicuity and preciſion of which they are ſuſceptible, yet, I hope, this glimmering light will ſerve to ſhew the path which leads to it, and prove productive of happineſs to a deſerving people.

The intent of this publication is abſolutely free from the ſpirit of party and of political contention. It neither defends nor accuſes miniſters; nor is it contaminated with the ſordid alloy of ſelf-intereſt, or private vengeance. I have no averſion to the perſons whoſe miſdeeds I relate, except that honeſt indignation which all men ought to cheriſh for the nefarious. And theſe are the juſt object of that deteſtation againſt vice which is implanted in our natures: and he who can bear the oppreſſions of a villain, and be patient, hath never yet eſteemed a virtuous man.

Not an individual in the iſland had ever heard from me, or by my means, that this work was undertaken till more than the firſt volume was printed; nor more than two of the inſular inhabitants, who are now in England. Yet as it ſeems to be a work intended for the body of the conſtituents, and againſt their magiſtrates, it may be imagined, I am purchaſed by pecuniary influence to this undertaking. But ſuch is the truth, I have never received the value of a ſhilling, nor the promiſe of it: and I have not the leaſt expectation of lucrative reward. It is the progeny of human kindneſs to the inhabitants, and of

al-

allegiance to the king; to prevent thoſe clamorous calumnies, which would otherwiſe ariſe; to diſappoint the views of the factious, and to reſcind, by a timely repreſentation of the truth, a farther progreſs of the inſular calamities.

I am convinced that what is legiſlatively done is vaſtly inferior to what is neceſſary. That the eſcape of the brothers from the preſent inqueſt will heighten their deſpotiſm, animate their revenge, and endanger a real revolt in the next war. Whatever may be the preſent fancies of relief in the people, their ſenſations will ſpeedily teach them the inanity of it. New petitions will ſucceed, and miniſters, imagining their grievances were redreſſed on this occaſion, deem them a reſtleſs and unſatisfied people, whom no conceſſions can pleaſe, nor benigity make grateful. Thus the miſery of all ſucceeding generations in that iſle may be the iſſue of the conduct of one man, who is defective in more than one capacity. My views are honeſt and humane: and may the iſſue be ſuch, whether for me, or for thoſe whom I accuſe, as are exactly correſponding with the voice of truth and the dictates of juſtice. If what ſhall be related in the ſecond volume be found unſatisfactory, no concluſion can be juſtly obtained but by an examination into the conduct of theſe men, on evidence equal to the charge. A permiſſion of taking depoſitions on oath, and an authority of ſubpœnaing witneſſes in Jerſey, will de-

determine the affair, beyond all power of contradiction; and aſcertain the innocence or culpability of thoſe who are accuſed, or of him who is their accuſer.

A number of things have been printed in the daily papers, relative to colonel Bentinck, colonel Campbell, and others in office, in the iſland of Jerſey, which have been aſcribed to the writer of this narrative. He takes this opportunity of declaring, that he is not the author of them.

A N

THE

CONTENTS.

CHAP. I.

Of the military actions of the iſlanders of Jerſey, page 9

CHAP. II.

Of Rollo, firſt duke of Normandy, 34

CHAP. III.

Of the conſtitution of Normandy, 50

CAAP. IV.

Of the conſtitution of the iſland of Jerſey, [illegible]

THE CONTENTS.

CHAP. V.

Of the changes which were made in the conſtitution of Jerſey, from the death of king John, to the reign of Henry the ſeventh, page 93

CHAP. VI.

Of the reformations which were made in the conſtitution by Henry the ſeventh, and the ſucceeding ſovereigns, to the reign of Elizabeth, 111

CHAP. VII.

Of the changes which were introduced into the conſtitution of Jerſey, from the reign of queen Mary, to that of Charles the firſt, 130

CHAP. VIII.

Of the original formation of the ſtates of Jerſey, 209

CHAP. IX.

Of the ſtates of Jerſey, as they now exiſt, 252

CHAP. X.

Of the royal court of Jerſey, 265

CHAP. XI.

Of the laws and cuſtoms of Jerſey, 300

THE CONTENTS.

CHAP. XII.

page

Of the commerce and privileges of Jerſey, 312

CHAP. XIII.

Of the importance of the iſland of Jerſey to Great-Britain, 318

AN

AUTHENTIC NARRATIVE

OF THE OPPRESSIONS OF

THE ISLANDERS OF JERSEY.

CHAP. I.

Of the military actions of the iſlanders of Jerſey.

THE iſland of Jerſey is ſituated in a deep bay, and not more than ſix leagues from the coaſt of Normandy. It is the largeſt of thoſe iſles which remain to the kings of England, as dukes of that province. Reduced to a paralellogram it would contain about twelve miles in length, by ſix in breadth. It conſiſts of twelve pariſhes, and the number of the inhabitants amounts to more than twenty-four thouſand. The lands are fertile, the productions excellent, and yet the multiplicity of the people ſo greatly exceeds the produce of ſo ſmall a territory, that, in the moſt exuberant ſeaſons, it yields not more than two-thirds of that corn, which gives them bread; and this even although their barley be conſtantly converted to that purpoſe.

The natives are deſcended from thoſe Normans, who, under Rollo, their leader, at the diſtance of more than eight hundred and fifty years, invaded Neuſtria, defeated the armies of France, and eſtabliſhed themſelves in that province. More than ſeven centuries have elapſed ſince that æra, in which they ſubdued the kingdom of England, beneath the banners of William the Conqueror.

Amidſt the various revolutions which have attended the continental parts of Normandy, the iſle of Jerſey has undeviatingly remained with ſtedfaſtneſs to the ſovereigns of England; nor has this permanency in allegiance proceeded from that inert diſpoſition in mankind, which untried, or untempted, holds them, like gravitation, immovably attached to the race of their ancient princes. The armaments which have been repeatedly prepared, and deſtined by the French to reduce them under their dominion, were both numerous and formidable; and yet in every attempt, the Gallican powers have been defeated by the inhabitants of this little iſland, unaſſiſted, but in one inſtance, by the armies of England.

When John, by his deſpotiſm and cruelty, had alienated the hearts of his ſubjects, and was driven from his Norman territories on the continent, the French forces twice, in his reign, invaded Jerſey, and their efforts were rendered abortive by the vigorous reſiſtance of the iſlanders. They were again attacked by the ſame power, when Henry the third was king, and their enterprize was equally unſucceſsful.

In the reign of Edward the firſt, the French renewed their hoſtilities. They accompliſhed a deſcent, were beaten in a pitched battle, and driven with precipitation, ſlaughter and diſmay from the

ſcene

ſcene of action. Many brave men of the iſland fell on this field of victory. Edward was penetrated with amazement at this exemplary act of valour, by ſo ſmall a number, againſt ſo powerful a force. He provided for the progeny of thoſe who were ſlain: he admired the virtues of their fathers, and rewarded them in their children. The moſt acceptable and ingratiating munificence a ſovereign can beſtow.

Edward the third had no ſooner aſcended the throne of theſe realms, than the French monarch deviſed by what meaſures moſt effectually to employ the arms of England in the defence of their own dominions. A formidable fleet was equipt, and the command of it was given to Queriel and Babuchet. By theſe admirals the town of Southampton was taken and plundered; the iſle of Guernſey, and even the ſtrong caſtle of Cornet, yielded to this armament. Jerſey, in like manner, felt the ravages of their firſt deſcent. They ſupported their landing, and laid ſiege to the caſtle of Mont Orgueil; but animated with the martial ſpirit of their anceſtors, and collecting all their forces, the men of Jerſey obliged them to raiſe the ſiege, and drove them from the iſland with great ſlaughter. Drogo de Barentin, their valiant governor, fell bravely, combating in defence of his native land; Reginald de Carteret inſtantly aſſumed the command, with equal abilities, and glorioufly accompliſhed what de Barentin had ſo honourably begun.

Guernſey had now remained for three years in the poſſeſſion of the French. At length intelligence was brought to Jerſey, that a naval armament was preparing, to be commanded by Regnald de Cobham, and Jeffery de Hareourt, who, in their paſſage into Normandy, were to attempt the re-

covery of Guernſey. Animated by this account, and by the glory of retrieving from captivity their ſiſter iſland, the men of Jerſey equipped their ſhips, embarked their forces, united with the fleet of England, and diſtinguiſhed themſelves with conſpicuous bravery, in the re-conqueſt of Guernſey. Many a gallant leader, and brave man, fell in this enterprize of friendſhip, among whom were de Vinchley, de Maltravers, des Augres, de Garis, de la Hogue, and Lempriere.

The Norman dominions were now re-conquered by Edward the black prince, the moſt excellent in every virtue, military, ſocial, and humane; the moſt exalted in the intellectual faculties, the moſt ſucceſsful in arms, and beyond compariſon, the moſt illuſtrious prince of all thoſe who have been royally deſcended in this kingdom. With his ill-timed and inauſpicious death, Victory and Wiſdom deſerted the realms of England. An aged king, abſorbed in impotence and laſciviouſneſs, is the moſt deſpicable object beneath the ſkies. Such was Edward the third, diſſolved in the lewd embraces of Alice Pearſe. Charles of France, by his conſtable, du Gueſchelin, re-poſſeſſed himſelf of all theſe dominions, which the valour and the conduct of the royal ſon had acquired, and Edward, the father, deſcended to his grave, deſpiſed, deſerted, and deprived of all his conqueſts.

The iſles of Jerſey and Guernſey ſtill remained in the poſſeſſion of the Engliſh, after the other parts of Normandy were loſt. Du Gueſchelin deemed the retention of territories ſo ſmall in the hands of England, a reflection on his other conqueſts, and reſolved to add them to the monarchy of France.

To

To inſure the acquiſition of thoſe iſlands, he prepared an army of ten thouſand men, and accompanied by the duke of Bourbon, and great numbers of the French nobility, he ſet ſail for Jerſey. Their deſcent was not to be reſiſted, and they laid ſiege to the citadel of Mont Orgueil; yet ſuch was the valour of thoſe iſlanders, that even Du Gueſchelin, and all his veteran troops, before whom every other fortreſs had yielded, imparted no terror to their ſouls. They were foiled in this attempt. They raiſed the ſiege, and returned to France ingloriouſly.

Whilſt Henry the fourth was king of England, the French forces, at ſeveral times, invaded the iſle of Jerſey, but the valour of the iſlanders prevailed: and the efforts of their enemies were rendered fruitleſs. For in all the ſieges of their caſtles, their enemies were conſtantly repulſed, and driven from the iſland with great ſlaughter.

Henry the fifth regained the Norman territories, in which conqueſt he was not a little aſſiſted by the men of Jerſey, and the other iſlands. To him ſucceeded Henry the ſixth, an infant, during whoſe reign they were again reſumed by the arms of France, in the poſſeſſion of whoſe monarch, happily for this nation, they have invariably remained. The long and ſanguinary wars between the houſes of York and Lancaſter were not abſolutely unſerviceable to theſe realms. They prevented the ſovereigns of England from attempting to recover thoſe continental poſſeſſions, in the loſs, regaining, and defence of which, we had laviſhed the blood, and waſted the treaſure of England with ſuch profuſion; and in all theſe tranſactions, the ſucceſs of our armies was incomparably more pernicious than their defeats.

In this reign Jerſey, and ſome other iſles, were erected into a kingdom, and preſented by Henry, to Beauchamp, Earl of Warwick; but as he died at the age of twenty-two, it does not appear that he had time to take poſſeſſion of them.

Maud, queen of Henry the ſixth, was a woman of manly ſpirit, of much enterprize, and great reſources in obtaining auxiliaries to ſupport her huſband's cauſe. Among others, ſhe had prevailed on de Brezé, count de Maulevrier, chamberlain of the king of France, to paſs into England with two thouſand forces to her aſſiſtance. The iſland of Jerſey was to be the reward of this undertaking. With intention, therefore, to take poſſeſſion of this place, Surduval, a Norman chieftain, was ſent with conſiderable forces into Jerſey. The governor of Mont Orgueil caſtle was prepared for his arrival, and acquainted with the cauſe of it. This commander was of the Lancaſtrian party, and in the night, under the appearance of a ſurpriſe, the citadel was ſurrendered to Surduval. De Maulevrier followed him ſome time after into the iſland, proclaimed himſelf lord of that territory, holding it feudally by homage, and fealty from the king of France. He convened the ſtates, and publiſhed ordinances; but during ſix years of uninterrupted hoſtilities, with all his powers, he was unable to ſubdue but one half of that ſmall territory. Philip de Carteret, the valiant lord of St. Ouen, in innumerable conflicts, and by the gallant actions of himſelf and countrymen, preſerved the reſt from falling beneath his yoke. Such was the ſtate of this ſexennial conteſt, when Edward the fourth aſcended the throne of England, and Richard Harleſton, commander of an Engliſh fleet, arrived at Guernſey. An interview was obtained between de Carteret and Harleſton, and a

plan

plan was ſettled for the expelling of the French invaders. The former was to attack the forces of Maulevrier by land, and the latter to prevent their ſending intelligence of their being beſieged by ſea to Normandy.

Harleſton appeared before Mont Orgueil with his fleet, and accompliſhed his deſign of preventing ſuccours. De Cartaret engaged and drove the French forces into the caſtle, beſieged, and forced it to ſurrender. By theſe acts of military ſkill and courage, his country was propitiouſly reſtored to freedom, and to their former ſovereigns. During this enterprize Maulevrier was not preſent in the iſland.

From the date of this event, in the reign of Edward the fourth, the iſlanders remained undiſturbed by the calamities of war from their foreign enemies, until the aſcent of Edward the ſixth to the throne of theſe realms.

Nevertheleſs, during this period they enjoyed not the ſweets of tranquility; they were then more cruelly engaged in private quarrels, and domeſtic hoſtilities. The ancient laws which the German conquerors had introduced and eſtabliſhed through all Europe, had not received, in that iſle, thoſe ſoftening alterations, which had long prevailed in the dominions even of the Norman continent: and the right of taking vengeance by man on man, remained in Jerſey with great prevalency.

The vaſſals of their feudal lords were by the tenure of their laws obliged to eſpouſe their animoſities and friendſhips, to take arms and ſupport their ravages on each other. *Fire and ſword, devaſtation and murder, were perpetrated with-

* Bull of Sixtus the fourth.

out mercy; and each chieftain, with intent to augment his force, and become ſuperior, received into his ſtrong hold the piratical rovers who at that time infeſted thoſe ſeas. By theſe deſperadoes they were aided and encouraged in their depredations on each other. At length, by the continued acts of bloodſhed, and the terror of ſuch ſanguinary purſuits, the inhabitants, for the moſt part, were either ſlain in battle, or had retired from this calamity, and the iſland was in danger of becoming totally unpeopled.

The interpoſition and menaces of the kings of England, had proved but of little efficacy to ſuppreſs the ravages of thoſe plunderers. The arm of fleſh they feared not. It was that with which they fought. With the effects of it they were familiarized, and for them it had loſt its terrors.

In this embarraſſing ſituation, Henry the ſeventh had recourſe to that power, which alone they dreaded. For ſuch is the inconſiſtency of the mind of man, and of his conduct, that whilſt they are conſtantly engaged in the violation of God's commandments, they nevertheleſs believe they ought to be obeyed: and that the eternal puniſhments of a future world, await offenders in the preſent. But this faith is neceſſary to be alarmed by ſome power among men, to whom it appears to be delegated from above. The application of this prevailing motive was that on which Henry relied. He obtained from pope Sixtus the fourth, a bull of excommunication of all thoſe iſlanders, who ſhould perſevere in theſe barbarous invaſions of each other; and by this anathema, the terrors of a future ſtate were brought in aid, to the producing of tranquility in the preſent. And ſuch was the influence of this papal edict, that thoſe

ruffians,

ruffians, over whom the menaces of royal reſentment, and of military force, had no power of intimidation, were held within the bounds of more decent behaviour, by the denunciation of this verbal vengeance, by a being, who had no means of carrying it into execution.

Such are the marvellous operations and effects which the coercive awe of religious dread can generate on the minds of the moſt ſavage, who believe. The laws of God, like thoſe of man, become inert, and unproductive of utility, unleſs the ſenſations of ſelf-love be vigorouſly impreſſed, by the perſuaſion that puniſhments, both in this and in another world, will certainly be inflicted for their tranſgreſſions. When ſuch reſtrictive interdicts coincide with the tenets of their faith, the doctrines which are delivered, and the duties which are enjoined in their religion, when the command is ſuppoſed to have iſſued from a heavenly vicegerent, and the infliction which is threatened is replete with terrors, infinite and untried, their authority is irreſiſtable.

It was on this propenſity ſo prevalent in man, to embrace the belief of things ſupernatural and marvellous, and to obey thoſe dictates which are delivered as proceeding from the celeſtials, that Minos, Lycurgus Nama, eſtabliſhed their reſpective ſyſtems of legiſlature, and Crete, Lacedæmon and Rome, were indebted for the excellence of their inſtitutions, to that knowledge in mankind, and the application of it to civil government, ſo ſuperlative in theſe legiſlators.

Men are naturally competitors, and opponents of each other, and ſubmit reluctantly to the ſuperior wiſdom of humanity alone. The aſcendency which one enlightened man may aſſume above his aſſociates in the community, is either not diſcerned,

cerned, or precluded by the ſelf-opinion of others, with whom there is at all times a latent rivalſhip, and diſinclination to acknowledge a ſuperior in underſtanding. But when he offers himſelf as the organ of ſome deity, delivering nothing from himſelf, the force of oppoſition diſappears, and the genius of the legiſlator applies this energy, which captivates, and encreaſes in proportion, as the objects which are offered become leſs reconcileable with the common courſe of nature. No aſſertion is incredible, no inſtitute uncomplied with, provided they are given as proceeding from the gods. Where power is ſuppoſed to be infinite, even impoſſibilities ideally yield before it. It is then alone the legiſlator erects a permanent fabric of authority. The welfare which reſults from ſuch ſalutary inſtitutions, in which the individuals are commanded to act, and to refrain, according to the good or evil which may be produced by their exertions, ſtrengthens the perſuaſion of their divine original: the preſcience and diſcernment of the legiſlator is ſanctified by the rectitude and practice of his ordinances, and whilſt the influence of theſe remain in proper operation, no diffidence of the truth ariſes in the multitude, to diſturb that tranquility, which is thus by anticipation brought from worlds above, to the improvement of morality and virtue in this below.

But the wiſdom of this age, enlightened by the moonſhine of philoſophy, which ſpreads fallacious colours, and deluſive indiſcriminations on all objects, hath pronounced this energic influence to be the creature of impoſture. They have not diſtinguiſhed between the power, and the abuſe of it. But, concluding from its miſapplication, that it ought to be utterly exploded, have let looſe the multitude to the dominion

minion of their own conceits; diſſolved that national ſtrength, which an union of faith creates; and ſpread that fatal incredulity, which is incompatible with the unequal faculties of a gregarious being, and the ends of ſocial eſtabliſhments among men.

An anarchy of ſentiments in objects ſo momentous, muſt at length effect a total ſubverſion of all government; an event, which the circumſtances of the preſent times evidently pronounce to be at no great diſtance; unleſs the powers executive of the laws, both religious and civil, ſhall become more exertive in the exerciſe of their truſt and duty.

The reign of Edward the ſixth was not paſſed in peace by the men of Jerſey. The French revived their ancient attempts upon the iſland. The armament was great and formidable; the deſcent effected, and the attack was vigorous. But the ſouls of theſe inſulars, inured to battle, were not to be diſmayed by powers ſo ſuperior. They met them ſword to ſword on the ſandy ſhore, and after a long and bloody conteſt, in which great numbers of their enemies were ſlain, they drove the remainder to their ſhips, and obtained a complete victory.

When queen Elizabeth received the crown of theſe realms, the ſubjects of France were hoſtily engaged in ſhedding the blood of their fellow-citizens. The deſire of reformation in religion, had obliterated the principles of mercy, which ſo eminently characteriſe the Chriſtian revelation; and had inſtigated mankind to thoſe ſanguinary purſuits, from which it had formerly recalled them. Of ſuch pernicious conſequence it is to apply the moſt powerful incitements of righteouſneſs to the purpoſes of fanatic zeal, and iniquitous ambition.

Whilſt

Whilſt the Gallican plains were drenched with civil blood, the iſlanders of Jerſey were uninfeſted with invaſion.

But as there exiſted no doubt but on the ceſſation of hoſtilities among themſelves, the French attempts to conquer Jerſey would be renewed. This time of ſuſpenſion was employed in raiſing a fortreſs on the iſlet, in the bay of St. Hellier.

The reign of Elizabeth was paſſed without diſturbance to the men of Jerſey, and the pacific diſpoſition of James the firſt, preſerved them in tranquility while he was ſeated on the throne of theſe realms. Even the reign of Charles the firſt, diſtinguiſhed with ſuch an amazing variety of calamities, by the malignancy and rebellion of his ſubjects, was unſtained with blood in that iſland.

George de Carteret, bred in the fleet, diſtinguiſhed for his knowledge in military affairs, and eſteemed for his great abilities as a naval commander, refuſed to accept the offers of ſerving the parliament. He was intimately acquainted with the characters of the parliamentary Demagogues. He knew the blackneſs of their ſouls, deteſted the inſidiouſneſs of their deſigns, and withdrew in indignation, to prepare the beſt aſſiſtance he could afford his ſovereign in the little iſle of Jerſey, his native land, ſhould the arms of rebellion be at length extended to thoſe ſhores.

The inhabitants had already groaned beneath the curſes of Calviniſtical reformers, who had uſurped, in the days of Elizabeth, an abſolute dominion, religious and civil, over the conſciences and conduct of the inhabitants. The deteſtation of ſuch returning tyranny in the parliamentary fanatics, added no inconſiderable incen-

tive

tive to their loyalty; and united them with energy to the cauſe and ardour of De Carteret. In order, therefore, to contribute in ſupporting the king, and diſtreſſing his rebellious ſubjects, they built ſmall ſhips of war, which, authoriſed by commiſſions from his majeſty, cruiſed in the channel, and took great numbers of thoſe veſſels, which ſailed under parliamentary paſſports. They brought conſiderable prizes into their ports, and became formidable to the commerce of the rebels.

It was now that the proteſtations of their contending for the liberty of the people, were terminated in the democratic deſpotiſm of a miſcreant rabble in the houſe of commons; their pretenſions to improve the conſtitution, had concluded in the extermination of all legal authority; the court of ſtar-chamber was more than revived in thoſe ſanguinary tribunals, which decreed the murder of their king, and his loyal ſubjects; and their profeſſions of love for their ſovereign, had finiſhed in bringing him to the block. Religion was devoured by hypocriſy, and every moral and religious obligation was ſuperſeded by that liberty of conſcience, which never heſitated at the commiſſion of all thoſe crimes, which the laws of God and man, and conſcience itſelf forbid.

Charles the ſecond was proclaimed in Jerſey, and the remains of active allegiance ſeemed to be limitted by the narrow bounds of that iſolated ſpot, in which he twice found refuge from the enemies of himſelf, and of human ſociety. Since the royal murder at Whitehall, he had returned to the Scots, who had ſold his father to his enemies. But Cromwell and the parliament being now more formidable and more deteſted than a ſlaughter'd king they invited his ſon to reſume that kingdom, and

pro-

promiſed to ſupport him. The contemptuous manner in which they treated him, the horrid perſecution of being compelled to the hearing a ten hours rant of fanatic nonſenſe, by thoſe ſeekers of the Lord, the end of whoſe ſearch concluded in finding the devil, was a calamity too afflictive to be borne, for the obtaining of any kingdom but that of Heaven. It was from the averſion which Charles the ſecond conceived againſt theſe impious and hypocritic exclamations, that he contracted a contempt for all religion.

An army was prepared, which marched with the king into England, and was defeated with much facility at Worceſter. His majeſty eſcaped the diligence and aſſaſſination of his rebels by means almoſt incredible, and at length was ſafely landed in France. The regicides, elate with this victory at Worceſter, and inflamed with vengeance at the unſhaken fidelity of the iſlanders of Jerſey, who dared to remain loyal, in oppoſition to their nefarious edicts, determined to put an end to that remains of faithfulneſs to their king, which yet ſubſiſted in that iſland. To this reſolution they were not a little induced by the activity of the Jerſey ſhips of war.

A vaſt fleet was equipped, and the command of it was given to Blake. A large body of land forces was embarked, and Haines was appointed general of the expedition. They ſet ſail from England, and on the 20th of October 1651, they anchored in the bay of St. Ouen, on the coaſt of Jerſey.

The formidable force of this armament was not the moſt diſcouraging object with which de Carteret was to engage. Superſtition, which on certain occaſions ſo powerfully invades the minds of men, and inevitably enters into the cauſes of

moſt

moſt ſignal events, co-operated with the deſigns of the rebels. The ſea, which in that bay, and at that ſeaſon of the year, is almoſt in conſtant turbulence, was at that time as placid, and as ſmooth as the ſurface of a ſmall lake. This unſeaſonable phænomenon, was by the ſuperſtitious multitude conſtrued as a prediction that Heaven had vouchſafed a fruitful iſſue to this expedition of the regicides. A rumour alſo had been promulged, and too readily believed, that the king was ſlain at the battle of Worceſter. By the united efficacy of theſe cauſes, their ſpirits were much depreſſed. They imagined, that if ſucceſs ſhould attend their reſiſtance, that prince was no longer living to reign over them, who, when in Jerſey, had ſtrengthened the bands of allegiance by his great complacency to the people. Diſmay appeared in the faces of moſt of the common ſoldiery, and many expreſſions were uttered, ſignifying their apprehenſions of defeat, and the uſeleſſneſs of expoſing their lives in purpoſes, which though ſucceſsful, would avail them nothing. De Carteret alone manifeſted no diffidence of ſucceſs. From him neither look, word, nor geſture eſcaped, which could ſignify the ſuſpicion of apprehenſion. He ſhewed them that the ſmoothneſs of the ſea was owing to natural cauſes; "to conceive that the ſpecial protection of heaven is deigned to rebels, who have murdered one king, and as you imagine, have ſlain another in battle, is an impious reflection on the righteouſneſs of the omniſcient and all-juſt. Your king yet lives, your cauſe is great, your allegiance glorious; let the ardour of your actions be equal to the importance of that duty, in which you are engaged. Remember the illuſtrious deeds of your anceſtors, imitate their valour, contaminate not their renown

by

by your degeneracy, and your arms ſhall be crowned with equal victory. Diſmiſs your groundleſs apprehenſions. I am a man as ſuſceptible of the impreſſions of real danger as yourſelves. Support your reſolutions with firmneſs, till you ſee me tremble."

Theſe words, accompanied with thoſe perſuaſive looks of confidence, which minds the moſt exalted can alone aſſume in dubious circumſtances, pervaded the loyal boſoms of the iſlanders. It diſſipated the gloom of terror which hung over them, and depreſſed their ſouls. His activity confirmed the accents which he uttered. Courage reſumed her ſeat in the hearts of his companions. They believed, and manfully reſolved to live or die with him, and that cauſe, which he had undertaken to ſuſtain.

There is no ſituation, in the moſt trying circumſtances of life, which can pronounce the magnanimity of man more indiſputably than this, in which de Carteret was placed. Not to catch the contagion of a general fear, is an authentic evidence of much ſuperiority of ſoul; but to expel that malignity, when it has ſeized the minds of multitudes, incontrovertibly evinces the aſcendency of the intellectual faculties of one man, above the millions of the human race. In this conduct the whole effort ſprings from the preeminence of him who tranſacts it. In ſuch inſtances, caſualties can find no entrance. Generals may ſucceed in battle by incidents and events unforeſeen, uncommanded, and even unknown; but ſuch ſignal transformations in the ſouls of an army, are to be effected but by that genius, which is only leſs perfect than the ætherial ſpirit of the immortals.

The

The rebels were now embarked in boats, and prepared to land. De Carteret and his valiant iſlanders ſtood firm and ready to oppoſe them: and ſo conſpicuous was their change from dejection to ardour; ſo great was their impatience to meet thoſe regicides in battle, whom they ſaw approaching, that thoſe men who had no weapons, ſupported others, ſeated on their ſhoulders, who were armed, and marched into the ſea to meet them. They bitterly upbraided them with the ignominy of their rebellion, and the murder of their king. They attacked them in their boats; with irreſiſtable impetuoſity and ſlew ſuch numbers, that fear invaded even the veteran troops of Cromwell, and they returned with precipitation to their ſhips. De Carteret embraced this auſpicious moment to confirm that enthuſiaſm, which he had ſo judiciouſly excited. Then turning to his conquering companions, "for whom now has Heaven ſmoothed the ſeas?" he ſaid, and not one atom of ſuperſtitious awe remained upon the hearts of his fellow ſoldiers. Defeated in this attempt, the rebel fleet weighed anchor, and ſteered to St. Brelade's bay. De Carteret and his army, ſmall in number, but great in reſolution, marched and appeared on the ſhore of that part of the iſland. The night was employed by the regicides in preparations for a deſcent. The general and his iſlanders erected batteries, remained under arms, and awaited their approach. The parliamentarians were embarked on board their boats, and rowed towards the ſhore. The dawning day diſcovered their intentions, and the royaliſts of De Carteret, in batalia, ſtood ready to receive them. The gallant repulſe of the preceding day had pervaded the hearts of theſe fanatics with ſuch conſternation, that after a few diſcharges from the artillery of

the iſlanders, they ſhrunk from the attempt, and returned with timidity on board their veſſels.

The greateſt part of the fleet ſailed again to the bay of St. Ouen, nineteen ſhips of war remained in that of St. Brelade, and a reinforcement of the land army arrived in tranſports on that day. De Carteret, leaving part of his forces to oppoſe the latter, marched with expedition, to meet the others at their landing. They made no attempt to that purpoſe at St. Ouen's, but continued their courſe to the northern parts of the iſland. Thither the inſular commander repaired with equal diligence. In this manner, moving from place to place, without daring a deſcent, they harraſſed the little army of De Carteret, ſo that in three days and nights they taſted no refreſhment from ſleep, but remained inceſſantly under arms, and in the rain, which continued during all that time. With ſouls unconquered, the frailty of the human body was unable to ſupport a longer fatigue, and neceſſity compelled them to ſeek repoſe from their unremitted toil.

De Carteret, ſtill unwearied, remained with his ſmall regiment of horſe, to oppoſe their deſcent. The rebels landed under the cover of a dark night. The engagement was ſharp on both ſides; freſh forces poured continually from the fleet. The infantry of Jerſey haſtened to the aid of their loyal countrymen, but they were neceſſarily too remote to return to the combat, before their gallant leader, borne down by numbers, was compelled to retire from before the regicides. * Though on the ſide of the loyaliſts the whole force conſiſted but of one ſmall regiment, the combat was attended on the part of the parliamentarians with great ſlaughter. Too many of the va-

* Whitlock's men.

valiant iſlanders ſigned this laſt act of their allegiance with their own blood. Among theſe was the brave colonel Bovil, who received the unavailing friendſhip of De Carteret, in lamentation for his loſs. By this defeat, broken, but not ſubdued, De Cartaret, accompanied by many a gallant officer, by ſome of the clergy, and three hundred other undaunted men, retreated to Elizabeth caſtle. This fortreſs he had ſtored with ammunition and proviſions, and reſolved to defend it with reſolution, becoming a cauſe ſo great, and ſo brave a general.

The deſcent being accompliſhed, the rebels firſt attacked the fort, which, together with the citadel, commands the road of St. Aubin. The officer, who preſided in that fortification, had received the ſtricteſt injunctions from the general to defend it to the laſt extremity: but with his commands it was impracticable for De Carteret to transfuſe his animating and invincible ſpirit. The commander, almoſt at the firſt ſummons, ſurrendered the place, and by that daſtardly behaviour, the harbour of St. Aubin, was laid open for the reception of the rebel fleet, in which alone they could ſecurely anchor in tempeſtuous weather. Had that miſcreant been equal to the confidence which was repoſed in him; had his courage been adequate to a day's defence, this mighty armament of the regicides had been totally deſtroyed. For on the morrow a ſtorm aroſe ſo violent, that no ſhip could have reſiſted its impetuoſity, the wind blowing directly on the ſhore, on that part near which they were at anchor, before the fort was taken. One ſhip of war, which had not time to enter, was daſhed to pieces on the rocks, and not a man ſurvived the wreck.

The caſtle of Mont Orgueil, which had ſuſtained ſo many ſieges, and remained unconquerable,

was next aſſailed: but it was no longer in that ſtate of defence, in which it anciently had been. The fortifications had been neglected: there remained but few cannon mounted, or ſerviceable: beſides this the preſervation of the fleet, by entering the port in ſafety, the day preceding the ſtorm, had recalled the chill of ſuperſtitious dread, and benumbed the faculties of their ſouls. After a ſhort reſiſtance, this caſtle was for the firſt time taken by force, and ſurrendered to Haines, the rebel general.

The whole iſland was now ſubdued, except Elizabeth caſtle, to which De Carteret, and his little garriſon had retreated. Plunder and devaſtation were univerſally extended through the country. The churches were polluted with all kinds of beaſtlineſs. The altars were overturned, and the pulpits profaned with fanatic blaſphemy. They had even the effrontery to thank the God of mercy for their ſucceſs in thoſe crimes, for which by his commandments they are doomed to eternal puniſhment. In this manner they attempted to ſanctify rebellion and murder, by the more horrid outrage of aſcribing to the deity, the ſucceſs of their iniquities.

The intelligence of this ſucceſs being arrived at the houſe of commons, theſe impudent fanatics inſulted the majeſty of heaven, by appointing a day of ſolemn thankſgiving for ſuch nefarious actions.

Such were then their principles and practices. The former remain unalterably the ſame to this hour; the latter will enſue, whenever an opportunity ſhall arrive for the carrying of them into execution with ſucceſs, and for which event they are now moſt ardently ſeeking the Lord.

The moſt arduous taſk of this expedition yet remained to be accompliſhed by the parliamentary army.

army. De Carteret was in the citadel, and as that fortreſs is ſurrounded by the ſea, from half flood to half ebb, the trenches could not be opened, nor the approaches carried on in the uſual manner of forming ſieges. The hill near the town of St. Hellier, ſtands at the diſtance of more than ſix hundred geometrical paces from the caſtle. On that eminence they erected their batteries, and began to fire with twelve cannon, which carried ſhot of thirty-ſix pounds. The impreſſion made on the battlements by the artillery was of ſmall effect, tho' the firing had been many days continued. At length, from two mortars, they threw bombs of thirty-ſix inches diameter, into the caſtle. One of theſe broke through the vault of a magazine, ſet fire to the gun-powder which it contained, and with moſt horrible exploſion deſtroyed forty of the ſoldiers, together with armourers, carpenters, and others, whoſe ſervice is indiſpenſibly requiſite in the ſuſtaining a ſiege; and to this misfortune was added alſo the loſs of much ammunition and proviſions.

At this time intelligence was brought, that Charles the ſecond had miraculouſly evaded the murderous purſuit of his rebellious ſubjects, and was arrived in France.

De Carteret, whoſe ſagacity no circumſtance eſcaped, which might inſpirit his companions, took this occaſion to re-animate their almoſt deſponding hearts; "Our king lives, ſays he, Heaven has preſerved him for future greatneſs. We have already twice afforded him an aſylum from the murderers of his royal father, ſhall we now diſgrace our loyalty and allegiance, by an ill-timed and unneceſſary capitulation? France, in compaſſion to an exiled ſovereign, may ſend us aid; let us diſpatch a meſſenger to his ma-

jeſty, and know his ſentiments; it will be too ſoon for brave men to yield, when they can reſiſt no longer." To this intent Mr. Poindextre, and Mr. Durel, chaplain to De Carteret, were expedited to France, to impart a relation of the ſtate in which they were, to ſeek ſuccour, and to receive the king's commands.

Charles was at the court of France, deſerted by the king, and neglected by Mazarine, his miniſter. The dread of Cromwell, or rather the advantages which they expected from keeping England embroiled in civil wars, had extinguiſhed every ſenſation of pity for royalty in diſtreſs, and averted every inclination to aſſiſt an exiled prince. It is the ill-judged practice of refined politicians to renounce the feelings of humanity. In conſequence of this miſtaken wiſdom, they are deteſted whilſt in power, deſerted when in diſtreſs, and their memory execrated by all poſterity, when their bodies are rotting in the grave. Art may, indeed, preſerve the latter from corruption, but nothing, ſave the acts of virtue, can embalm the characters of the great.

Such was the ſituation in which Durel had the unhappineſs to find his ſovereign. Charles acquainted him with the circumſtances of his ſtation, and aſſured him there exiſted no hopes of his receiving ſuccours from the king of France. "Mazarine is not more my friend than Cromwell, ſays he, I therefore leave the affairs in Jerſey to the conduct of De Carteret; he has my permiſſion to behave as he pleaſes; nevertheleſs it is my advice, that he capitulate on honourable terms, rather than to ſacrifice the lives or liberty of gallant men, in a fruitleſs, though a laudable reſiſtance, againſt rebels."

This

This anſwer being brought to De Carteret, he for ſome time concealed it from his companions. Hope is the laſt ſupport which quits the boſom of a valiant man; and the idea, of ſurrendering to thoſe whom he deteſted, co-operated to promote his reſolutions of not yet ſurrendering the caſtle. At length their proviſions began to fail, and the approach of famine alarmed them with terrors more irreſiſtable than thoſe of the rebel army. He then diſcloſed the king's anſwer to his garriſon; he aſked their intentions, and they agreed to ſurrender. De Carteret then capitulated with the enemy, and marched out of the caſtle on honourable terms. Jerſey, his native land, was no longer an abode for him; he therefore paſſed into France, where in much diſtreſs he remained, unmurmuring at his private fate, till the nefarious actions of the rebel crew compelled the people to recall their king. They felt the miſeries of thoſe inceſſant revolutions in the frantic forms of government, which had ſucceeded the deſtruction of monarchy, and longed with ardour inexpreſſible to be freed from the deſpotiſm of thoſe miſcreants, who had fallaciouſly taken arms in the cauſe of liberty, and thereby ſeductively enſlaved their fellow-ſubjects.

From that ſanguinary æra to the preſent time, when men of like principles appear to be engaged in ſimilar purſuits, the iſle of Jerſey has been entirely free from all hoſtile invaſions and the natives as firm in loyalty to his preſent majeſty, as to his predeceſſors, and as willing to ſacrifice their lives in his defence, as in that of the ill-fated Charles. Nor was it the blinded zeal of family attachment, which animated theſe brave iſlanders to perſiſt in allegiance to their kings. It proceeded from reſolution to defend themſelves from thoſe democratic uſurpers, under whom they and this nation ſuf-

fered ſo egregiouſly. The truth of this aſſertion is evinced from their conduct at the revolution.

King James the ſecond had injudiciouſly diſtinguiſhed by his favour both the Roman Catholics and ſectaries, who are equally diſliked in Jerſey, although unequally pernicious to the conſtitution of England. The Roman Catholics are firmly attached to the king and government in civil inſtitutions: the ſectaries deteſt alike the conſtitution in church and ſtate, and the very idea of a ſovereign. The iſlanders ſaw that ſhould a union of ſuch heterogeneous non-conformiſts prevail, that civil bloodſhed and oppreſſion muſt be again let looſe; that theſe parties, ſo diſcordant in appearance, yet ſo ſimilar in their conduct of acquiring aſcendancy over the minds of the people, after they had combined in deſtroying the eſtabliſhed church and government, would diſunite, in order that each party might obtain a ſuperiority, by aſſaſſinating thoſe who were of different ſentiments.

Actuated by theſe perſuaſions, the men of Jerſey, when king James was driven from the throne, prevailed on the commander of Elizabeth caſtle to permit them to participate in the guarding of that fortreſs. To this conduct they were induced, in order to prevent that garriſon from becoming active in the cauſe of the king, who had forfeited all claim to their allegiance by his unconſtitutional proceedings.

King William and queen Mary being acknowledged ſovereigns of this realm, the men of Jerſey became their willing ſubjects. Since that revolution they have joyfully united in all the ſucceſſive acts, which have eſtabliſhed the crown on the heads of the preſent family. They have ſerved them in their fleets and armies, with fidelity

and

and courage, with honour to themſelves, and utility to their country. They now maintain a military force, in order to repel the invaſions of their enemies, and are as ready to prove their loyalty to their king at this hour, as in all the paſt. Among theſe are many of the name of De Carteret, who have ſerved in naval armaments, one of whom, as an officer in the fleet, has twice ſurrounded the globe in five years, in the ſervice of his preſent majeſty.

Few nations, of any extent, have produced a race of men more diſtinguiſhed by their fidelity and valour, than this little ſpot of a few miles in circumference. Thoſe of the name of De Carteret have been illuſtrious almoſt beyond example: nor does the pre-eminence of their virtues conſiſt in the greatneſs of their military exploits alone; it will be ſoon made manifeſt, that their magnanimity has been equally exerted in defending the civil rights and liberties of their country from traitors, who by leſs open, and more inſiduous means than taking arms, have too frequently attempted to enſlave them. Of ſuch there exiſts at this moment two brothers, who have too long laboured, and too ſucceſsfully prevailed, in bringing down perdition on their fellow-ſubjects.

Such are the merits of thoſe iſlanders, whoſe military atchievements I have too imperfectly delineated; whoſe preſent oppreſſions I unfeignedly lament, and whoſe redreſs I ſhall conſcientiouſly attempt to promote, by an authentic narrative of their ſituation. Though not a native of the iſle, I am a man, and feel for the calamities of human kind. Theſe are my fellow-ſubjects, and in this undertaking I am authoriſed by the great charter of humanity, which God himſelf hath given to man, and commanded him to obey.

CHAP.

CHAP. II.

Of Rollo, firſt duke of Normandy.

ROLLO, the leader of the Norman rovers, having vanquiſhed the armies of France, was inveſted by Charles the third, with the right, and eſtabliſhed himſelf the firſt duke of Normandy. He was a chieftain, not leſs illuſtrious, nor more invaſive of the rights of nations, than thoſe of the Greek and Roman name, who left their native lands, and planted colonies, by force of arms, in other regions.

The emigrations and hoſtilities of theſe northern invaders, ſprang from the irreſiſtable coertion of ſeeking that ſuſtenance in other regions, which the ſcanty harveſts of their own denied to growing multitudes. This compulſive circumſtance, offers that apology for their conduct, to which the emigrants of more remote antiquity are not intitled. The right of acquiring food, is interwoven in the original formation of man, becauſe all beings are entitled to continue their exiſtence: and the authority is founded on thoſe appetites and paſſions, by which they are excited to the exertion of thoſe corporal powers, that can alone obtain that aliment. Theſe are incitements too importunate to liſten to the laws of nations, which by aſcertaining the property of the earth to ſpecific ſtates and individual men, would preclude

clude the intruſions of thoſe who want. Such incidents recall mankind to thoſe innate principles, and primæval claims of nature, which are antecedent to the ordinances of human polity, and deſtroy their energy. Yet ſuch is the obliquity or indiſtinction of the human mind, in general, that the invaders of claſſical antiquity are conſecrated to immortal glory, by the exalted name of heroes, whilſt thoſe who deſerted the foodleſs foreſts of the north, are traduced with the ignominious denomination of robbers, and their remembrance doomed to deteſtation.

Even amidſt the preſent declamation againſt the Gothic manners of theſe northern people, and in applauſe of the civilization, and purer ſentiments of humanity in this enlightened age, urged by no motive but the luſt of riches, do we not cauſeleſsly invade the peaceful habitations of the native Americans, expel them from that ſoil which God primævally had given them, and by violence poſſeſs it. At this moment are we not nefariouſly extending devaſtation and bloodſhed on the plains of Aſia? Do we not murder and dethrone their unoffending ſovereigns, uſurp their dominions, and harraſs their ſubjects with univerſal rapine and oppreſſion? And when theſe robbers, theſe ſcandals to humanity, return, covered with diamonds, corrupted with voluptuouſneſs, intolerable in arrogance, are they not dignified for thoſe acts, by which they merit a public execution? Who is there that envies not their ſplendor? Do we not lament, that the ſame brutal means of being enriched, have not deſcended upon ourſelves? Thus, like cameleons we change colour on the ſurface, and remain invariably the ſame in the interiour ſubſtance of our ſouls. The Carthaginians doomed, on ſingular occaſions, their progeny as ſacri-

fices,

fices, to appeaſe the anger, or obtain the ſuccour of their deities. This we deteſt with juſtice; and yet we daily devote our children to the like inflictions. We ſend them to the torrid zone, in ſearch of wealth, from whoſe burning ſands ſcarce a traveller returns, and think we have tenderly diſcharged the duty of good parents, by this unnatural oblation of our offspring on the golden altar of avarice.

Moral, like natural objects, take their complexions from thoſe mediums through which they are beheld. The very deeds which, ſeen through ambition and ſelf-intereſt, appear both juſt and laudable, through compaſſion and diſintereſtedneſs, are barbarous and deteſtable. We liſten to our paſſions, obey their dictates, follow the deluſion and call it reaſon. We delineate ſimilar characters with crayons of different tints, as the hand of prejudice or partiality directs them; and we deliver them to the world in the ſame colouring with which they are pourtrayed on the canvaſs of our imaginations, as the exhibitions of truth.

The annals of all ages can with difficulty furniſh a more conſpicuous example of military and legiſlative ſcience, united in the ſame perſon, than in Rollo. By his ſkill and courage in conducting armies, he defeated the forces of a mighty monarch. By his diſcernment in thoſe motives, by which men are to be well governed in civil ſociety, he adopted and improved thoſe inſtitutions, both religious and civil, which promiſed moſt effectually to ſuſtain his own glory, and his people's happineſs.

He knew that the ſtipulations which were made with conquered princes, would remain no longer uninfracted than the duration of that impotence, by which they had been compelled to conclude them

them, unleſs ſuch meaſures could be contrived, as would obviate that propenſity, and ſtrengthen the energy of conqueſt, by obligations leſs afflictive. He therefore entered on thoſe methods, which might ſoften the aſperities of being vanquiſhed in the breaſt of Charles, and mitigate the vindictive deſires of re-conquering the dominions he had loſt. With this view Rollo eſpouſed Giſelle, the daughter of that king of France. By that conduct he became united in affinity with the ſovereign he had ſpoiled; and that province, which at firſt was conſidered by Charles, as raviſhed from his poſſeſſion, aſſumed the ſeductive appearance of being preſented by him, and continued in his family. Thus the reſentments of the vanquiſhed king were ſunk in the affections of the father.

The religion of the Normans was that of war alone, in which valour was the greateſt virtue; and immortality and happineſs the reward of thoſe who fell in battle*. The idea of their elyſium conſiſted in the enjoyment of ſenſual delights. Eternity was endeared by the embraces of the moſt beautiful of women, and by revels in feſtivity in the ſuperb palace of Odin, ſeated in the paradiſaic gardens of Valhalla. And as ſuperior merit was to be diſtinguiſhed by pre-eminent felicity, that alſo was adapted to the jovial manners of the Danes. The heroes of greateſt renown were to quaff full bowls of wine, whilſt thoſe of leſs atchievement were indulged with thoſe of ſtrong beer alone. With ſuch enthuſiaſtic ardour were their ſouls poſſeſſed, by their faith in this voluptuous Paradiſe, that they expired on the field of battle in rapturous ſongs, expreſſing their

* Burtholin. de antiq. danie.

their contempt of death, and their longing of thoſe pleaſures, which they were haſtening to enjoy.

Thus, in the frozen regions of the North, as on the torrid plains of Arabia, ſenſuality has formed the foundation of religions, ſo amazingly reſembling, that nothing but the almoſt impoſſibility of Mahomet's having been acquainted with the Daniſh faith, can preclude the perſuaſion that he did not copy his voluptuous Paradiſe from the Valhalla of the Danes.

With the alterations which arrive from the different circumſtances of a people, who from depredation and roving, become pacific and permanent, a change of religion, laws, and manners, with ſilent procedure, will inevitably find admittance. Men of legiſlative genius, who conquer others, will, by diſcernment in the principles of humankind, anticipate the ſlow progreſſion of time, and either inſtitute a new ſyſtem of polity, both religious and civil, like Manco Capec, or like the Tartar who conquered China, adopt the eſtabliſhments of thoſe whom they have ſubdued. If men, who inſtitute the laws by which mankind are to be directed in ſocial communities, be juſtly deemed the moſt eminent in intellectual faculties, thoſe who adopt, with diſcernment, ſuch as are already eſtabliſhed, and renounce the impulſe, ſo natural to conquerors, of ſubjecting all things to their will, are men of capacities ſcarce leſs exalted; and the hiſtories of mankind afford but few examples of that kind. Of theſe Rollo ſtands among the foremoſt.

He ſaw himſelf and his aſſociates ſeated in permanent abode, where the maxims of regal and individual property had been long eſtabliſhed; objects which had been unknown, or unobſerved by them in their roving ſtate of depredation. To

this

this change of ſituation, their morals and their manners were to be conformed.

He ſaw that internal peace was indiſpenſibly requiſite to the preſervation of the dominions he had acquired; and that ſhould the ſame ſpirit of rapine ſurvive and animate them, on private quarrels, to invade each others property, the very motives which had proved ſo effectual in uniting them to acquire what they poſſeſſed, would then divide and incite them to each others ruin; and thence that they would be deſtroyed by the ſame means which had made them conquerors.

In this ſituation, incitements to moral virtues became as neceſſary, as thoſe to acts of valour had proved in their former proceedings. Religion had afforded that enthuſiaſtic proweſs, by which their atchievements had been accompliſhed. The impulſe and rapidity of this ſtream was not to be diminiſhed, but to be turned into another channel. Immortality and happineſs were ſtill to remain the rewards of the meritorious; but the actions by which they were to be obtained were to be totally different. The numbers which they had ſeverally ſlain in battle were no longer to intitle them to the rewards of eternal life. The acts of mercy, compaſſion, juſtice, charity, were thoſe for which mankind were now to receive the renumeration of endleſs bliſs. And to the creating of theſe diſpoſitions the powers of religion were to be employed; the moſt coercive which can actuate the heart of man.

The Chriſtian religion was that which was eſtabliſhed in Normandy. It was perfectly adapted to the purpoſes of Rollo, and the welfare of his followers. The duke, therefore, embraced the faith in Chriſt, and that no occaſion might be loſt of more

more intimately ingratiating himſelf with his conquered ſtep-father, he ſeized on this, and requeſted him to become his ſponſor at the font of baptiſm. And by this judicious conduct he became his ſpiritual father alſo. His followers embraced the ſame faith, and the nation renounced the barbariſm of their martial worſhip.

This converſion of the Normans to the religion of that ſovereign, whom they had ſo frequently defeated, flattered the king with the appearance of condeſcenſion on their part, and of ſuperiority on his; and thus the ambition of having added a nation to the worſhip he profeſſed, if it did not compenſate, conſoled him for the loſs of the Neuſtrian territory; and the conqueſts of thoſe ſovereigns became, in a great degree, apparently reciprocal.

By this change of religion, alſo, a motive not leſs coercive than the deſire of immortality and joy, was added, as the incentive of moral virtues. This was the dread of everlaſting puniſhment for deeds unrighteous: a tenet which was antecedently unknown to the northern nations, and incompatible with that religion which is founded on the principles of war, and for the encouragement of martial virtues. In ſuch the native reluctance of leaving life ſhould never be augmented by the dread of ſuffering in a future ſtate, to damp the ardour of dying gloriouſly in battle. Nevertheleſs, without the belief of this antitheſis in futurity, the religions of morality are manifeſtly imperfect. In ſuch it is not leſs requiſite to reſtrain mankind from vice, than to encourage them to virtue; and ſelf-love muſt be influenced by the dread of torture, as cogently, as with the expectations of beatitude.

By this converſion to the eſtabliſhed religion, an effect was produced, the moſt conciliating to the minds of a conquered people. The objects of their worſhip, their rites and ceremonies, remained inviolate. More favourable opinions of their new maſters ſupplanted the terrors which imagination had created; and Rollo was extremely attentive that the adminiſtration of his ſovereignty ſhould confirm the ſincerity of his converſion. By his example, that enthuſiaſm which had poſſeſſed the ſouls of his aſſociates, when animated by the pagan faith, was not leſs influential in exciting them to acts of chriſtianity.

The conſtitution of Normandy, both civil and military, was that of France, and not leſs adapted to the intentions of Rollo, than the religious. It coincided alſo with the manners and genius of his followers. The German nations who had ſubdued the antient Gauls, were deſcended from the ſame origin with the Normans, who were now become their ſuperiors. The government of Neuſtria had therefore been founded by a people of like cuſtoms with themſelves, on thoſe laws and habitudes which they had brought from their native woods; and on the rights of victory.

The ſovereign was lord paramount, original and ultimate proprietor of all the lands in his dominions. Of theſe he had reſerved a ſufficient quantity to ſupply the demands which are neceſſary in ſuſtaining the ſtate of ſovereignty; and had primævally diſtributed extenſive territories to the chieftains who had aſſiſted in his conqueſts. Theſe held their portions from the prince: they were beſtowed in proportion to the merits of the reſpective leaders, and the numbers which accompanied them in arms. Of theſe the former retained as much as was expedient for the mainte-

nance of their greatneſs and expences, and ſubdivided the remainder among the military companions, who ſerved immediately under their command.

To till the ſoil had been deemed an ignominious employment for military men, even in the wilds of Germany; and conqueſt ſeldom diſpoſes the victors to engage in thoſe occupations, which were reckoned ſervile in their native country. It was neceſſary that ſuſtenance ſhould be provided, and the lands be cultivated. With this view the conquered Gauls had been doomed to that laborious duty: and portions of the territory which each chieftain poſſeſſed, were aſſigned to thoſe who were to plough them. Of theſe dependants, ſome paid their rents in corn, and other productions of the earth. Others were made ſlaves to their maſters and the ſoil. They were their property, like the beaſts which periſh. They cultivated their demeſne lands, and performed every menial office, and ſervile labour, which was commanded by their lords. Neither their lives, their progeny, nor the produce of their toil was their own. Theſe ranks of human kind, formed no part of the national community. They were diſtinguiſhed only by different denominations in the degrees of ſlavery. The men of military tenure among the laity were only admitted to the formation of laws, the rights of liberty, the offices of ſtate, the enjoyment of honours, the ſeats of judgment, and the full privilege of claiming their protection.

Beſides the diviſions of the ſoil above related, there was yet another, by which the eccleſiaſtics had been extenſively endowed. Such was the ſituation of the government in Neuſtria, when Rollo

Rollo prevailed over the forces of France, and acquired that province.

It was from theſe barons, and military tenants of Neuſtria, that Rollo and the Normans had any thing to fear. To have leſſened their eſtates, and left them their rights, mingled as they muſt neceſſarily be with the Norman chiefs, would have proved an eternal ſource of contention and civil war, the extirpation of each other, and the reduction of the ſtate to impotence. Rollo was convinced of this truth, exerted the rights of victory, and ſecured himſelf and his dominions againſt the miſchief which would have enſued by a conduct leſs apparently deſpotic. He eſtabliſhed in himſelf the lands, power, rights, revenues, fealty, homage, and all thoſe ſervices which had been paid to the kings of France. He diſpoſſeſſed the Neuſtrian lords, and others who held from the king, and gave their territories to his chieftains, with like rights and obligations of ſubdividing them to their followers, which the Neuſtrian barons had enjoyed. By theſe means the Neuſtrian men of power, and of the ſword, were driven into the dominions of their former ſovereign, impotent and depreſſed; and the Normans had little cauſe to fear from their vengeance in ſuch ſituations. The only power which now remained, and was capable of exciting commotions, was that of the eccleſiaſtics.

To theſe habitual poſſeſſors of the human mind, and directors of the popular conſcience and tranſactions, Rollo had made ſuch advances, that they were already ſignally prepoſſeſſed in his favour. A ſovereign, and his numerous hoſts, converted from paganiſm to chriſtianity, was a flattering object to theſe men. To this pretext for not oppoſing his ſovereignty, he added that other alſo, which is in

general irreſiſtable. He not only left them in full enjoyment of their lands, but endowed them with more liberal benefactions. By this judicious conduct, he expelled the power of the ſword, and converted thoſe of elocution and religion to the ſubſerviency of his deſigns.

Beſides the evident marks of refined diſcernment, in treating the eccleſiaſtics in this benignant manner, there were others alſo, which diſtinguiſh the rectitude of his judgement. The conſtitution which Rollo had adopted, the laws by which his ſubjects were to be governed, and the adminiſtration of them in the courts of juſtice, were utterly unknown to the Normans, and even to thoſe French who remained, excepting the eccleſiaſtics. Theſe had conſtantly compoſed the moſt intelligent of the legiſlative aſſembly. And of thoſe judges who carried their ordinances into execution, they were the moſt learned and reaſonable.

Terrified by the former acts of rapine and invaſion, which had been ſo unrelentingly exerciſed in all the preceding invaſions of the Norman race, the Neuſtrians, who tilled the ſoil, and were occupied in producing the various neceſſaries which life demands, had fled their habitations, and ſought protection in the other parts of France. The moſt fertile lands, deprived of culture, are ſcarce preferable to a deſart. Without tillage even a fertile dominion had proved an unavailing conqueſt. It was impracticable in theſe circumſtances, and in a recent acquiſition, to turn the ſword into the ploughſhare. And yet it was indiſpenſibly requiſite that agriculture ſhould be reſtored. Edicts were therefore promulged, inviting the tillers of the land to return to their former abodes. In theſe publications they were promiſed the reſtitution of their property, and ſecurity for their perſons.

The

The converſion of their enemies, the eulogies of the clergy in praiſe of Rollo, the Norman piety, the preſervation of the government, the juſt adminiſtration of the laws, all which were ſpread through the different parts of France, with indefatigable aſſiduity by the clergy, abated their former terrors of thoſe conquerors. But above all, the diſtreſſes which theſe men had ſuffered in the voluntary deſertion of their country, ſpoke to their ſenſations with more perſuaſive eloquence, than the tongues of angels can deliver.

The ſollicitations of ſelf-preſervation, in ſuch ſituations, are irreſiſtable. They obeyed the dictates of calamity. They returned, and found in the ſervice of new lords, a treatment more humane than in their old. And by as much as their miſeries had been aggravated by the dread of ſubmitting to the Norman powers, by ſo much the more joyfully they felt their return to unexpected clemency. And they became moſt pertinaciouſly attached to the government of Rollo, when they were thus convinced that their apprehenſions had been groundleſs.

The diſpoſitions which have long prevailed in the minds of men, are not eaſily effaced by new laws and manners, either ſacred or civil; and Rollo was too intimately acquainted with the impetuous diſpoſitions which characteriſed his ſubjects, not to be convinced that many eſcapes of barbarity and oppreſſion would certainly take place in their conduct towards the dependant natives, who had returned. He had extended his ordinances through the dukedom; eſtabliſhed magiſtrates to preſerve them in activity, and enjoined the obſervation of them with rigour, becoming a prince, who knows his ſituation, and the neceſſity of being obeyed. This conduct, though extremely

beneficial, is yet too ineffectual to ſuppreſs the haughty acts of habitual arrogance. Could his preſence, like his attention, have been every where extended, his government would have wanted no addition to make it perfect. That impoſſibility was obviated by a ſubſtitute, the beſt enabled to ſupply his abſence. Such as was preſent in all places, and exertable on almoſt all occaſions. Nothing is more eaſy than the utterance of the voice, and as any idea may be annexed to any ſound, Rollo determined that the pronouncing of his name ſhould be attended with aſſiſtance to all thoſe who ſhould invoke it. Whoever was aſſaulted, or injured by another, had but to pronounce the ſound of Ha Ro, corrupted from Raou, the name by which he was called in French, and all who heard, were under ſevere penalties to fly to the relief of him who exclaimed. Whoever deſiſted not from his illegal proceedings, at the expreſſing of that cry, was inflicted with double puniſhment. The ſound was ſacred, and ſeldom ineffectual. For the exclaimer who trifled with it, on needleſs occaſions, was not left unpuniſhed, more than he who diſregarded it, when it was pronounced on proper motives. In this manner, by a ſingle ſound, felicity may be extended to nations, by thoſe legiſlators who have power to put in execution the effects which are ideally connected with that vocal ſign; and who will not permit their authority to be eluded by artifice or intereſt. Even to this day the clamonr de Haro, is held inviolably ſacred in the iſland of Jerſey, and the name of Raou, is ſtill a bleſſing to the deſcendant of his people, at the diſtance of more than eight hundred years.

Whether this ſalutary inſtitute ſprang from the juſt diſcernment of Rollo, or was derived from a like

like cuſtom among the *Sauromates, from whom the Normans might have been originally deſcended, is not to be determined. It was a uſage, not confined to theſe nations. †The Greeks, in ſimilar caſes, invoked the name of Hercules; the Ægyptians, of Iſis; the Romans, of their emperors; and the Jews, of their good king Ezechias. That this legiſlative duke of Normandy derived no idea of eſtabliſhing the happineſs of his people, from either of the preceding ſtates, is indiſputable. He could have obtained no knowledge of their hiſtory. He drew not his ſcience from the artificial fountain of letters, but drank deeply of the native ſtream of wiſdom. Education may afford the varniſh, and the mein of knowledge, and acquire reputation among the undiſtinguiſhing millions; but unleſs this decoration be fixed on valuable ſubſtance, it decays internally, and is incapable of ſupporting the ornaments which have been beſtowed upon it.

It is indeed the deluſion of the vulgar, and not unfrequently of thoſe who poſſeſs it. They are thruſt forward by popular fame, and their own vanity, to aſcend and expoſe themſelves on thoſe heights, where they are ſeen on all ſides, both by the credulous and diſcerning. Their heads grow dizzy, their inſufficiency is diſcovered; they and their reputations fall together. For the latter of which there is no reſurrection; ſince the day of judgment is paſſed with that.

A procedure, ſo uniform and judicious as this of Rollo, in ſuch a variety of circumſtances, is not to be attributed to that neceſſity of things, which compels mankind to tread the path laid

* Lucian. † Diod. Sical. Juſtinian. Apul.

down before them. Fortune, who has elevated ſuch numbers of prominent adventurers, when ſhe capriciouſly undertakes to deride, and baffle the wiſdom of humanity, had no ſhare in this ſucceſs and conduct of Rollo. It ſprang from the pervaſive intuition of exalted genius, ſuſtained by rectitude of judgment. An union, the moſt rare among the ſons of men.

He defeated, and diſpoſſeſſed a great king of his dominions, and reconciled him to his diſhonour. He expelled thoſe from his territories, whom the prudence of a new ſovereign could not ſuffer to remain in the ſame community with his ſubjects. He cheriſhed the eccleſiaſtics, who ruled the hearts of the uſeful people of that country, and ſecured the affections of the latter by clemency and righteouſneſs. He adopted the religion, conſtitution, laws, manners, and language of thoſe he conquered, and gave the name of his followers to the dukedom they had poſſeſſed. And Neuſtria was ſunk in the appellation of Normandy.

In this manner Rollo aſcended the craggy ſteep, which leads to glory and to empire, with reſolution and ſcience in arms. On that ſummit he eſtabliſhed his government with wiſdom, and ſuſtained it with dignity and juſtice. He relinquiſhed his acquiſition, and the world together, replete with fame, and the approbation of his ſubjects.

Such was the chieftain, whom the ignorance, or injuſtice of hiſtorians, hath injured with the opprobrious name of robber, inſenſible to his diſtinctive qualities of greatneſs. Yet, in what æra, or in what region, will they find a more deſerving conqueror? And ſuch were the virtues of his race, that his ſix ſucceſſive deſcendants, afford an inſtance

ſtance of ſuperior intellect, and juſt adminiſtration, hitherto unexampled in the world, unleſs by thoſe who iſſued from Marno Capec, the unparrallelled legiſlator of Peru.

CHAP.

CHAP. III.

Of the conſtitution of Normandy.

THE dukedom of Normandy was divided into ſeven great bailliwicks, which were again ſubdivided into leſs. Of theſe the iſles of Jerſey, Guernſey, Alderney, and Sark, anciently formed one bailliwick. In each of theſe the duke reſerved the eſtates, which had appertained to the kings of France, when he diſtributed thoſe, which had belonged to the barons, and military tenants, among his leaders and followers. The tenure remained as it was found. The Norman barons, and tenants in hautbert, or immediately from the king, ſwore fealty, and did homage to the duke, and were oblibed to ſerve him in his wars, in the legiſlative aſſembly, and in the courts of juſtice.

*The barons and tenants in hautbert, when they diſtributed their lands among the ſoldiers immediately under their command, obliged the latter to hold by homage, fealty, military, and civil ſervice from them, as the former held their territories from the duke. Incident to theſe tenures were relief, ward, marriage, eſcheat, fine, forfeiture, aids, and other ſervices. The duke was lord paramount of the whole dominion. From him the ſeveral manors and eſtates were originally derived, and to him by various events they might ultimately return.

Beſides

---

* Grand Cuſtum. C. 34, 35.

*Beſides theſe there were other tenures which were dependant on the ſovereign, and his military tenants, ſuch as parage, partage, almoigne, burgage, rent and rent charge, bordage, and others of more ſerviile natures.

Parage is where the younger brother holds his fief of the elder, and the latter of ſome ſuperior lord, and where the former contributes in homage and ſervice. This was a ſpecies of military tenure, when the younger brothers held fiefs by inheritance from their fathers, who poſſeſſed a number of ſuch eſtates.

Partage was incidental to that tenure, which was held by ſervice en roturier, or of the plough, like the ſocmen of England, by rent or rent charge. In this tenure the lands were divided among all the children; and though Mr. Selden aſſerts, and judge Blackſtone ſeems to agree with him, that gavelkind was of Saxon origin, yet it is manifeſt that it was as common among the Normans as in the former nation. It was the diviſion of parental ſenſations, uninfluenced by that perverted genius, whereby the eſtabliſhments of ſocial communities, have ſacrificed the rights of the millions, to the ambition and ſelf-intereſtedneſs of the few.

Tenure in almoigne, was that of land, from which neither ſuit nor ſecular ſervice were due to any ſuperior lord. Theſe in general conſiſted of ſuch eſtates, as were given to the church in donations of piety, and to obtain the forgiveneſs of ſins, by the prayers and interceſſion of the prieſts, and by thoſe charities which they were enabled to beſtow by this encreaſe of their revenues.

Burgage tenure conſiſted of ſmall tenements, erected in burghs. They were held according to the cuſtoms of thoſe manors, in which they ſtood, and

* G. Caſ. C. 28.

and like moveables, they were capable of being legally transferred by gift or ſale, without the conſent of the lord, who poſſeſſed the fief.

Rent, and rent charge were lands held by the annual payments of corn, and other productions of the earth. The ſoil was the property of thoſe, who held them under the conditions ſtipulated in the conveyance, and from theſe poſſeſſions, the tenants could not be removed. It anſwers to the fee farm of England.

The tenure by bordage, was ſervile, though with a degree of ſuperiority in thoſe who held in that way, to the ſlaves who tilled the demeſne lands of their lords. The hiſtorians of England have not been able to define the direct ſervice, which gave to thoſe baſe tenants the name of Bordarii. But, by the ordinances of the ſeventeenth of Edward the ſecond, it appears they held their tenements by being obliged conſtantly to keep in them a male perſon, to tranſact the meſſages of the bailly. Theſe, and ſome others of a more ſervile kind, were the tenures by which the lands of Normandy were held. Not one of theſe was deemed either honourable or free. The military tenants enjoyed every poſt, and place of confidence. They aſſiſted in the legiſlative aſſemblies, and ſat as judges in the juriſdictive. They only had the right of bearing arms. And by this ſyſtem of government, the powers of property, and of the ſword, were then united in one order of the ſtate, and either an abſolute, or qualified enſlavement, prevailed over all the others, except the eccleſiaſtics.

The duke was the fountain of legiſlative authority, and in him reſided the execution of the laws. In the former he was aſſiſted by the eccleſiaſtics, and military tenants of the higheſt dignity; and in the

the latter he appointed his officers, who ſat on the ſeats of judgment, accompanied with the clergy, and laymen, moſt diſtinguiſhed for knowledge and integrity.

*Of all theſe different tenures, no tenant, either immediately from the duke, or from ſome meſne lord, could ſell or engage his fee, without conſent of his ſuperior, except in ſome particular places of the dutchy, where a third part might be diſpoſed of, ſo that there remained an eſtate ſufficient to pay, and perform the ſervices of the whole.

†Together with this diviſion of the lands, either feudally, or according to the diſtricts of bailliage, juriſdictive authority was imparted. The duke had the right of hearing and determining the cauſes of all his ſubjects, if he pleaſed. To this intent, courts of juſtice were inſtituted in the palace of the prince, in every bailliwick and ſubordinate partition of the dukedom.

‡The great court was named the exchequer. The chief officer of which was the prince's ſeneſchall, aſſiſted by aſſeſſors who were denominated the ſuperior juſticiers, appointed by the prince, and in this ſeat of judicature they were accompanied by the eccleſiaſtics and greater barons. Their duty was to ſuperintend and preſerve the rights and dignities of their ſovereign; to adminiſter juſtice; to render right to all men, without delay; and to reſume ſuch things as had been fraudently obtained. Their juriſdiction extended through the whole dukedom, and the juſticiers were ſtiled the § maſters of the exchequer.

Over

---

* G. Cuſ. C. 29. † G. Cuſ. C. 4. ‡ G. Cuſ. C. 56.
§ G. Cuſ. C. 4.

Over the great bailliwicks preſided an inferior order of juſticiers, who were named baillies. Their power extended not beyond the limits of the reſpective bailliwicks.

Leſs diviſions of the bailliage, had their baillies alſo. The duty of their office was not confined to the execution of the laws, they were intruſted with the charge of the military powers, and to them the ſuperintendance and direction of all affairs relative to that department was committed alſo. On the ſeats of juſtice, they were aſſiſted by the eccleſiaſtics, and laity, who were moſt diſtinguiſhed by their abilities, in their reſpective bailliwicks. To theſe tribunals, all plaints were to be brought. They were bound to receive them, to aſſign a day for hearing the cauſes, and to put their determinations into execution.

The frailty of human nature neceſſarily requires that the diſputes and altercations of the individuals ſhould have a common place of reſource, and of authority, for the prevention of thoſe ills, which muſt certainly enſue, without the right of applying to ſuch powers; and theſe muſt conſecutively be entruſted with men of equal fallability. Every legiſlator, therefore, ought to provide againſt theſe imperfections in man, conſidered as a judge, as much in the preceding cauſes of diſſention. In the Norman conſtitution, the beſt preventives were inſtituted againſt the influence of that propenſity, by which the judgment of men is ſtrongly ſollicited to obey the dictates of prepoſſeſſion and prejudice. The judges, therefore, in every court, were to be excepted againſt in all cauſes, where the circumſtances of things, and the diſpoſitions of human nature, ought not to admit their preſence.

They

*They were therefore interdicted from being preſent at the deciſion of their own cauſes. They were not to ſit in judgement, where they were parties in the ſuit, nor at the rehearing thoſe cauſes in which they had before given their opinions on the bench. If they were witneſſes in the cauſe, they could not be judges. Even the ſuſpicion of love, hatred, or of any prepoſſeſſion, or paſſion, which might probably warp the inclinations of men, either on the ſide of favour or diſlike, was ſufficient reaſon for their being excepted againſt, or in the Norman phraſe, to be recuſed by either of the parties in litigation. None were to officiate in the execution of juſtice, but ſuch, againſt whom there were no reaſons for their being removed, and that a ſufficient number of men qualified to ſit on the ſeat of judicature might be at all times preſent, all the tenants were by the obligation of their holdings, to attend the courts of law, under the penalty of conſiderable forfeitures.

†The baillies held the aſſizes in their reſpective diſtricts, and tried all cauſes, which were brought before them. They were conſervators of the peace, and acted officially in the preſervation of it.

Beneath the baillies there were other inferior officers, known by the appellations of viſcounts, or ſheriffs of the particular diviſions, centiniers and others of leſs conſideration. The viſcount was to execute the ſentence of the law, to hold pleas of ancient paths, ways, bounds, water-courſes; to enquire after, ſeize, and impriſon malefactors, until they were diſcharged by law.

Such were the conſtitutional powers of the ſovereign, as the fountain of all legiſlative authority,

* G. Cuſ. C. 9. † C. 9. ‡ C. 4.

rity, the right of executing the ordinances, which were inſtituted in the great council of the ſtate, flowed from him, through his judges, to the people. At the ſame time, in order to correct the errors, and mal-adminiſtration of all degrees of his juſticiers, the cauſes tried in the moſt inferior court, might be brought, by appeals, to that of the viſcount; from that officer, to the leſs baillies; from them, to thoſe of the great bailliwicks; and the juſticiers from the exchequer, travelled through the dukedom, in order to examine, re-judge, and reverſe the errors and miſconduct of the baillies. From the deciſion of theſe magiſtrates, all cauſes, whether civil, perſonal, or criminal, might be brought before the duke, in his exchequer. In this manner, the ſovereign authority, like the influence of the planets on the ſurface of the ocean, preſſed the execution of the laws to the moſt remote parts of his dominions, from which it returned, by the ſame cauſe, to the origin of its operation.

*Once in three years, the great ſeneſchal travelled judicially through all Normandy. The power of this officer was immenſe. He was at the head of all departments, both civil and military, and vicegerent in the abſence of the duke from his dominions. He reviſed the judgments and deciſions which had been made during thoſe triennial periods. He confirmed thoſe determinations which were juſt, and reverſed the others. He enquired into the ſtate of the duke's rights, eſtates, revenues, and ſervices: examined what innovations were introduced into the courſe of law,

* G. Cuſ. C. 56.

law, and reſtored it to its former ſtate. He diſmiſſed the baillies, and other juſticiers, who had proved delinquents, and entered into a thorough diſquiſition of the behaviour of all thoſe, who officiated in the courts of law.

By this judicious method, of reviſing the deciſions of the inferior courts, and puniſhing offenders, by magiſtrates immediately above them in gradation, even to the moſt exalted in authority, the propenſity to the indulgence either of favour or averſion, in the diſpenſations of juſtice, was providently counteracted. The laws were preſerved as entire and untainted, and the magiſtrates as adequate to their duty, and as juſt in the adminiſtration of it, as the nature of man and his inſtitutes will admit.

Beſides the executive authority, the bailly, with his aſſeſſors in every diſtrict, was permitted to exert a legiſlative power in affairs of little moment, and relative to that diviſion only. But theſe ordinances, by no means, bore the efficacy or conſideration of laws, and were annulled, in the very formation, if they contained any circumſtance which was repugnant to thoſe eſtabliſhed by the council of the realm.

*Such were the courts and officers of juſtice appertaining to the ſovereign. The barons, who held their fiefs from the duke, had tribunals and officers of a ſimilar kind, with rights of juriſdiction over their vaſſals, and tried them in the halls of their manors; but from theſe there lay a right of appeal to the ducal courts.

†The laws of Normandy were divided into civil, real, criminal and perſonal. Thoſe were

* G. Cuſ. C. 34, 35. † C. 57, 61.

denominated civil and real, which relate to right and property in eſtates, chattles, ſervices, debts and things of a ſimilar kind. Criminal were thoſe alone which related to actions for which the perpetrators were ſubjected to the loſs of life or member. Perſonal were relative to wrongs in deed or word; ſuch as battery and defamation. The latter were called ſimple alſo, becauſe the offenders were chaſtiſed with gentleneſs. And the utmoſt care was taken to prevent the malevolence of proſecutors, from laying thoſe actions, as criminal, which were, in fact, but perſonal.

*Every great plea, ſuch as thoſe, which were relative to the fiefs hautbert, breach of the peace, and caſes criminal, were not to be tried, but at the aſſize; in the exchequer, or before the prince.

†The Duke had the right of juriſdiction relative to ‡ the bodies, as well as the properties of his ſubjects. And appeals from the aſſize, in cauſes criminal and perſonal, were open to all thoſe who had been found guilty; and to that purport the determinations of all cauſes were recorded in their reſpective courts of judicature, under the penalty of ſevere fines for omiſſion.

§Actions were begun by plaint, delivered to the juſticiers, baillies or other magiſtrates of the reſpective courts, in which they were laid. In this plaint was contained a recital of the wrong that had been committed. The juſticier was obliged to receive it, and to take pledges from the complainants, that they would proſecute the aggreſſor.

‖If the plaintiff appeared not in the court, on the day appointed for the trial, and the defendant did;

---

* G. Cuſ. C. 52. † C. 113. ‡ C. 6. § C. 57. ‖ C. 58.

did; the former was in default; and if he would recommence his plea, he muſt renew his ſummons. *In ſome particular caſes the plaintiff might loſe the right of bringing his plea, for ever; if he deferred the commencement of the action beyond a year and a day. On the non-appearance of the plaintiff, the defendant had leave to depart the court, *ſine die*, if the diſpute was concerning a lay-fee. If the view had been made by the jury, and the plaintiff declined from proſecuting his claim, he was to be heard no more in that matter, though he might incline to renew the cauſe. If the defendant made default, after this view, he loſt all title to the fee which had been viewed.

†The manner of proceeding was either by ſimple plea perſonal, or by law apparent. In the former the plaintiff complained that another ſtruck him, and brought his witneſs to depoſe, on oath, that it was true, and that he ſaw and heard it; and offered himſelf to ſtand to the award of the court. The defendant, if he intended to ſupport the action, was to ſwear he did not ſtrike him, and that the plaintiff's witneſs neither ſaw nor heard it, and to this aſſeveration, on oath, he was obliged to bring a certain number of coadjutors, which was in proportion to the rank of the perſon, who was defendant; and theſe were to ſwear, that the defendant ſwore a true oath.

‡Whoever of theſe parties was believed in theſe ſeveral depoſitions, prevailed in the cauſe. If the plaintiff, his damages were given him. If the defendant, the accuſer, was fined. And both theſe pecuniary penalties were proportioned

* G. Cuſ. C. 97. † C. 87, 88, 89, 90, 91. ‡ C. 85, 86, 123.

to the dignity of the perſons, their riches, and merits of the cauſe.

This manner of deciding the juſtice of a cauſe, by negative oaths, founded on the faith of numbers, in oppoſition to that of poſitive affirmation, of facts ſeen and heard by one alone, ſeems to be a moſt extraordinary inſtance of legal procedure, where truth alone ſhould be the iſſue of the trial.

And yet, in this method, ſuppoſing the poſition to be right, that the evidence of belief, ought on any account, to be oppoſed to that of the ſenſes, there were not wanting precautions to preclude the injuſtice, which might otherwiſe have ariſen from this permiſſion of bearing teſtimony. The influence, which naturally overbears the propenſity to ſpeak truth, where ſelf-intereſt interpoſes to effect the contrary, was not unobſerved by thoſe who inſtituted this cuſtom in the courts of judicature. In proportion, therefore, as the rank and riches of the defendant were conſpicuous, and the merits of the cauſe important, in ſuch degrees the numbers of believing witneſſes were to be encreaſed, in order to obtain an exculpation from the charge; ſo that, in ſome caſes, there were not leſs neceſſary than * ſeventy-two to produce that effect. Thus the multiplicity of evidence was to counter-balance the inclination of doing injury, by the impracticability of bringing ſuch numbers among their lineage, to depoſe in their favour: and when they were adduced, the unanimity of belief, in ſo many deponents, was to outweigh the poſitive aſſertion of the ſenſes in the few, who ſwore they ſaw and heard the fact, which was laid in the accuſation.

Had

* Monteſq. de l' eſprit des Loix, vol. 2, p. 197.

Had this uniformity of evidence, on the part of the defendant, proceeded from the voluntary and uninfluenced depoſitions of witneſſes ſo numerous, it might have claimed no ſmall degree of credit from the tribunal, even in oppoſition to the poſitive teſtimony of one man brought by the plaintiff; but in fact neither thoſe on one ſide nor the other, were to be relied on; and the evidence of the believers deſerved but little leſs attention than thoſe who ſwore to what they heard and ſaw. For, in reality, there were obligations on the witneſſes of both parties, to ſwear to thoſe particulars, which might moſt effectually contribute to the gaining of the cauſe on that ſide, by which they were ſubpæna'd.

This ſervice they could not renounce, without reſcinding themſelves from the common rights of the community. By the Salic law, which was that of Normandy, it was thus enacted: * "If any man ſhall be willing to withdraw himſelf from the obligations which ſubſiſt between the individuals of the ſame lineage, let him walk into the court, either of the viſcount, or centenier, and there let him break upon his head four ſticks of alder, and throw them down before the magiſtrates; and then let him declare, that he withdraws himſelf from the privilege of giving, and of receiving aſſiſtance from the oaths of his kindred, from the right of inheritance, and all the protection which they can afford him. And if thereafter any of his relations ſhall either die, or be †ſlain,

* Lindenbrog. Leg. Salic, C. 63.

† In thoſe days, the lives of men, who were ſlain by others, were valued at fixed eſtimations, and the perſon who committed the homicide, was obliged to pay the price accordingly.

no part ſhall come to his ſhare, either of the heritage of him who is dead, or of the compoſition which may be made, to compenſate for the ſlain, by him who ſlew him. And if this perſon be either put to death by force, or ſhall die a natural death, neither his eſtate, nor the compoſition for his life, ſhall go to his heirs; but belong to the exchequer, or to whom that court ſhall be pleaſed to give it."

Such were the flagrant contradictions between the injunctions of religion and the law. By the former, men were commanded to depoſe the truth, under the denunciation of eternal puniſhment, for violating that commandment which inhibits perjury. By this ordinance of the legiſlature they were to be deprived of the rights of ſubjects, if they did not ſwear in that manner, and to ſuch purpoſes as the cauſe required, for its being ſucceſsful in the iſſue.

The inſtitution of this practice is to be traced to its origin in the foreſts of Germany, and from the manners of the people who inhabited that country, as they are delivered to us by Tacitus*. The Germans are obliged to ſuſtain by battle both the friendſhips and animoſities of their parents, and their relations. From this cuſtom of taking arms in their protection, when they were pagans, they were obliged alſo to aſſiſt them by their depoſitions, on oath, when they became Chriſtians: and this extravagant proceeding continued for ages, till by the encreaſing influence of chriſtianity, on the manners of military men, this prepoſterous mode of judicature gave way to the manner of legal procedure, which I ſhall now deſcribe.

Law

* De mont. Ger. C. 11, 21.

Law apparent was either by jury, by battle, or by trial ordeal. In this place I ſhall ſpeak but of the firſt, the others having no relation to the ſubject of this publication. That manner of trying cauſes was practiſed in actions of debts, ſureties, contracts, bargains, covenants, chattles, inheritance, and a multiplicity of others; more particularly in all matters, where the merits of the cauſe muſt depend on local examination.

Magiſtrates, the beſt inſtructed in the laws, and the moſt equitable in their diſpoſitions, will deliver their judgments in all cauſes, according to the repreſentation of things, as they are laid before them. The circumſtances may be deluſively related, either by palliation, concealment, exaggeration, miſrepreſentation, or falſhood of the facts: and by ſuch inſidious proceedings the moſt upright judge may conſcientiouſly be induced to deliver an inequitable deciſion. But a liberty of diſregarding one part of the evidence, and of adhering to the other; or of deviating therefrom, on conceptions merely hypothetical and ſpeculative, would lead to concluſions, incomparably more prejudicial and unjuſt. To the facts, on evidence, therefore, the judge is bound to attend, and to decree accordingly; becauſe that is the direct and natural courſe of proceeding to judgment, and of the two methods above related, the leaſt likely to prove erroneous.

Whoever reflects on the nature of man, and the manner of juriſdictive proceed ngs, will naturally ſuggeſt that the ſubſequent events may probably ariſe from the conduct of the parties in litigation: that each party will avail himſelf of all practicable means, in order to obtain ſuch witneſſes as ſhall depoſe in that manner, by which the circum-

ſtances on their reſpective ſides may be moſt advantageouſly repreſented. Becauſe on this condition of the evidence, the magiſtrate muſt determine. In this place I foreſee, that the cenſure of thoſe, who entertain refined and elevated conceptions of the moral ſenſe, and native virtues of mankind, will be profuſely poured upon me for theſe unfavourable ſentiments of humankind. But I appeal to the experience of what is conſtantly obſerved in the courts of law, againſt all the viſions of moral rectitude and ſpeculative integrity.

Beſides this method of prevailing in the conteſt, there is yet another, which it is not impoſſible may be attempted. From the very eſſence of juriſdiction it is abſolutely requiſite, that perſons learned in the laws ſhould preſide in the tribunals of the ſtate, and conſequently, that they ſhould be permanently eſtabliſhed. Theſe magiſtrates being univerſally known, may be applied to. And being men, they may be ſuſceptible of being influenced by ſiniſter motives; and thus by corrupt perſuaſion, injuſtice may prevail over the claims of right.

All human ordinances are, and ought to be inſtituted on the preſumption that all men, both in bringing and defending their ſuits before the courts of law, and all thoſe who are to ſit in judgment on them, are prone to iniquity. Every preventive, therefore, which can preclude the intruſion of inequitable deciſion, is to be eſtabliſhed.

With this view there exiſted in Normandy an intermediate kind of magiſtracy, partaking of the nature of the judges, and of that of the witneſſes; ſo that the propenſities to partiality might be corrected on both ſides. The perſons who compoſed this part of the tribunal, were

were not to be an eſtabliſhed body, becauſe they would then be known and applied to. Nor ſuch as either the judge or the parties might probably prevail on, but occaſionally ſelected on the ſeveral trials. Theſe were to obtain the beſt information of the facts and circumſtances of the ſubject in diſpute; to correct the falſhoods, or miſrepreſentations which the witneſſes might depoſe, and the obliquity of the judge, ſhould he preſume to deviate into partiality. Beſides this, the number of theſe men was made conſiderable, in order to preclude the hopes of ſucceeding in the corruption of all, by the means of intereſted motives. To the perfecting of this intent, *the procedure was conducted in the following method: a brief, or writ, including the matter of the inqueſt, was delivered to the ſubjudicier. This way of enquiry was named a recognition. This judicial officer then appointed a day for taking the view, and ſummoned the defendant to be preſent, together with twenty men, ſuch as were not of kin, nor ſuſpected of predilection or averſion, partiality or prejudice, for either of the parties. They were to be the moſt deſerving of belief, and of reputed integrity, and deemed to underſtand the ſubject in diſpute. The parties and the jury being met, the ſubjuſticier read the matters contained in the writ before them, and the plaintiff ſhewed the bounds of the land, if that was the object in conteſt. The ſubjudicier took poſſeſſion of it in the name of the duke, and in that ſtate it remained till the litigation was determined. A day was then aſſigned for hearing the cauſe at the next aſſize; and in the mean while, if either of the

* G. Cuſ. C. 92, 93.

the parties preſumed to meddle with the object of the controverſy, he was confined in priſon till he made ſatisfaction for his contempt of the judicial authority.

*The view being made, the writ was read in the court of the aſſize, to both parties, and the bailley demanded of the plaintiff, if he would purſue his plea. If he anſwered in the negative, or expreſſed an irreſolution on that queſtion, he was puniſhed for having preſented a falſe claim. If he anſwered in the affirmative, then the defendant was queſtioned, if he would ſtand to the writ, as it was read? If he replied, that neither the view, nor recognition, were made according to the words of the writ, the truth of his anſwer was to be examined by what was recorded on the view; or by the evidence, on oath, of two of the jury. If he would not abide by the writ, after this trial of its being right, and was found culpable of any thing in the controverſy, he was ſubject to the being fined to the duke, and to pay damages to the plaintiff, as it ſhould be aſcertained by the jury; and he was diſqualified from proceeding to obtain the object in diſpute.

†But as a ſufficient number of the perſons who were ſummoned to the view might not be competent judges in many circumſtances, relative to the ſubject in diſpute, thoſe perſons of the bailliwick, who were lawful or military tenants, were obliged to attend the court under the penalty of fines, for being abſent. This was ordained that the cauſe might not be deferred through the deficiency of jurors, who knew the land and matter in litigation, and in whoſe poſſeſſion it had been, and how long they had poſſeſſed it.

The

* G. Cuſt. C. 95. † C. 93, 113.

*The jury were then called by name before the parties, to take their oaths of doing right, and their names were entered in the regiſter of aſſize. If none of the jury were competent judges of the matter in queſtion, and that was teſtified, on oath, they were diſmiſſed and others called on until ſuch men were found who underſtood the truth of the ſubject. If ſome of thoſe who were firſt ſummoned were well acquainted with the matter, and ſome not, the latter were ſet aſide, and others called, till twelve, at leaſt, were found to declare themſelves capable of delivering the truth of the circumſtances, relative to the cauſe in controverſy. They were then ſworn, to ſpeak the truth, and that they knew the matter in diſpute on their own proper view and hearing.

Either of the parties might challenge or except againſt any or all of the jury, for thoſe reaſons already related, when the cauſes of recuſation againſt the judges were mentioned. After the jurors were ſworn no man was permitted to ſpeak to them either publickly, or in private, except the juſticier, or bailly; and he, in the ſubſequent manner, only: " by your faith in our Saviour, Jeſus Chriſt, do you know the plaintiff was poſſeſſed of the land, which was ſhewn you, before the time of the diſſeiſin; and how, and in what manner, he poſſeſſed it. And that ſince that time the defendant did diſſeiſe him, and in what manner." The jurors then withdrew to conſider on the affair, and to conſult together. During this receſs they were ſtrictly guarded, leſt they might be corrupted by ſome ſiniſter influence.

Their conſultation being ended, they returned to the court, and if they unitèd in the ſame opinion,

G. Cuſ. C. 93, 113.

nion, one of the number delivered the ſentiments of the whole. If they diſagreed in judgement, each juror gave his opinion. In conſequence of this diſſention others were called in, who had attended in the court, and heard the trial. Theſe were added to the former number, and, on that ſide, on which twelve firſt agreed in the ſame ſentiments, on that the verdict was given.

*If the plaintiff ſucceeded in his cauſe, the object of the conteſt was rendered to him. The defendant was fined and enquiry made of what damages the plaintiff had ſuſtained by the diſpoſſeſſion.

If the jury declared the plaintiff was not entitled to the fee, but held it in conſequence of a debt, mortgage or ſale, beyond the time which he ought to poſſeſs it, then the defendant was reſtored to the eſtate, and the plaintiff was fined and obliged to pay coſts. All poſſeſſion obtained by force, fraud or ſtealth were deemed extremely notorious and ſeverely puniſhed by the law.

†Various were the writs which were iſſued for trying cauſes by this method of view and juries. Such were thoſe of novelle diſſeiſin, mort d' anceſtor, eſcheat, marriage encombre, dowres, fee and gage, de feudo et firma, of rights of ſurdemand, of lay-fee, almoigne, lineage denied, and all pleas concerning lands, inheritance, and other ſubjects of much importance.

‡All records of cauſes, bargains, promiſes, contracts, diviſion of land and other property were made in the courts before witneſſes, and theſe were at all times open to the uſe of both parties, in order that they might aſcertain the truth

* G. Cuſ. C. 95. † C. 66, 91. ‡ C. 102, 103, 104, 105, 198.

truth and be tranſcribed, on all occaſions of appealing to the ſuperior tribunals.

*Whoever was required, on ſale of his lands, to ſecure them to thoſe who made the purchaſe, was bound to give as much of other lands to him who held him in warrantry, in caſe the title did not prove valid of thoſe which he had ſold.

Such were the general outlines of the Norman conſtitution, reſpecting the procedure of the law in affairs of civil conteſt. In thoſe of a criminal nature they were ſomething different.

†When an information was made, to the bailly or other magiſtrate, of hurts, wounds or death, committed on the body of any perſon: or when intelligence was brought to him by common report of ſuch an event, a writ was iſſued to the viſcount to ſeize the offender, and to convene four of the bailliwick, who held land to the value of a knight's fee, and twelve other lawful men, ſuch as were military tenants, to view and examine the wounds of the perſons, who were hurt and aſcertain the degree of miſchief; and in caſes of homicide to make inqueſt on the body of the ſlain. The bailly, or other magiſtrate, by whom the accuſed had been committed to priſon, examined him before four knights, he then ſummoned a jury of twenty-four of the moſt diſcrete and lawful men of the neighbourhood and by them he was tried. The priſoner had a right to recuſe, or except, againſt any or all theſe men, till ſuch were found to whom he had no objection. Of this number not leſs than the unanimous opinion of twenty could find him guilty. So favourable were the laws to ſuch offenders, that five, in twenty-

---

* G. Cuſ. C. 50. † C. 66, 68.

ty-four, were ſufficient to pronounce him not guilty.

*Securities and bail might be taken for peaceable behaviour and appearance on trial, in breaches of the peace, aſſaults, and even in robberies, rapes, burning, murder and treaſon.

†In all judicial conteſts before juries, the merits of the cauſe before the court, and the equity of the determination, muſt greatly depend on thoſe matters which are delivered by the witneſſes on both ſides of the queſtion. No man was, therefore, to give evidence in his own cauſe; nor in that of his heir, nor in ſuch by which he could be any ways either advantaged or injured by the deciſion. He was to depoſe to that which he had ſeen and heard, and he muſt be ready to perform what the court ſhould award. This inhibition of men from giving teſtimonies in the preceding circumſtances, altho' it might frequently preclude the means of coming to the truth, through deficiency of applying that proof which might otherwiſe have been adduced, yet was it founded on propenſities which are too prevalent in man, and which are productive of egregious falſehood in the depoſitions of thoſe who make oath in ſuch ſituations. It was preventive of much perjury and inequitable deciſion: and though liable to objection, it was yet more elegible than the indiſcriminate admiſſion of perſons who are intereſted in the event. And though it may ſometimes be effective of unjuſt determinations, where teſtimony ſufficient to the claim may not be otherwiſe adduced; yet the inhibition was of greater influence in ſuſtaining the powers and probabilities of juſt deciſion. For the want of teſtimony, ade-

* G. Cuſ. C. 71, 72, 73, 74, 75. † C. 62.

adequate to obtaining right, there exiſted an eaſy preventive, by having others in preſence, when affairs of moment were tranſacted. But of the miſchiefs ariſing from perjury, there was no preclusion, if perſons are admitted to give evidence, whoſe welfare depends on, or whoſe paſſions are to be gratified, by procuring the ſentence of the court, in oppoſition to the claims of juſtice.

Such were the great outlines of the Norman conſtitution; and ſuch it was which thoſe people brought with them into England. For at preſent the chimeras of ſome celebrated law-writers, who have laboured to prove the conſtitution of England to be of Saxon deſcent, is well nigh effaced.

CHAP.

CHAP. IV.

Of the conſtitution of the iſland of Jerſey.

FROM the æra in which Rollo eſtabliſhed himſelf in the dukedom of Normandy, to the death of William, who conquered England, the conſtitution of Jerſey was ſuch as is related in the preceding chapter. During that time, and long after it, that iſland conſtituted one part of a Norman bailliwick; the iſles of Guernſey, Alderney, and Sark, compoſing the other. Over all theſe there preſided a bailly, as in the other diſtricts of that denomination, with powers and authority, both civil and military exactly ſimilar.

From the death of William, the conſtitution of Normandy began to decline in vigour and rectitude, and the laws to be iniquitouſly converted to the purpoſes of thoſe arbitrary princes, who were at the ſame time both kings of England, and dukes of that province.

At length the deſpotiſm of theſe ſovereigns became too intolerable to be ſupported. Such was the ſubverſion of all civil eſtabliſhments, that in the reign of king John, the adminiſtration of government was exerciſed only to the deſtruction of all thoſe ends, for which it had been originally inſtituted. And this calamitous ſituation of things prevailed alike through all his dominions; but in no part was this tyranny more oppreſſively exerted than in the iſle of Jerſey.

All

*All the rights, privileges, properties, and liberties of the ſubjects, were not only invaded, but deſtroyed. And this inhumanity was purſued by the king on all thoſe barons, and tenants in capite, who were not his favourites. In like manner it proceeded from theſe intermediate deſpots, to thoſe immediately below them, and through all ranks of the community. During the minority of heirs, whilſt they were, by the conſtitution, in the hands of their ſuperior lords, as guardians of their rights and poſſeſſions, the deſtruction of their goods, the dilapidation of their houſes, and the ſale of their lands, were the common treatment, both of thoſe who were under the guardianſhip of the king, and of his courtiers.—Heireſſes were ſold in marriage to the beſt bidder, like heifers in a market; and theſe ignominious contracts were made, without the leaſt regard to the quality of theſe perſons, who bought them.—Widows were defrauded of their dowers, and obliged to purchaſe the liberty of a ſecond nuptial, and the enjoyment of their inheritance. —Whoever died indebted to the king, his bailiffs, ſtewards, and receivers, unjuſtly ſeized their eſtates, ſtock, corn, and cattle, and rendered no account to thoſe who were entitled to the heritage.—They obliged thoſe ſubjects who held their lands by the ſervice of caſtle-guard; and who were willing to diſcharge that duty, to pay what ſums they demanded, as a commutation for that ſervice; and inhibited them to perform it perſonally.—They took by force the carts, waggons, and other carriages of the people, under the pretext of its being done for the king's uſe; and ap-

* Magna Charta.

plied them to that purpoſe, or to their own, without payment. — They cut down timber, under the ſame pretence; converted it to ſimilar purpoſes, or ſold it; and made no ſatisfaction to thoſe who were the proprietors.—They exacted unlawful ſervices from the military tenants, or money, to be excuſed from thoſe oppreſſive demands.—Pleas of the crown were held by ſheriffs, coroners, conſtables, and bailliffs, who by the conſtitution could poſſeſs no ſuch legal power; and even without juries, that the ſame profligates who had committed the injuries, might by their own unrighteous judgments, ſanctify their crimes by the ſemblance of law, and vaſt fines were inflicted by theſe judges, for very inconſiderable offences.—The lawful right of the ſubjects, to obtain their juſt demands, could not be exerciſed, but by the pecuniary purchaſe of writs, to carry their claims into execution; and thoſe who outbade the legal proprietors, were ſecured in the property of that, of which they had unjuſtly taken poſſeſſion.—Felons and murderers were ſecure in their crimes, and were certain of being pardoned, if they had money to ſatisfy the rapaciouſneſs of the court; and even the permiſſion to proſecute ſuch criminals, could be procured but by venal influence.—The eſtates of the barons, ſocmen, and burgagers, were ſeized without cauſe of offence.—Freemen were impriſoned, and deprived of their rights and privileges, without trial according to law; exiled and outlawed.—Juſtice was deferred, denied, and ſold. In fact, all fines, forfeitures, rents, dues, and ſervices, were extorted, without the leaſt regard to the law and rights of the nation; and all the curſes of deſpotiſm were let looſe on the Engliſh and Norman ſubjects.

Theſe

Theſe execrable acts of John, together with the murder, by his own hands, of Arthur, his nephew, and right heir to the dominions which he had uſurped, alienated the affections and allegiance of his ducal ſubjects, and loſt him the province of Normandy, and his other territories in France. It rouſed the Engliſh to take arms againſt this tyrant, and to vindicate the lives, liberties, rights, and properties of themſelves and their fellow-ſubjects.

Normandy was now in the poſſeſſion of the king of France. John, who had ſlept whilſt that province was taken from his ſovereignty, or who, from conſciouſneſs of his criminality, had deſpaired of being vigorouſly aſſiſted by his Norman ſubjects, had now prepared an armament in England, in order to re-conquer that dukedom. His forces were aſſembled at Portſmouth, and ready to embark, but the barons had reſolved to remain no longer ſubjected to ſuch enormous treatment, and either repaired not to his ſtandard, or refuſed to accompany him in the intended expedition.

His troops being thus reduced to an inſufficiency of regaining Normandy, he declined his deſigns on the continental part of that dutchy, and ſet ſail for Jerſey. He wiſhed to preſerve that part of his Norman dominions, which had remained firm in their fealty, notwithſtanding the calamities they had undergone, from his abſolute adminiſtration of government.

The loyal iſlanders, unaſſiſted by the Engliſh, had twice repulſed the powers of Philip the auguſt, before which Normandy, Auvergne, Maine, Anjoy, and the numerous dominions which appertained to the kings of England, had ſucceſſively yielded. This faithful attachment of thoſe brave men, appeared ſo ſingularly meritorious, com-

pared with his other ſubjects, both of France and England, that John liſtened with compaſſion to their complaints, and determined to deliver them from the miſeries they underwent beneath the tyranny of their baillies.

Jerſey had been held in appenage by John, when he was earl of Mortain, during which time he had viſited that territory. It ſeems not unlikely, therefore, that this circumſtance had created in him a predilection for thoſe people, and in them a more ſtedfaſt fidelity to his cauſe.

With intention, therefore, to accompliſh this benificence, it was imagined that the charter which hath ſince been called the conſtitutions of king John, antecedent to that of magna charta in England, would prove ſufficiently effective. The conſtitutions, laws, and cuſtoms, both of England, and of Normandy, were at that time the ſame. Each charter ſprang from the ſame cauſe, though obtained by different means. In Jerſey it was given as the reward of royalty, for courage and allegiance. In England it was extorted by force of arms, and the heroic reſolution, either to enjoy the rights and franchiſes of humankind, or to periſh in the defence of them.

The moſt acceptable oblation that kings can offer to the deity, is the renunciation of imperious power, on the altar of liberty. In conſequence of ſuch ſacrifices, the ſovereign receives the incenſe of his people in all their acts of worſhip, and becomes but little leſs adored than the divinity himſelf. Whilſt freedom, obtained by compulſion, imparts no honour to the prince, but fills his ſubjects with contempt and inſolence towards him.

Although this voluntary grant of John to the men of Jerſey, may reaſonably be conceived to have proceeded from an inclination, more ſincerely

intended

intended to improve their happineſs, than that of the Engliſh by magna charta; yet was it productive of events which were totally diſſimilar. The prolific manure, which was ſpread on the dying plants of liberty in Runningmead, revived their native powers. They ſhot forth with full vigour, and exuberantly bore the delicious fruits of right and privilege. Theſe have been devoured with ſuch greedineſs by the ſubjects, that they have at length produced that ſatiety and ſurfeit, which actuates them to reject the freedom they acquired, and to ſubvert the conſtitution they eſtabliſhed.

Theſe Jerſey conſtitutions I ſhall tranſlate, explain the errors which they include, and the various revolutions through which they have paſſed. By theſe means it will be ſhewn that all the ſufferings of thoſe people have ſprung from miſ-judgment in the original formation of thoſe inſtitutes. From hence it will be ſeen alſo, that the deplorable ſtate to which theſe loyal iſlanders have been long reduced, is not to be removed by thoſe temporary expedients, which have been practiſed in former reigns, but by returning to the ſource of their conſtitutional calamities, and affording them ſuch relief, as may perfectly eſtabliſh the ſanity of their little ſtate.

The conſtitutions and proviſions which were inſtituted by king John, after Normandy was alienated from his ſovereignty.

I. He hath conſtituted twelve jurati coronatores, or jurate coroners, for the preſerving and defending all pleas and rights appertaining to the crown.

II. He hath conſtituted, and granted, for the ſecurity of the iſland, that the bailly ſhall, for

the future, by the view of theſe ſaid coronatores, hold pleas, without writs of novelle diſſeiſin, of mort d' anceſtor, of dower, within the year; of fiefs in pledge or mortgage, and marriage incumbrance, at all times.

III. Theſe coronatores are to be elected from among the natives of the iſland, by the miniſters of the king, and the chief inhabitants; ſo that if either of them ſhall die, or be diſmiſſed from that poſt, for illegal conduct, another ſhall be ſubſtituted in his place.

IV. Theſe magiſtrates, ſo choſen, ſhall ſwear without reſerve, to maintain and preſerve the rights of the king, and of their country.

V. Theſe twelve, in the abſence of the juſticiers, and together with them, when they ſhall come to the iſland, ſhall judge of all caſes whatſoever, ariſing in that place, except in ſuch as are too arduous for their deciſion: as are thoſe of traitors to their ſovereign, or of men who have lain violent hands on the magiſtrates and officers of his majeſty, during the exerciſe of their duties.

VI. The ſaid twelve are to aſcertain the fines and amerciaments of all offenders before mentioned, except in the caſes too arduous, or in others, where, according to the cuſtoms of the iſland, redemption appertains entirely on the will of the king, and of his court.

VII. If the king may be willing to be certified of the record of any plea, determined by the juſticiers and the twelve, the juſticiers, with the twelve, ſhall make the record: and of pleas determined by the bailly, and the twelve, they ſhall conjointly make the record.

VIII. That no plea, begun before any of the juſticiers in the iſland, ſhall be adjourned to any other

other place, but altogether determined within that iſle.

IX. No man ſhall be compelled to anſwer concerning his free tenement, which he has peaceably held for a year and a day, without a writ obtained from the king's court of chancery, expreſsly mentioning the tenant, and the tenement.

X. That no man condemned for felony out of the iſland, ſhall forfeit his inheritance within it, but that it ſhall deſcend to his heirs.

XI. If any man hath forfeited his rights, and abjured the iſland, and the king ſhall afterwards grant him a pardon, and he ſhall return to the iſle within a year and a day after his abjuration, he ſhall be reſtored, in full right, to his heritage.

XII. No man ought to be impriſoned in the caſtle, unleſs in criminal caſes, touching life or limb, and this by the judgment of the twelve coronatores, but in other free priſons, deſigned for ſuch purpoſes.

XIII. The king ſhall have no receiver in the iſland, but by the election of his fellow-countrymen.

XIV. The iſlanders ought not to anſwer before the juſticiers appointed for holding the aſſize, or other pleas, untill a tranſcript of their commiſſions, under the king's ſeal, ſhall be delivered to them.

XV. The juſticiers appointed by the king's commiſſion, for holding the aſſizes in the iſland, ought not to continue them beyond the ſpace of three weeks.

XVI. The iſlanders ſhall not be compelled to come before the ſaid juſticiers, after the time aforeſaid is elapſed.

XVII. They ſhall not be obliged to do homage to the king, untill he ſhall come into the iſland, or the dutchy of Normandy; or till he ſhall appoint ſome perſon, by his letters, to receive their homage in his name.

XVIII. It is conſtituted for the defence and preſervation of the iſland, and the caſtles, and chiefly becauſe they lie ſo near the powers of the king of France, and of others, their enemies, that all the ports be well guarded; and the king hath commanded that guardians of theſe ports be appointed, that no injury may happen to him, or to his ſubjects.

Beſides theſe heads, there were ſome in relation to the duties of wine, and other merchandiſe imported, the diminution of which was obtained by Philip de Aubigny, governor of the iſland, in the reign of Henry the third. By his interpoſition there was alſo granted a confirmation of this charter, and the addition of a very few articles, reſpecting the prohibition of carrying ſalted fiſh to the Normans and obliging the fiſhermen to carry their produce to market, in the iſland, three days in the week.

Such were the precautions taken by the king, at the interceſſion of his ſubjects of Jerſey, to prevent thoſe enormous acts of arbitrary power, under which they had long groaned.

The event of theſe inſtitutes to improve the conſtitution of the ſtate, and eſtabliſh the rights of the ſubjects, was ſuch as in general are conſecutive of moſt intended reformations. Thoſe changes took their riſe from the ſenſations of people under oppreſſion; and the remedy proceeded not from the intuitive diſcernment of thoſe ſources, from which theſe evils did really ſpring; nor were they conſtituted on ſuch principles as could preclude the generating of ſimilar effects. Like the blind,

who

who run againſt obſtructions in their way, they felt the injury, but ſaw not whence it came, nor how many yet remained to impede their paſſage to right and liberty. They fancied, therefore, that on the removal of that oppoſition, the road would prove free from interruption for the future. But a multiplicity of new impediments have aſcertained that they were miſtaken in their judgment.

Without receding to the genuine cauſes of human actions, and conſidering man both as an individual, and as aſſociated in national community, the motives which operate on him, in both conditions, and the means by which, according to the laws of nature, he is to be animated and reſtrained, the whole intent of meliorating the ſituation of the conſtituents, becomes totally unavailing. The ſource of calamity is not reſcinded, but the ſtream, averted from its former channel, is ſtill permitted to ſeek, to form, and to run in another, with a different, but not leſs deſtructive courſe. The evils are for ſome while removed in appearance, but they ſoon become equally afflictive in this new direction. At length, after the people have paſſed through the vaſt variety, which muſt emerge from the propenſities of humankind injudiciouſly reſtricted, the very laws which were made, to ſuppreſs theſe regerminating iniquities, become ſo multiplied, that the number, expence, perplexity, indeciſiveneſs, contradictions, and abſurdities, which they contain, create a more intollerable oppreſſion, than any thing they were formed to exterminate. And with this additional miſchief, that the preceding circumſtances induce men to commit injuſtice, in hopes they may elude all puniſhment, by that chicane and artifice, which are practicable from the nature of ſo heterogeneous a compoſition. In this manner

ner the acts of legiſlation become ſubverſive of the very ends for which they were primævally eſtabliſhed.

It is not the practice of gardeners to oppreſs the ſhooting weed with a ponderous ſtone, in order to prevent its vegetation; and ſucceſſively to add ſtill others, as it extends beyond the limits of thoſe, which are already laid upon it. They know the nature of the plant; that it will nevertheleſs continue to germinate; and by taking the direction to which it is compelled, creep beneath the preſſure, till it paſſes beyond the influence of that power, and then aſſume its native direction, riſe into the air, bloſſom, and give its ſeeds of miſchief to be ſcattered by the winds, and propogate its deſtructive progeny. Theſe men, therefore, ſcientific in their profeſſions, extirpate it from the root, and by one judicious operation, preclude all farther growth, and means of propagation. Such are the methods by which thoſe legiſlators, who have truly merited that moſt auguſt of all characters, have proceeded in the reſtoration of degenerated nations, to their native rights and liberties.

Innumerable are the inſtances of men, who as miniſters, churchmen, generals, and judges, have conſpicuouſly conducted themſelves according to the inſtitutes of their reſpective profeſſions; and who have added improvements from their own ſuperior underſtandings. But the full union of thoſe faculties, which alone can conſtitute a legiſlative genius, hath almoſt as rarely happened among men, as that conjunction of the planets, which aſtronomers denominate the great year, when all of them are exactly in the ſame ſituation, reſpecting each other. A phænomenon that can arrive but once in the revolution of ſome thouſand ages.

The

The men of Jerſey were egregiouſly miſtaken in this intended reformation of the ſtate, and the averting their miſeries. They imagined, that by acquiring the right of electing their judges, they ſhould obviate the evils, which they had long endured. But by that very means they were laid open to more grievous ſufferings.

The power of the bailly extended over all men and all things, both civil and military. By him, and to his uſe, all the rents, revenues, eſcheats, ſervices, wards, marriages, fines, and forfeitures, which belonged to the king, were appropriated. He became abſolute over the people, and diſpoſed of their elective voices as he pleaſed. The motives of ſelf-intereſt, were too powerful for thoſe of the public good. By that aſcendency, thoſe jurats, only, were choſen, whom he nominated. The eccleſiaſtics, who were the moſt intelligent in the Norman laws, and the moſt independant of the bailly, were excluded, by being incapable of being elected. The great tenants in hautbert, being diveſted of their ancient rights, of ſitting in judgment, were, in fact, inhibited from being elected alſo. But as ſuch men, if not in office, were the moſt likely to oppoſe the deſpotic intentions of the bailly, they were therefore but ſeldom not nominated by him to be choſen by the people. And by theſe means, thoſe being joined in the execution of arbitrary power, and others excluded, they willingly acquieſced in this pernicious diſtribution of authority, and encreaſing the weight of their own private deſpotiſm, ſaw the miſeries of the people proceed, without remorſe, or attempt of remedy.

The intermediate magiſtracy of the jury, was, in like manner, by this charter, annihilated: for the jurats were to take the neceſſary views; and thus

thus the judges and the jurymen, conſtituting the ſame body, all the ſalutary effects, which had originally reſulted from the counteractions of thoſe different parts of judicature, were aboliſhed. The offices of judge and juryman were not only identified, but the ſame perſons were conſtantly to decide in all cauſes, and to remain for life, unleſs they forfeited that right by miſdemeanor. And as the determination of all that might be included within a lawful cauſe of diſmiſſion, was depoſited in the hands of the bailly, and the other judges, who were of his creation. It is not to be doubted therefore if at any time a particular member of the bench ſhould preſume to prefer the cauſe of juſtice, to the will of the ſupreme magiſtrate, that he would be conſidered as a traitor to the man who made him, and receive the reward of his contumacy, by a ſpeedy removal from his office. An event which, tho' honourable in itſelf, would nevertheleſs prove an object of reproach and diſhonour, in the minds of the multitude, who ſeldom diſtinguiſh between the puniſhment and the cauſe of it.

The whole powers of executing the laws, were now confined to the bailly and twelve jurats: and the latter, being permanently eſtabliſhed, were not only ſubjected to the ſupreme command of that firſt magiſtrate, but let looſe to the influence of favour and averſion, intereſt and diſadvantage and expoſed to the application of all thoſe, who entertained the intention of prevailing over right, by the aſcendancy of pecuniary prevalence.

By theſe means, the wrongs and injuries which were intentionally to be remedied by the ſecond article of the conſtitutions, ſuch as diſpoſſeſſing the lawful proprietors by fraud or force; the ſeizing the inheritance of heirs, on the death of their progenitors; the depriving widows of their right of dower,

dower, and all the other particulars contained in this charter, remained without remedy. All the former miſchiefs were thereby conſigned to the bailly, to be carried into execution, with ſtill leſs reſtriction from the dread of royal reſentment, than before. And as he could command in the choice of the jurats, he could equally prevail in nominating that of the king's receiver.

This right of electing their judges, imparted to the people, was of no other conſequence than to afford a ſanction to the iniquities of the king's prime miniſter in Jerſey. It encouraged him to the perpetration of ſuch crimes, as thoſe already recited, by the countenance of an authority fallaciouſly conſtitutional, violences which he might not ſo readily have dared to commit, on the confidence of his own ſingle powers.

There was, indeed, ſtill reſerved by the ſecond article of the conſtitutions, that neceſſary precaution of ſuperviſing the judgments of the bailly, and his jurats, by the ſuperior magiſtracy of the juſticiers itinerant, who held the aſſize, and other pleas. But the benefit of theſe providential magiſtrates, was ſoon rendered ineffectual by this very charter: and their miſſion ſpeedily fell into diſuſe. For on all re-hearings, though the bailly, by the fifth and ſeventh article of the conſtitutions, was not to ſit on the bench, when the juſticiers preſided, the jurats were. Hence it aroſe, that this ſecond trial was not, as formerly, before other judges, and a new jury; but by another judge, and the ſame men, who had exerciſed the united authority of both, in the preceding trial of the ſame cauſe. A practice in diametrical oppoſition to the conſtitution of Normandy. In that neither judge nor jury could officiate, on the rehearing of thoſe cauſes, in which they had been

been engaged at the firſt deciſion. The magiſtrates of this new creation were now under the reſtraint of two powers extremely coercive; the dread of offending the bailly, by ſtigmatiſing his determinations with the brand of erroneous judgment; and their own ſelf-ſufficiency. The latter of theſe will ſeldom allow mankind to depreciate their former opinions, by confeſſedly receding from the commiſſion of wrong, to the correction of it, by the reeſtabliſhment of right.

He was, therefore, ſet at liberty from all controul, and exerciſed his arbitrary inclinations with ſtill more lawleſs violence than before this intended reformation took place. All cauſes were deferred as he pleaſed; the deciſions entered, or omitted, as he commanded; and the odium which would have fallen on him alone, was now diſtributed among the jurats, who palliated their crimes by imputing to the laws the nefarious acts which they committed.

By theſe conſtitutions of king John it appears, that all appeals from ſuperior courts, as well civil, perſonal, mixt, and criminal, and the right of bringing them originally before the ſovereign, were totally reſcinded, except in cauſes of high treaſon; of obtaining writs from the court of chancery in one inſtance; and a few others which were ſtill reſerved for the cognizance of the prince and his council. In all the reſt their ſuits were *omnino terminari*, to be altogether terminated within the iſland.

It may indeed be imagined, that as all pleas, both before the juſticiers and bailly, were by the ſeventh article to be entered on record, that this injunction was made to enable the inhabitants by a copy of that regiſter, to bring their cauſes to a rehearing before the king in council. But that

was

was not the intention. It was ordered, that if at any time the king ſhould be willing to examine the judgments of the bailly and juſticiers, he might have the means of effecting it by a review of their determinations: but chiefly that the juſticiers might have the power of reviſing them when they came to hold the aſſize.

This reſciſion of their ancient privileges of appeal apparently unjuſt, aroſe from the former practice of purchaſing the inequitable deciſion of cauſes, when they were removed to the ſuperior courts, where juſtice was deferred or denied, and decrees obtained, according to the largeneſs of the ſums which were offered and received on ſuch occaſions. As mariners, who navigate in ſeas, of which there is no chart to indicate the latent rocks and ſhoals; and who are too ſupine to ſound, in order to diſcover that danger, in avoiding the viſible, are ſhipwrecked on the concealed; ſo did it prove to the inhabitants of Jerſey. They ſaw the miſchiefs which had reſulted from the venal proſtitution of the ſuperior judges, and hoped to avoid its future malignity by this new mode of reſtricting judgment within the iſle. But they adverted not to that ſupreme and inſidious power of the bailly, to which they were devoted by this fallacious idea of improvement. And in flying from apparent danger, they fell into perdition unforeſeen. For now the bailly was in reality poſſeſſed of the ſole authority over their lives, liberties, and properties. And as the impulſe of gravitation, in a falling weight, is encreaſed in proportion to the diſtance which it has paſſed from the place of its departure, ſo the ſtroke of tyranny is more violent, as it deſcends from the throne, to thoſe ſubordinate deſpots, who act beneath its powers.

Although

Although the cauſes which were productive of magna charta in England, and of the conſtitutions in Jerſey, were the ſame, the two people proceeded by different paths to extirminate their miſeries. In this kingdom, inſtead of new modeling the courts of juſtice, they reſtored them to their ancient form, and obviated the miſchiefs which reſulted from trials before improper juries, or without the aſſiſtance of any. They ſtipulated that ſuch men only as were fit and lawful, ſhould be impanelled on ſuch occaſions, and left the judges as they were, in the hands of the king, and amoveable at pleaſure.

The men of Jerſey annihilated their juries, and eſtabliſhed their judges for life; or rather mixing them together, produced a juriſdictive mule, which is reconcileable to neither ſpecies. By the former method of re-eſtabliſhing jurymen, the people of this kingdom have received innumerable bleſſings and advantages. But the inſtability of the judges was long attended with deſtructive conſequences, till by degrees they ſettled into fixed and independant authority for life. A beneficence which was moſt graciouſly completed by the paternal care of his preſent majeſty.

By the conduct obſerved in Jerſey, the ſubjects were not only deprived of thoſe benefits, which would have enſued from a proper reſtoration of jurymen, but they were farther afflicted by the eſtabliſhment of the jurats.

The reaſons for proceeding in the ſame manner, on ſimilar cauſes, do not always operate with equal energy, but are dependant on circumſtances, which create diſtinctions of propriety in one place, that are not to be found in another.

In England, this permanency of that great magiſtrate is expedient, that he may remain unawed

awed by the power of removal in the king, or his miniſter, ſhould the judge adhere to juſtice, and contemn their mandates. Even before that eſtabliſhment of his office, the influence of ſiniſter motives were corrigible by the integrity of the jury. Beſides this, the kingdom is of ſuch extent, that in few inſtances of conteſt between individuals, there can ariſe any cauſe of inequitable deciſion, through favour or diſlike; and the dignity and revenues of their office, preclude them from all attempts of corruption in caſes of private property. Added to this, the legiſlature hath wiſely interdicted all judges from ſitting on the tribunal, in thoſe counties, in which they are born, in order to obviate the effects which too naturally ariſe from the motives of parentage, conſanguinity, friendſhip, and averſion: And after all, there were appeals to ſuperior courts. But in Jerſey, the manner of eſtabliſhing thoſe magiſtrates, hath ſubjected them to the immediate dictates of the bailly. They muſt be his creatures, by the power which he poſſeſſeth over their electors and themſelves. They muſt prove obedient to his will, however abſolute, or that contumaciouſneſs will be deemed a legal cauſe for their being diſmiſſed. They decide without the controul of juries, and the limits of that inſular ſpot are ſo narrow, that no cauſe can come before them, in which they are uninfluenced by thoſe motives, that are too powerful to be reſiſted by the common integrity of man; and what adds a too prevalent incentive to the commiſſion of miſdeeds, there are no ſuperior judges, to which the injured may appeal to diſcloſe their wickedneſs.

From this primæval error in the juriſdictive authority of the courts of Jerſey, proceeded the innumerable hardſhips which the inhabitants have under-

gone; and it will be manifeſt in the ſubſequent pages, that through all the changes which have been introduced to obviate that evil, it has never been receded to its origin. The river Acheron, is ſaid to dive under ground for a while, again to riſe, and run into hell at laſt. Something extremely ſimilar has happened to the ſtream of Jerſey juriſdiction. It hath frequently ſunk and roſe; and if the miſeries and torments which a people ſuffer in any place can conſtitute the locality of hell, then is the iſle of Jerſey ſuch, wherein this current of juriſdiction is diſcharged. Nay, it is fraught with powers unknown to Acheron; it makes the hell it waters.

Nor did this torrent of miſchief, which was introduced by this transformation, terminate in the mal-adminiſtration of juſtice, it proceeded alſo to that of creating deſtructive laws. For, by the Norman government, thoſe aſſeſſors who aſſiſted on the judgment ſeats in their reſpective bailliwicks, were the perſons alſo, who enacted thoſe occaſional ordinances, which were of too little import to be carried before the duke and his council, and which related to their particular diſtricts. But by this innovation in judicature, as theſe men were no longer admitted on the bench, they loſt alſo the right of participating in the formation of ſuch temporary acts, as were deemed neceſſary for the welfare of that bailliwick. The jurats arrogated that authority alſo; and they have, ſince that time, extended it to a fatal inundation of right and freedom although the power of legiſlation is not imparted to them, nor even mentioned in the charter of king John, or in one of all thoſe patents which have been granted by ſucceeding ſovereigns.

This

This union of legiſlative, and of juriſdictive power, in the ſame aſſembly of thirteen men, thus permanently eſtabliſhed, is indiſputably the moſt pernicious and deſpotic of all human inſtitutions. They are, in fact, the tyrants of the iſle, conſtitutionally eſtabliſhed. For the ſame men to make, who execute the laws, is the utmoſt execration that can be invocated for the deſtruction of mankind. It is repugnant to all the laws of nature, where individuals are kept in order by the awe of having their injuries returned by ſimilar treatment. It is ſubverſive of all thoſe ends, for which mankind entered into national compacts. It foſters that malevolence, which too naturally prevails, and hurries men into acts of violation, even where the ſalutary reſtriction of legal ordinances, is providently eſtabliſhed. In ſuch diſſolute ſtates, the villainies and reſentments of the moſt malicious individuals, receive the ſanctions of their revenge, by the conſent of legal authority. The laws are converted into arrows, which they ſecurely ſhoot from behind the battlements of legiſlative power, on the miſerable inhabitants, who are thus, under the ſemblance of conſtitutional protection, doomed to the moſt inexorable of all tyranies.

Nor was it only by the bailly, and the body corporate of the jurats, that the ſubjects were ſo enormouſly harraſſed and oppreſſed; for of the latter, thoſe who were tenants in hautbert, exerciſed their deſpotiſm with unremitting fury. They aſſumed the authority of haute juſtice, and fined, impriſoned, ſpoiled, and executed thoſe, who held from them on their fiefs and manors, whom they thought fit to puniſh. So that a more

 deplorable

deplorable diſtreſs could never be allotted to the ſons of men. For as the bailly and the jurats precluded all others from the ſeat of juſtice, they became ſtronger in miſchief by theſe means, and united in pouring their boiling vengeance on the miſerable inhabitants.

CHAP.

CHAP. V.

Of the changes which were made in the conſtitution of Jerſey, from the death of king John, to the reign of Henry the ſeventh.

HENRY the third was a mirror, when he aſcended the throne of his father, and the adminiſtration of the kingdom was committed to the earl of Pembroke. At the age of nineteen the young king prematurely aſſumed the reigns of government, cancelled magna charta, and confirmed the conſtitutions of king John to the iſlanders of Jerſey. The former bore the ſtern and imperious face of a tyrant, which the ſubjects had erected to awe their ſovereign, and which he was neceſſitated to obey. The latter as the creature of royalty, which had emanated from the voluntary emotions of his father's heart, for the promoting of the people's happineſs. It ſhould be the invariable maxim of all ſovereigns to grant their ſubjects all reaſonable rights, without ſolicitation: and of the people to obtain them without the appearance of their being extorted. But ſuch is the ſpirit of power, every petition from the people, feeds the paſſions which are connected with it in the hearts of princes, and confirms their ſovereignty. And ſuch the ſtubborn diſpoſition of the multitude, they would poſſeſs by the motives of compulſion, what might be acquired by complacent meaſures, and deem the mortifying act of reducing

their ſovereigns to comply with their demands, the moſt grateful ingredient in the cup of liberty.

The barons of England took arms, and reſolved to eſtabliſh their rights, imparted by the great charter, and they ſucceeded in their endeavours. The men of Jerſey remained faithful to their ſovereign, and undiſturbed in their poſſeſſion of the conſtitutions.

But as this grant was replete with the ſeminal principles of ignition, they ſoon kindled beneath the ſurface of apparent benefit, and burſting forth like the lava of Veſuvius, ſprade ruin and devaſtation throug the iſland. During this reign of civil bloodſhed, Henry was too intereſtedly engaged in oppoſing the arms of his Engliſh ſubjects, to attend to the complaints of thoſe in the little inſular realm of Jerſey. Inſtead of obtaining freedom, they had rivetted the chains of ſlavery; and the hopes of being emancipated from the oppreſſions of one tyrant, had in the event multiplied the number, and encreaſed their miſeries.

The bailly and his jurats reigned with lawleſs ſway, and bore down every claim to juſtice. In their feudal courts, each lord of a little fief among them exerciſed his arbitrary inclinations, with full vehemence; and if at any time an appeal was made from their deciſions to the ſuperior tribunal, the ſame perſon preſided among the number of that bench, againſt whoſe injuſtice it was complained. Thus the oppreſſions of the preceding determination, were aggravated in the ſecond, by the reſentment of him, from whoſe ſentence they had appealed. For whatever were their private feuds and animoſities, the general luſt of dominion united them in their public acts, to the exertion of confederated deſpotiſm.

All

All right of appeal to the ſovereign was expreſsly reſcinded by theſe conſtitutions for reſtoring juſtice. The privileges ſtipulated therein were virtually annulled by the very conformation of their juriſdictive magiſtracy. There remained no power which could oppoſe the native deſires in man of being paramount to all controul; and theſe were augmented in the great, by the principles on which ſubordination was eſtabliſhed in the feudal form of government. All law proceedings muſt iſſue from this court, in order to obtain thoſe rights which were ſpecified in their charter. Theſe the bailly and his jurats refuſed, or granted, as they liked: and all cauſes muſt come before their tribunal, and thoſe they determined according to their pleaſure. The civil wars of England prevented the uſual miſſions of juſticiers itinerant, to reviſe the judicial iniquities of the court; and had they been commiſſioned, they would have proved ineffectual. The ſame jurats who had decreed the injury, would have confirmed it by a new deciſion. For among the powerful in what inſtance does the force of equity ſubdue the audacioufneſs of ſupporting wrong.

During this reign, whilſt the fields of England were drenched in the blood of her own progeny, in contending for the confirmation of magna charta, on one ſide; and the ſupport of regal power on the other, the unhappy iſlanders of Jerſey groaned beneath the burden of thoſe miſeries, which their charter had laid upon them, by the inſtitution of that execrable ariſtocracy of thirteen tyrants.

For, although it was as neceſſary for the reſtoration of right and liberty, that the conſtitutions of king John, reſpecting the ordination of their new magiſtrates, ſhould be aboliſhed; as that for

the ſame reaſon, the great charter ſhould be eſtabliſhed: Yet the iſlanders either diſcerned not the origin of their oppreſſions; had no leaders to conduct them to the recovery of freedom, by arms; or they remained in tranquility, through their habitual allegiance, and waited for redreſs from the benignity of their ſovereign.

Edward the firſt had been preſented by his father, with Jerſey and the other iſlands, which he held in appenage, like John, his grandfather, with powers ſcarce inferior to the regal. For by this grant were bequeathed the dominion, rights, revenues, lands, ſervices, and all other royal dues, which belonged to his majeſty, with equal power to that with which they were held by the king himſelf.

The governors were at this time denominated *cuſtodes inſularum*, or wardens of the iſland. Their rewards were ſums granted by the king, and not the revenues of the iſland; for thoſe belonged to his majeſty, or to the prince, who held them in appenage. Theſe wardens, therefore, ſeldom reſided in the iſland. Their preſence was not neceſſary, as military commanders, in times of peace; and during war they were of too high a rank, and too ſpirited, to be confined to the defence of ſo ſmall a territory; for in all the invaſions of the French there appears to have been preſent but one governor, Drogo de Barentin, who was a native of the iſland.

But although the military commander might be abſent, without danger, the chief magiſtrate could not, without renouncing even the appearance of intending to do juſtice. The powers were therefore divided in the exerciſe of them, and a bailly was appointed by the warden, to diſcharge the civil duty of his office, and preſide both at the

making

making occaſional ordinances, and executing the laws.

It does not appear that Edward paid any regard to the ſufferings of the men of Jerſey, except by the ineffectual miſſion of juſticiers, of whoſe actions there remains no record. That prince indeed is diſtinguiſhed, by thoſe who never taſted the bitter fruits of his arbitrary reign, with the name of the Engliſh Juſtinian. But he was, in fact, as little inclined to permit his ſubjects to enjoy the rights of magna charta, as his father, or king John himſelf. He obſerved, and violated that charter, as it ſuited his inclination, and his circumſtances. The confirmation was purchaſed by pecuniary grants of the nation, and he broke that obligation to raiſe a ſubſidy, when it could not be otherwiſe obtained. The eccleſiaſtics denounced the ſolemn vengeance of Heaven on all infractors of that charter; and Edward obtained an abſolution from the pope, which freed him both in this world and the next, from the violation of his oath to obſerve it. In this manner he combated the church militant with their own artillery. But happily for England, he left this world, whilſt he was preparing to erect an abſolute dominion.

The tyranny of the bailly and his jurats, were now extended to that intolerable exceſs, that the complaints of the people reached the throne of Edward the ſecond. He was touched with compaſſion for the ſufferings of ſo loyal ſubjects, and revived the obſolete and ſalutary miſſion of juſticiers itinerant*. John de Treſingfield, Drogo de Barentin, and John Dillone, were charged with the

* Ex record. in theſaur. In quadum cuga de quó warranto intitulat. Guernſey, Jerſey, &c.

the commiſſion of enquiring into the real ſtate of the iſland, and by what rights the bailly and jurats exerciſed their juriſdictive and legiſlative powers; and a like reſearch was made into the rights of the tenants in hautbert.

The court was aſked by what laws they claimed to be governed, by the Engliſh, the Norman, or their ſeparate cuſtoms. They anſwered, by the laws of Normandy, excepting in thoſe cuſtoms which had been uſed in the iſland, beyond the memory of man, as it would appear by the ſchedule then delivered. This ſchedule they had prepared, by collecting thoſe Norman laws, which anſwered their arbitrary deſigns, omitting thoſe which were favourable to right and freedom, and making others, which compleated the code of their tyrannic judicature.

They then related the eſtabliſhment of their bailly and jurats, and their right to judge in all cauſes whatſoever, together with the juſticiers itinerant; and this they founded on ancient and immemorial privilege. They inſidiouſly evaded the mentioning of this tribunal being conſtituted by king John, though they uſed the words of that charter, to explain their claims. They knew that the proof of its being ſo recently eſtabliſhed, would offer a plenary juſtification, both for the aboliſhing thoſe conſtitutions which had been ſo deſtructively inſtituted by the miſtaken judgment of that prince; and for reſtoring the people to their ancient privileges, or to ſuch as had been ſince that time obtained in England.

They were induced to claim their rights of judging, and by what laws, the more ſtrenuouſly, becauſe the juſticiers itinerant intended to proceed in the old Norman method, by a new jury, and according to the genuine laws of that province. It

was

was therefore their purpoſe to defeat them in that deſign, by ſitting with them on the rehearing of cauſes; and thereby confirm their own determinations, and to ſupport theſe judgments by the laws which they had made to countenance their iniquities.

To theſe allegations of the jurats, William du Marais, who probably was attorney-general, anſwered for the king. He aſſerted, that the ſchedule which they had delivered, as containing their ancient cuſtoms, was a new compoſition, fabricated to ſupport their own iniquities: and that in former days, when the juſticiers itinerant were ſent to that iſland, they uſed to proceed according to their beſt judgments, with an inqueſt of men, impanelled for that purpoſe. And after the eſtabliſhment of theſe jurats, that the ſame method had been obſerved unleſs in caſes particularly belonging to the conteſts of the iſlanders among themſelves, reſpecting their tenures, when their cuſtoms were not well known by the juſticiers. In ſuch caſes they did adviſe with the jurats before they gave judgment. That when the juſticiers and the jurats differed in what manner the record ſhould be entered, that then the juſticiers, together with the military tenants, and great men, aſſeſſors on the bench, ought to make the record. But that the jurats were now preſuming to uſurp a new authority, even the royal and excluſive right of judging in all cauſes; and this he was ready to prove.

On this commiſſion it was found, that the jurats had entered their deciſions on record, in the abſence of the attornies for the litigants, and otherwiſe than they were argued before them; and denied the right of all objections to ſuch entries, when they were offered by thoſe who had been injured. This illegality was committed to give an autho-

authority to what they had determined, and to ſanctify their acts of injuſtice, when re-heard before the juſticiers.

They had made new laws and cuſtoms, contradictory to thoſe of Normandy, and totally diſcordant with their ancient uſages, and thoſe of the other iſlands, which had received the like grants, and obſerved their former rules of judicature, and without the aſſent of the king, which were beyond the limits of their legiſlative powers. This had been done in affairs relative to the rights of the crown, of inheritance, of the portions of children, and others, which were endleſs; and they abuſed the legiſlature in a variety of ways. They removed thoſe jurats from the bench in trials on indictment, againſt whoſe juriſdictive authority there was no lawful exception; and who were not recuſed by the priſoners; and this becauſe they ſuſpected they might be inclined to mercy.

Among the many acts of injuſtice which they had made, there was one moſt flagrantly conſpicuous. If any man in the iſland declared in court, that another, who was abſent, was indebted to him in a certain ſum of money, without ſufficient proof, let the debtor be at any diſtance out of the iſland, it was enacted, that unleſs within forty days he appeared, and ſatisfied his creditor, the jurats might cauſe his eſtate to be delivered to the creditor, to be held by him in fee for ever; and inſtances were adduced, in which it had been done. And that when the debtor returned, after the forty days were expired, he had no redreſs. By this iniquity, under the diſguiſe of law, the bailly, the jurats, and their friends, availed themſelves of claiming debts which were not true on thoſe who were not in the iſland, and poſſeſſed themſelves of their lands.

As

As the warden of the iſland received a certain ſum of money from the king, the revenues, fines, forfeitures, rights, dues, rents, and ſervices, were collected by the receiver, and the election of that officer, and his continuing in office, depended on ſuch behaviour, as would pleaſe the bailly and jurats. Theſe were either tenants in capite, or owed rents and ſervices to his majeſty. In conſequence of this aſcendancy over the receiver, they defrauded the king of all his regal rights, ſeized and diſſeized whomſoever they pleaſed of their eſtates, and exempting themſelves from payment, divided the reſt among them.

The lords of fiefs in hautbert, or haute juſtice, paid no regard to the conſtitutions of king John, wherein it is enjoined, that all criminals ſhall be tried before the jurats, in order to avert the tyranny of their courts baron; but they brought their vaſſals and tenants in roturier, before their own tribunals, condemned and executed them without lawful authority, aſſumed their eſtates, and robbed their progeny of their poſſeſſions.

All theſe enormities were proved, or aſſerted by William du Marais that he would prove them. To the contrary, the jurats brought no evidence in diſproof. They were therefore commanded to appear before the king in England. They obeyed the mandate; where, after repeated appearances, and praying for more time to anſwer, the affair was protracted from month to month, till the hoſtilities of the barons drew the attention of the king to thoſe alone. The grievances of the iſlanders were unredreſſed, and the villainies of their magiſtrates remained in full force.

This procraſtination of condign puniſhment, on thoſe imperious offenders, was conſidered by them as a cauſe of triumph; and by thoſe who had

had complained of their iniquities, as a defeat in the purſuit of juſtice.

Vengeance added her incentive ſpirit to that of deſpotiſm. The tyranny of the jurats, and the calamities of the people, were redoubled. Freſh complaints were brought before the king*, and in the ſeventeenth year of his reign, Sprignel and Denoue were commiſſioned as judges itinerant, to redreſs the grievances of the iſland. It was then found that all juſt rule and government were ſubverted. The courts for holding pleas of debts, chattles, and tranſgreſſions, were appointed, or deferred, as it ſuited with the purpoſes of the bailly and the jurats; and though the conſtitutions by which they were created, expreſsly direct that the whole twelve ſhall be judges on all trials; and mention nothing of the competency of an inferior number; and although the Norman conſtitution, in all cauſes, civil and perſonal, demanded the unanimity of twelve jurors; and in cauſes criminal, of twenty out of twenty-four. Theſe jurats ſat in judgment on all kind of law-ſuits, in what numbers they pleaſed, and the opinion of the majority, then preſent, was definitive in every caſe, and it not unfrequently happened that the lives, liberties, and properties of the inhabitants, were taken away by the determination of two out of the whole number. They poſtponed the cauſes of their friends and favourites, on the moſt nugatory evidence of witneſſes, brought by them, in oppoſition to the moſt coercive teſtimony, adduced by thoſe of the plaintiffs, contrary to the law and uſage of the iſland, and to which no attention ought to have been paid.

It

* Inter record. in theſaur.

It was therefore ordained by theſe juſticiers, that without failure, all pleas of debts, chattles, and tranſgreſſions, ſhould be held every week, and thoſe of heritage every fortnight, and the cauſes determined if there were preſent ſeven jurats of the ſame opinion; and if not, that the determination be not protracted beyond a month, unleſs ſome important buſineſs intervened; and then, that thoſe jurats who could not attend, ſhould delegate other perſons to ſit in judgment in their places. All excuſe for non-attendance was referred to the bailly, and if the conteſts were not determined in the times above-mentioned, the jurats were to be compelled to be preſent. Pledges were to be taken to that effect, and fines to be impoſed for their neglect, by the bailly. But this injunction was unavailing, from the nature of the court. The bailly, and the jurats, were confederates in the ſame cauſe, and all ſuch tranſgreſſions were pardoned for the ſake of preſerving their union in miſchief. Were a company of thieves to ſit in judgment on the individuals of their confederacy, the moſt egregious criminals would, undoubtedly, be pronounced not guilty.

This ordinance, that not leſs than the unanimity of ſeven of the jurats, ſhould be deciſive, though it found no ſupport from the charter of John, was an eſſential improvement of that practice, which had been adopted by theſe tyrants, of deciding all caſes by a majority of thoſe who were preſent. Though it required not the unanimous opinion of the twelve, it made that of a majority of their number abſolutely requiſite; which was, in fact, equal to the preſence of them all, ſince ſeven would have determined on a full bench. But this

equi-

equitable ordinance was ſoon rejected, and in that ſtate it remains at preſent.

At the ſame time it was ordained, that the futile evidence of the defendant, ſhould not procraſtinate the deciſion beyond the times which were then appointed.

As the moſt effectual remedy to the evils above mentioned, juſticiers itinerant were to be commiſſioned, as in times more ancient: and in the following year, the eighteenth of the ſame king, Robert de Le Geycat, the prior of Wenlock, and others, were commiſſioned to that purpoſe. But the continuation of that miſſion was ſuſpended both by the civil commotions which attended the ſucceeding part of that reign; and by the inutility of their re-hearing thoſe cauſes, which were always determined in the ſame way, by the conſpiracy of the jurats, and the bailly, the latter of whom now preſumed to ſit in judgment, together with the juſticiers.

During this time the calamities of the unhappy iſlanders returned with full tide, and overwhelmed them. Their complainings were again brought before Edward the third; and in the fifth year of his reign, after the natives had ſo courageouſly repelled the powers of France, Robert Scarburgh, and Robert Norton, were ſent juſticiers itinerant into the iſle of Jerſey. The tenants in hautbert, as well as the jurats, had perſevered in their former acts of tyranny. They were therefore to enquire into their rights and conduct. But as the former made ſome evaſive anſwers, and the patents and inſtruments were in England, by which they claimed their rights, the affair was deferred to the next aſſizes.

Whatever was the iſſue of this enquiry, there reſulted no advantage to the community of Jerſey; for in the ſubſequent year they again implored

plored his majeſty for redreſs from their grievances, and the ſame juſticiers itinerant were again commiſſioned to their relief. The jurats were then demanded, by what right they held all the particular grants, which were contained in the conſtitutions: and by this enquiry it was found, that theſe imperious twelve had uſurped the appointment of the king's game keeper, in order that no obſtruction might exiſt to whatever they intended.

To all the queries which were then made, they ſtill pleaded nothing but ancient cuſtom, abſtained from mentioning the conſtitutions, by which they were granted, and prayed to have leave to appear before the king, and make their defence in England.

What proved to be the conſequence of this appeal to the king, is not to be found: but it appears that the ſame oppreſſive conduct of the bailly and jurats ſtill continued. For in the fifteenth year of that reign, the king granted the iſlanders a charter, by which all their cuſtoms, laws, liberties, rights, and privileges, were renewed, which they had at any time enjoyed, during the ſovereignty of his predeceſſors. By this patent they were virtually reſtored, in general terms, to every ancient right and uſage, both in the manner of trying cauſes, and the rules by which they ſhould be decided. But the expreſs demolition of the conſtitutions, and form of government, being not ſpecifically mentioned, from that ſource their evils ſtill flowed with their uſual abundance.

The time which the juſticiers remained in the iſland, was too ſhort to accompliſh the ends of their miſſion. Their conſtant preſence would have held the tyrannic magiſtrates, in more awe, reſpecting their propenſities to arbitraay and il-

legal judgment. But the juſticiers were no ſooner departed from the iſland, than the bailly and jurats returned to their former tyrannies, and regarded the ordinances of their ſovereigns no more than the whiſtling of a thruſh; a practice, which moſt flagitiouſly remains in full operation to this day.

The king was convinced that the abſence of the governor, and the committing the making and the execution of the laws to a bailly and his aſſociate ariſtocratics, was extremely prejudicial to the inhabitants. He therefore determined to commiſſion a warden of the iſland, with full powers to do juſtice on malefactors of all degrees, according to the laws and cuſtoms of Jerſey. And with intent to prove his capacity for the diſcharge of that important duty, a patent was granted, but for one year, to *John Maltravers.

How well he diſcharged his commiſſion I know not. But it ſeems more than probable, it was not diſpleaſing to the king; ſince he was continued in office for five years longer; and that from the intelligence which he tranſmitted, he received the following commands from his majeſty, which I ſhall tranſlate.

" We have heard that the jurats in Jerſey, on the day of their election, ſwear that they will preſerve our rights unhurt, and their judgments entire, in all our pleas; and diſpatch them without delay, or expence, as ſoon as, with juſtice, it may be done. Yet, nevertheleſs, the cauſes of our ſubjects are protracted, even to more than ten years, by the conſent and favour of the jurats. Theſe delays are obtained by the preſents, money, and other ſiniſter influence of the defendants; ſo that ſuch cauſes ſtill remain undetermined: juſtice is

*. Ex rotulo clauſ. 25to. Edoi.

is thereby denied unto our people, and our and their rights moſt fraudulently withheld. And becauſe that we will, that neither ourſelves, nor our ſubjects be thus deprived of the benefits of the law, by the iniquity of thoſe jurats, we command you that you compel theſe magiſtrates to come before the bailly, on all pleas, from term to term, and from year to year, that juſtice may be more righteouſly adminiſtered to our faithful ſubjects; and the deciſion of no ſuit be procraſtinated beyond the duration of a year. And that by theſe means, that no further complaint be made, nor ſollicitation come to us on that account."

Datum apud Weſtmonſt. 20*mo. die Maii, anno regni noſtri Angliæ* 25*to. vero noſtri Franciæ,* 12*mo.*

Such was then the integrity of the Jerſey court of juſtice. That they were equally ignominious antecedent to that æra, hath been evinced. That it has perſiſted in the ſame way ſince that reign, will be ſhewn hereafter; and that in no period the conduct of theſe men, both in enacting and executing the laws, hath been more flagitiouſly exemplary, than within theſe laſt twenty years.

Whether Maltravers was corrupted by the jurats, or by the deſire of accumulating riches, or by what other motive it may have been effected, it is evident that the ſituation of affairs in that iſland, received but ſmall improvement during his rule and reſidence.

In the twenty-ſixth of the ſame reign, Edmund Cheney was made warden of the iſland. In his patent it was ſtipulated, that he ſhould repair the caſtles and houſes of the king, and annually pay into the exchequer two hundred and fifty marcs. He was empowered alſo with full juriſdiction to chaſtiſe and puniſh all degrees of malefactors, whether within or without the liberties, according

to their deſerts; and to exerciſe his authority in all cauſes, civil and military, according to right, and the law of the country.

From this ſtate of dilapidation of the royal caſtles, and other buildings, it is evident that the revenues of the king had been applied to other purpoſes of fraud; and that his majeſty imagined by reinſtating the warden in the juriſdictive authority, and thereby ſuperſeding that of the bailly, and inflicting juſt puniſhments on the guilty, that himſelf and his ſubjects might be reſtored to their rights and revenues.

The records of Jerſey do not mention, who or how many of the court were either executed or diſmiſſed on theſe occaſions. But their actions demonſtrate the neceſſity of ſuch puniſhment. And the hiſtories of England evince, that the judges of this kingdom have been doomed to ſuch infliction, for crimes much leſs atrocious. Clemency to ſuch apoſtates, is cruelty to a nation. And numbers of the innocent are ſacrificed by this preſervation of the moſt flagitiouſly guilty. In this reign the iſland was given in appenage to Edmund, duke of York, grandſon to the king.

During the ſucceſſive reigns of Richard the ſecond, Henry the fourth, the fifth, and ſixth, the conſtitutions of John, and all the charters reſpectively ſucceeding them, were confirmed. By Henry the fifth, the iſland was given in appenage, with equal rights and power, as in the preceding donations to former princes, firſt to John, duke of Bedford; and after his deceaſe, to Humphry, duke of Gloceſter, both of them his brothers.

But

But theſe confirmations produced an effect diametrically oppoſite to thoſe of magna charta, ſo repeatedly confirmed. In England it proved to be the eſtabliſhment of liberty. In Jerſey the baſis of enſlavement. From the ſpirit of the former, the rights, freedom, and happineſs of Engliſhmen have been enlarged. From that of the latter, the chains of Jerſey have been ſtrengthened.

In the thirty-firſt year of the king laſt mentioned, the calamities of the iſlanders were again brought before the throne. At this time John Nauſan was appointed warden of the iſland. He, by his patent, was to govern according to the laws and cuſtoms of the country, and inflict condign puniſhment on all ranks of delinquents. He was authoriſed to diſmiſs all ſelf-ſufficient magiſtrates and officers, and to place others in their room. He was to enquire into all crimes and forfeitures, and correct them as they deſerved, before the judges itinerant in the aſſize. Hence it is evident that this juriſdictive power was not only reſtored to the warden of the iſle, but the miſſion of the juſticiers was alſo renewed.

By Edward the fourth they were granted another charter, confirmative of the former. In all theſe inſtruments the moſt grateful acknowledgment, and higheſt approbation, were beſtowed by their ſovereigns on the people for their loyalty and courage: and the gallant defence of Mont Orgueil caſtle, againſt the army of Gueſchelin, was expreſsly mentioned.

But notwithſtanding this repetition of charters, and royal ordinances, the root of their calamities was not extirpated. If for one year the luxuriancy of the plant was corrected by re-

ſciſion, it ſhot forth the ſtronger, and bore more exuberant crops of miſchief in the ſucceeding. If the imperious ſpirit of the magiſtracy was for a while depreſſed, like the elaſtic power of ſteel, it again recovered, when the weight was removed; and acted with all its native force of malignity. In full exertion of which it remained to that æra, in which Henry the ſeventh aſcended the throne of England.

CHAP.

CHAP. VI.

Of the reformations which were made in the conſtitution by Henry the ſeventh, and the ſucceeding ſovereigns, to the reign of Elizabeth.

THE moſt authentic records from which the hiſtories of national manners can be derived, are the laws which were enacted during the progreſſive æras of the reſpective ſtates of which they are written. The outrages and immoralities, which are legiſlatively corrected, are demonſtrations that they then exiſted: an evidence which it is impracticable to refute. And ſuch laws explain alſo, whether theſe evils ſprang from the irregular excurſions of the individuals, or from the original mal-formation of the government. From the teſtimony of ſuch witneſſes, I ſhall now ſhew the vices and enormities which prevailed in Jerſey. when Henry the ſeventh aſſumed the ſceptre of theſe realms.

This prince, when earl of Richmond, had fled from his country, and the deſigns of Edward the fourth. In his voyage into Britany, he landed in Jerſey, where, for ſome time, he remained in concealment. By this incident he received an occular demonſtration of the diſtreſſes which prevailed among the people, from the mal-adminiſtration of government: a circumſtance which rarely happens even to thoſe ſovereigns who dwell among their ſubjects.

Secluded from the occaſions of diſcerning human miſeries, ſoothed with the dulcet ſounds of adulation; ſurrounded with magnificence, and numbers of their ſubjects, adorned with every emblem of opulence, and pomp neither their ears nor eyes are made conſcious that there exiſts a human being in diſtreſs, of all the millions which inhabit their dominions; and of whom the ſufferings of the moſt uſeful are the moſt ſevere.

In the firſt year of his aſcent to empire, Henry confirmed the charters and ordinances which had been granted to the iſlanders, by the preceding ſovereigns of England. But the inſufficiency of ſuch meaſures had been proved by repeated trials, and it ſucceeded, at this time, no better than in the former. By culture the ſame trees may be made to produce a fairer fruit, but not to change its ſpecies.

Harliſton, who had aſſiſted with the fleet when De Carteret obliged the troops of Maltravers to ſurrender the caſtle of Mont Orgueil, was then governor, and zealouſly attached to the houſe of York. Henry, therefore, declined at that time the reformation of the Jerſey government, that the benefits which he intended might not aſſume the appearance, of proceeding from a friend to that family: but his former merits prevented him from being diſmiſſed from that government.

Harliſton preferred his loyalty to his intereſt. He freed the king from his embarraſſment, and engaged in the cauſe of the duke of York, ſecond ſon of Edward the fourth. For ſuch undoubtedly was that perſon, whom the dutcheſs of Burgundy ſupported, and whom Henry, his courtiers, and hiſtorians, fallaciouſly, and in deriſion, denominated Perkin Warbeck.

By

By what means this prince was preſerved from the aſſaſſinating ſpirit of Richard the third, cannot be aſcertained. But the evidences of his being that perſon are as convincing as circumſtantial proof can make them. Him Henry put to death as an impoſtor, together with the earl of Warwick, the right male heir of the crown, after the ſons of Edward the fourth: and thus he perpetrated two murders, equally ignominious and unjuſt with thoſe which have been imputed to Richard the third. Hiſtorians have unjuſtly aggravated the actions of Richard, and palliated, with ſhameful partiality, the cruelties of Henry.

Matthew Baker, groom of the bed-chamber, was then made governor, by the ſtile of captain of Jerſey, and this iſland was made a diſtinct government from the others. It was at this time that this unhappy ſpot was rent with thoſe family and domeſtic feuds, which demanded the aid of papal denunciation to aſſiſt the impotence of regal authority. Such diſorders, he thought, were not to be ſuppreſſed but by a vigorous exertion of the arm of power. Baker, in conſequence of the re-eſtabliſhment of Maltravers, Cheney, and Naufan, in the juriſdictive authority, determined to correct the abuſes of the magiſtracy, by bringing them to condign puniſhment. This conduct was reſented by the jurats, who for a long while had been uninterrupted in their arbitrary proceedings.

On this procedure of the governor, great diſſentions aroſe between the military and civil officers. In conſequence of this diſcord, added to the diſregard of all legal authority, which prevailed amongſt the moſt powerful of the iſland, the juſt exerciſe of juriſdiction was ſuſpended. Baker, therefore, ſeized and impriſoned thoſe

refractory men, without conſent of the jurats. This ſtrenuous conduct created an unextinguiſhable animoſity between the military and civil powers.

And as thoſe chieftains, engaged in family quarrels, invited to their aſſiſtance, and protected the pyratic rovers, who infeſted the neighbouring ſeas, the governor required that notice of all thoſe perſons who landed in the iſland, ſhould be ſent to him, in order to be aſcertained of their buſineſs; and who they were: and that ſuch aid might not be ſought for, he permitted none to depart the iſle without his permiſſion.

In this conduct he was ſupported by the bailly, and the dean of the iſland, who was head of the eccleſiaſtical authority: and the appointing both of theſe, and the diſmiſſion of the former, reſided in the governor.

The people ſuffered at once beneath the compound inflictions of deſpotiſm and anarchy; and repreſentations of the miſconduct, and complaints againſt this triumvirate in power, were laid by the jurats before the king. He liſtened to their remonſtrance, and believed. Letters patent, bearing date November, 1494, were tranſmitted from Henry to the governor, and he was commanded to abſtain from the exerciſe of the juriſdictive authority, either eccleſiaſtical or ſecular. Whatever conteſts might ariſe between the bailly and him, and between all future governors, were to be decided by the king alone. No man was to be ſeized, or impriſoned by the commander in chief, without conſent of the jurats, except in caſes of treaſon, on ſufficient proofs, or lawful preſumption; and then to be detained in cuſtody till he acquainted the king therewith; and to diſcharge them, if his majeſty ſo pleaſes; or on their giving good

good and ſufficient bail, that they will appear before his majeſty in council, and anſwer to their accuſations as often as the king commands it.

The ſubjects were no longer to be impeded in their leaving the iſland, on voyages to any other parts of the king's dominions; they were required only to give an account of their intentions to the governor, and they needed no paſſport.

All the ancient rights and privileges of the iſland were confirmed. All oppoſitions made by the governors and others againſt the ancient laws and cuſtoms were broken, and rendered invalid; and they were commanded to refrain from ſuch behaviour for the future, under pain of royal indignation, and condign puniſhment, on being found culpable. That governor, and all ſucceeding governors, were commanded to permit the people to enjoy their rights in peace. And what ſeems not a little ſurpriſing, the king, by this patent, reſcinded not only himſelf, but his ſucceſſors, from their juſt prerogative, declaring that theſe orders ſhould remain valid, notwithſtanding any letters derogative, or contrary thereto, which he had given, or might thereafter give to the ſaid Baker, or any other governor: all which, reſpecting the contents of theſe orders, were annulled and broken. To annul thoſe ordinances which were already made, was no new thing; but to annul thoſe which had no exiſtence, or to make any which were annulled in being made, bears not the appearance of the wiſdom of Solomon, which ſome hiſtorians have ſo diſtinctively attributed to this king.

Theſe particulars evidently expreſs the credit, which the king had given to the complaints, and cauſes of thoſe grievances, which the jurats had laid

laid at the footſtool of the throne. But this miſrepreſentation was ſoon diſcloſed. For the jurats were no ſooner let forth from the correction, and ſuperior authority of the governor, than their violences again broke looſe; or, at leaſt, the real ſtate of things was more impartially laid before the throne. For in the following year, orders of the king and council, for the ſafeguard of Mont Orgueil caſtle, the adminiſtration of juſtice, and the peace and tranquility of the iſland, were made and tranſmitted to the magiſtracy. It contained thirty-ſeven articles. Many of theſe are intended to be improvements of the former. Wherefore, as this ſeems to be a code of Henry's wiſdom, I ſhall give them, although ſome of them are but little different from the former.

Henry, conſcious of the weakneſs of his lawful right to the throne; convinced that the perſon whom he had nicknamed Warbeck, was the ſon of Edward the fourth, and fearing that another governor of Jerſey might eſpouſe the cauſe of the young prince, ordered that the preſent governor, even his domeſtic ſervant, ſhould ſwear fealty, and find ſecurity for his fidelity, and the ſafeguard of the caſtle; and that he ſhould neither receive either lieutenant, or ſoldier, within that fortreſs, without taking a like oath.—No inhabitant of the iſland was to be ſeized, or interrupted by the commanding officer, either for the commiſſion, or being ſuſpected of treaſon, but with the advice of two of the jurats. Their goods were to be taken into cuſtody, and held till the cauſe was decided by the king and council.—And as accuſations of treaſon had been made by perſons undeſerving credit, it was ordered that none but thoſe of good fame, ſhould be received as accuſers of any of the ſubjects, either of treaſon, or other matters,

and

and on giving good ſureties, to make good proof according to the laws.

In this inſtance, the annulling clauſe in the former letters patent, was annulled by the preſent: or the preſent by the former. For in thoſe of the preceding year, the people had the right to give, and the governor to take bail, on ſuch occaſions.

And becauſe both the military and juriſdictive authority were deemed to be too great to be entruſted to the ſame perſon, neither the commander, nor his lieutenant, were on their ſingle authority, to impriſon any ſubject in the iſland; or intermeddle in any cauſe that ought to come before the judgment of the court, except in treaſon; but to ſuffer the jurats, without interruption, to decide in all caſes, and on all offenders; and to acquit and puniſh, according to the ancient and notable cuſtoms of the iſland. And if any man diſobeyed the laws, and contemned the juſt execution of them, by the jurats, that then the governor was to favour and aſſiſt them in ſuch diſcharges of their duty.

The governor had unwarrantably interrupted the merchants in their traffic, in order to exact ſome illegal advantages. He was ordered, therefore, to make amends for ſuch injuries, and to permit them to tranſact their buſineſs in peace, according to ancient uſage.

The caſtle of Mont Orgueil being at a diſtance from the town, the ſoldiers were obliged to ſeek their proviſions in the country. In theſe excurſions they committed irregularities on the inhabitants. To prevent thoſe diſturbances a market was to be held weekly at the caſtle, where all neceſſaries were to be ſold, and the prices to be fixed,

fixed by the jurats, at reaſonable rates, in order to prevent extortion.

The feuds between the great families ſtill continuing, and aſſiſtance coming from other places, it was ordered, that no ſtranger ſhould be received into any houſe, without notice being given to the governor, within two days at fartheſt. All order and diſcipline had been neglected, reſpecting the guarding of the iſland, and the diſcharging that ſervice which was due to the king by tenure in hautbert. The caſtle of Mont Orgueil was fallen to decay, and the inhabitants refuſed to perform their accuſtomed ſervice. It was therefore ordered that a guard be kept through the iſle; that the tenants in hautbert, or fiefs noble, be at all times ready, at the requeſt of the governor, to defend the caſtle, as their anceſtors have done. And all thoſe of every pariſh, who were enabled, were to aſſiſt in repairing that citadel, at their own expence. As the moſt pernicious effects had been produced by the aſſembling the people by the jurats and great tenants, under pretence of its being done for the defence of the iſle. All ſuch aſſemblings were for that reaſon prohibited, under the penalty of impriſonment, and their effects being at the pleaſure of the king.

The ſpirit of fraud had flowed from the jurats to thoſe who dealt in merchandiſe. For no people can ever be actuated by principles of integrity, where thoſe who make, or thoſe who execute the laws, are influenced by the motives of corruption: and in Jerſey both theſe powers were included in the ſame perſons. The king was, therefore, defrauded of the cuſtoms which ought to be paid on merchandiſe, as well as of his rents, dues,

dues, and ſervices of tenure. It was therefore ordered, that no ſhip was to bring commodities into the iſland, without acquainting the cuſtomer of its arrival.

The people of the iſland ſuffered egregiouſly under the tyranny both of the governor and the jurats, and each of them raiſed taxes upon the inhabitants, and applied them to their own purpoſes. The governor ſheared them to the quick, and the jurats flea'd them alive. It was commanded, therefore, that neither the governor, nor the jurats ſhould raiſe any impoſts on the people, without the cognizance and commandment of the king, unleſs it be on ſuch occaſions as ſhall be for the common good and defence of the iſland. And this ſaving clauſe of Solomon, deſtroyed the intended effect of this whole article. For the perſons who were thus inhibited in the former part, were thoſe who were to judge of the propriety of the rate to be raiſed; and that pretext of the common good was never yet wanting to conſecrate the deſigns of ſelf-intereſted and oppreſſive meaſures.

Among the many evils which had ariſen from this diſſention between the governor and the magiſtrates it was imagined that the nomination of the bailly, dean, viſcount, and attorney-general, being in the hands of the governor, was not the leaſt. It was therefore ordained, that neither the governor, nor the jurats, ſhould intermeddle, or preſume to nominate any perſon to either of theſe offices. In conſequence of that prohibition, power has ſince changed hands, and the bailly, or his deputy, is become the tyrant in his place.

It has been already ſhewn, how powerfully the dread of offending the ordinances of religion operated on thoſe iſlanders, although they diſregarded

thoſe

thoſe of the king. The oaths which had been enjoined by the conſtitutions of king John, were neglected to be taken by the jurats, when they entered upon their office. They imagined that the breach of all God's commandments was of no great conſequence, if they had not bound themſelves by oath to obſerve them. It was now ordered, that they ſhould not be admitted into office, till they ſwore on the evangeliſts to adminiſter juſtice alike to rich and poor. And they had trifled with their attendance at the courts, in ſo flagitious a manner, that the orders of Edward the ſecond were entirely diſregarded. For although theſe orders of the king and council, expreſsly limit the juriſdictive right to no leſs than ſeven of the jurats, and that on their impracticability of attending, they ſhould delegate other perſons in their place. That number ſeldom appeared in court, but on thoſe days, in which they were entertained at the king's expence. This ſalutary order was renewed, and every one was to be preſent at all courts, under the penalty of ten ſhillings ſterling, on neglecting it, which was at that time a fine equal, at leaſt, to twenty pounds at preſent, unleſs he had reaſonable excuſe, and then he was to depute another, as jurat for that time.

The miſſion of juſticiers had been ſome time neglected, as not proving of their ancient utility in rehearing cauſes; and in examining into the iniquitous deciſions of the jurats. The firſt part, as it hath been already ſaid, proceeded from this cauſe, that the ſame jurats were on both trials. The ſecond was effected by the contempt of the bench for the conſtitutions, and ſubſequent orders of their kings, in not regiſtering the proceſs of thoſe cauſes which were brought before them, and their determinations thereon: a practice at no time more

ſignally

ſignally flagrant than at preſent; and of which unanſwerable evidence will be adduced.

Every thing which paſſed before the court, was now to be regiſtered, and ſubſcribed by the jurats who were preſent at the deciſion; and this was to be kept as a record, to the end that each of the parties might have recourſe thereto, as their occaſions might require. It ſeems probable that there was, at this time, a permiſſion given to appeal from the judgment of the court in Jerſey, to thoſe in England. For it will be ſhewn that ſuch was the practice, when we come to ſpeak of the alterations which were made in the reign of Elizabeth.

The juriſdictive power had been ſo flagitiouſly executed by the jurats, that it was thought of abſolute neceſſity, to correct that inſufferable iniquity, by ſubjecting them to penalties, the moſt opprobrious that men can bear, and live. All thoſe magiſtrates, therefore, who were found delinquent in the diſcharge of their duty, both faithfully to their fellow-ſubjects, and loyally to the ordinances of their ſovereign, were to be ignominiouſly expelled from their office; and never to be received into that, or any other in the iſland; but to be for ever deemed and received as perſons perjured and infamous. It will be ſoon manifeſted with what attention this neceſſary ordinance hath been obſerved by the ſubſequent and preſent jurats; and what oppreſſions the iſlanders have ſuffered from that neglect. And it is not a little remarkable, that among the numerous falſhoods and miſrepreſentations which are given by the bailly and the bench, to every commander in chief, in the abſtract of their privileges they poſitively aſſert, that theſe jurats are to exerciſe their office during life. Whilſt at the ſame time they are conſcious that

many have been diſcharged for their delinquency, of which examples ſhall be adduced among their own progenitors.

The quarrel which had ariſen between the governor and the jurats, proceeded in a great meaſure from the denial of juſtice, which the latter had given to the former, his lieutenant, and the ſoldiers of the garriſon. They were therefore commanded to do them right in all their reaſonable requeſts. And as at this time the office of jurat, for the ſake of rendering the bailly more abſolute, had been delegated by election, to brewers, bakers, and inn-keepers. No man of thoſe contemptible profeſſions, was to fill that place; a commandment literally obſerved to this day, and the intent of it practically fruſtrated by the election of men, equally ignorant and improper.

As acts of violence were committed on both ſides of the diſputants; and murders and felonies were common among the dependants of the governor, the jurats, and the vaſſals of the contending tenants of noble fiefs; ſo were ſuch offenders acquitted and pardoned by the governor, or jurats, according to that ſide of the queſtion on which they were engaged. Thoſe, therefore, who were condemned by the jurats, and favoured the governor, were pardoned by him: and ſuch as had ſupported the cauſe of the magiſtrates, were acquitted by the court. In this manner all degrees of violence were countenanced, and their perpetrators protected. It was therefore ordered, that none who were ſentenced to death by the laws, ſhould be pardoned either by the governor or jurats, without the expreſs authority and commandment of the king. And it was commanded alſo, that no murderer, thief, or perſon who had been baniſhed, ſhould be ſuffered to remain in the caſtle, unleſs

unleſs they had received letters of pardon from his majeſty, under the penalty of being puniſhed for the reception of them, as the common protectors of felons, according to the laws of the king.

The conſtables of Jerſey are officers of ſuperior dignity to thoſe in England. Of theſe we ſhall ſpeak, when we treat of the ſtates of the iſland. They are to be choſen by the inhabitants of a certain age, in each reſpective pariſh. But this privilege of election had been invaded by perſons, who were not entitled to vote on ſuch occaſions, and who were under the influence of the court, or governor, as each could prevail. It was therefore ordered, that neither the governor, nor the jurats, ſhould preſume to recommend any man to their election, and that none but the elderly people ſhould have the privilege of voting.

Edward the firſt had preſented the iſland with a common ſeal, which was to be affixed to all acts of conſequence, and many others relative to inſular tranſactions between the courts of chancery, and that of Jerſey. This ſeal was intruſted to the keeping of the bailly. It had been applied to unwarrantable inſtruments and miſrepreſentations, which had been tranſmitted to the king and the court of chancery, in order to obtain the ratification of illegal contracts and conventions. To obviate this iniquity of the bailly it was ordered, that the ſeal ſhould never be affixed to any inſtrument or writing, but in the preſence of ſeven of the jurats in court, who were conſenting thereto, and whoſe names were to be entered by the common clerk of the court.

The preceding governors having, for ſome time, no longer interfered in the judicial proceedings of civil actions; the jurats had favoured

themſelves and the farmers, in the paying thoſe corn rents, which were due by their tenures to the king. It was from the royal revenues that the ſoldiers were maintained. But when the governor had relinquiſhed the right of ſitting in judgment on civil cauſes, the rents were not paid, becauſe the jurats either declined, or delayed the lawful proceſſes, by which they were to be obtained on that account. The receiver at the caſtle entered on the method of making aſſignments of ſuch dues to the ſoldiers, with permiſſion to gather their ſalary from thoſe who owed, and declined the payment of their rents. This neceſſity of their being let looſe in this manner, produced innumerable quarrels. The ſoldiers attempted to obtain more, and the farmers to pay leſs than they ought. Theſe endeavours were attended with acts of outrage on both ſides. The receiver was ordered, therefore, for the future, to pay the ſoldiers within the caſtle, and to collect the rents himſelf.

The powers were now definitively ſettled, both of the governor and jurats. But the royal mandate could neither alter, nor ſubdue the temper of either ſide, nor prevent contention between them. Neither of them ought to be judge of their own actions. All conteſts, therefore, between the governors and jurats, were to be referred to the king, for his directions, and none to attempt any thing againſt the other.

And that the jurats and eccleſiaſtics might not be diſturbed in their legal proceedings, either temporal or ſpiritual; now they were no longer the dependants of the governor; the governor and his lieutenant were prohibited from intermeddling in all ſuch affairs. And ſo fearful was Henry of being deprived of that iſland by the

intrigues

intrigues of the French, that neither the lieutenant-governor, officer, ſoldier, or other ſervant, was to be admitted, who was not a native ſubject of the king.

And even the porter of the caſtle was to be ſworn to the obſervance of the laws and cuſtoms of the realm, becauſe he guarded the priſoners.

Theſe letters were directed to Thomas Lempriere, the bailly, whoſe judicial conduct, together with that of the jurats, required ſuch ſignal ordinances of correction.

Theſe were the regulations made by Henry the ſeventh. They incontrovertibly pronounce the tyranny both of the military officers, and civil magiſtrates. They were made to remedy thoſe miſeries which the people ſuffered, and wear the face of being judiciouſly inſtituted. But the king proceeded like men who argue on a falſe poſition, and ſuppoſe it true. Every thing was right, but the ground on which it ſtood. The principles which compoſe the ſoul of man, the motives by which it is actuated, the nature of the people, all theſe were not conſidered in the formation of their original conſtitutions. They therefore continued their pernicious operation through all the ſubſequent grants of royalty. They rendered this ineffectual; and acting with like energy through all the ſucceeding reigns, are in full exertion of miſchief at the preſent hour: and they muſt continue in that deſtructive courſe, unleſs ſome more eſſential remedy be provided to alleviate the miſeries and virtual enſlavement of that loyal people.

The power which could alone correct the outrages and diſſentions between the governor and the court, was too diſtant to have that immediate effect, which was neceſſary on ſuch occaſions.

Both parties were too much enraged, to relinquiſh their animoſities; and therefore, the more effectually to terminate their conteſts, Baker was recalled.

Thomas Overay, a merchant of Southampton, was now made governor of the iſland: a man of ſound intellect, and upright heart. As he was not interrupted by invaſions from the French, he applied himſelf to the quieting the turbulent ſpirits of the iſlanders. In order to effect this eligible end, he determined to avert their minds from mutual injuries and depredations, to the enjoyment of tranquility, and of thoſe advantages, which may be acquired by commerce. For the encouragement of his deſign, he obtained letters patent from the king to the iſlanders.

By this judicious conduct he induced a change of manners, by inſenſible and ſure degrees, which have ſoftened the aſperities of feudal pride, introduced more complacent manners, and not produced that corruption of morality, which is brought on by trade in general. It conſiſted, and ſtill conſiſts in thoſe commodities, which are ſold in England, or other markets; in which the profit depends not on the circumventing their fellow-ſubjects, by thoſe inſidious arts of ſale, which have contaminated the honour that was once due to the ancient merchants of England.

The confirmation of rights, already granted by former kings, is a convincing proof that they have not been faithfully obſerved. Henry the eighth confirmed the preceding charters.

During the time in which Thomas Lempriere was bailly, no oppoſition was made by him to the imperious treatment of the governors. Whether he ſhared in the ſpoils, or was inſenſible to the ſufferings of his country, I am unable to decide.

But

But this muſt be certain, that nothing but motives of ſelf-intereſt, or of an arbitrary propenſity, could withhold him from ſeeking redreſs for the miſeries of his fellow-ſubjects.

At length Helier de Carteret was made bailly of the iſland; a man, deſcended from a race of patriotic heroes, whoſe ſouls were not to be contaminated by the infection of ſelf-intereſt, nor diverted from thoſe purſuits, which are truly virtuous. Not one of this name, or family, had ever condeſcended to take the office of bailly, when it depended on the nomination of the governor, and act as his deputy; except in thoſe perilous times of Henry the ſixth, when Richard Nevill, earl of Warwick, enjoyed that poſt, and the care of the iſland, both civil and military, was committed to Reginald de Carteret.

Sir Hugh Vaughan was the next who ſucceeded to the government; he oppreſſed the people with calamities unfelt before, and Helier de Carteret was the firſt bailly nominated by the king, and independant of the governor. He reſolved to exert his magiſterial authority, and to ſupport his own rights, and thoſe of his fellow-ſubjects. Vaughan, conſcious of his iniquities, had made enormous preſents to cardinal Wolſey, the prime miniſter, and favourite of Henry the eighth. On the eloquence of that rhetoric he preſumed, and aggravated his tyranny. De Carteret was unawed by the menaces of this governor, the power of the miniſter, and his intereſt with the king. Engaged in the cauſe of patriotiſm and of juſtice, he repaired to the court of England, and laid his and his country's ſufferings before the king. He accuſed Vaughan of thoſe crimes he had committed, and abſtained not from relating thoſe immenſe preſents of a

ſhip laden with wines, and fine linens of France, which had been preſented by Vaughan to the cardinal. Having in this manner delivered a faithful narrative of the deſpotic conduct of the governor, and of the people's miſeries, to the king in council, he ſubjoined, "I come not as a ſuppliant from a conquered country, to implore the mercy of our conquerors, but as one deſcended from the race of thoſe Normans, who ſubdued this kingdom, and from whom you alſo are deſcended. I aſk no favour, nor innovation in our government, but that we preſerve the rights and liberties which have been graciouſly beſtowed on us by royal charters, equally coercive with thoſe which the Engliſh have received, and on which they found their franchiſes. By theſe we are declared a free people, and as an advocate in ſupport of that freedom I appear before this auguſt aſſembly."

The evidences of the facts he produced, and the intrepid behaviour of the appellant were too powerful for the intereſt of the cardinal, which was all but omnipotent. Vaughan was recalled; de Carteret returned in triumph; and the people found remiſſion from their miſeries whilſt he remained their chief magiſtrate. Such are the propitious ſervices which one great man can afford his country, when no motives but thoſe of untainted probity and patriotiſm animate him in the cauſe of the afflicted ſubjects. Among the race of men, there are incomparably a greater number who will more willingly defy all dangers which can ariſe in battle, than thus attack a prime miniſter, ſurrounded with ſubſervient courtiers, and countenanced by his royal maſter. Theſe are the temperate actions of intrepidity; thoſe which moſt unanſwerably evince the exiſtence of real fortitude.

On

On the death of Helier de Carteret, the ordinances of Henry the ſeventh were no longer regarded, and the baillies were again nominated by the governor.

Edward the ſixth, and Mary, renewed the confirmation of the former grants. But the energy of their edicts reached not to the iſland of Jerſey. The former calamities returned with overwhelming force, and diſtinguiſhed the reign of Elizabeth with much opprobrious conduct.

CHAP.

CHAP. VII.

Of the changes which were introduced into the conſtitution of Jerſey, from the reign of queen Mary, to that of Charles the firſt.

DURING the three preceding reigns, this kingdom had been polluted by the moſt ſcandalous commutations of religion and conſcience, for power and ſelf-intereſt, that hath at any time diſgraced the intellect and probity of human kind. Henry the eighth, inſtigated by the vanity of appearing as a man of letters, and to teſtify his zeal for the holy pontiff, publiſhed a book in defence of the papal ſupremacy, againſt Luther. But this attachment to the ſucceſſor of St. Peter, was ſoon found to have been made by no laſting cement. His majeſty grew tired of his queen, and confiding on the ſtrength of that ſignal, and unprecedented ſervice, which he performed for the papacy, by writing in its cauſe, he expected an implicit obedience to his will, and required the pope to diſſolve his marriage. His holineſs preferred the obſervance of right and truth, to the dictates of royal luſt, and refuſed his compliance with that requeſt. The demon of laſciviouſneſs grew rampant, expelled the right of papal ſupremacy from the breaſt of Harry, and placed that of the king in its ſtead; and he reſentfully renounced the tenets which he had ſo zealouſly defended. In this manner the holy ſee was ſtripped of its ſupreme authority, for oppoſing,

ſing, on righteous motives, the arbitrary and unlawful acts of a deſpotic prince: the ſole reaſons which can apologize for its exiſtence.

His reſentment ended not at that point. Profligacy and extravagance had exhauſted the regal treaſury: and his courtiers were importunate in their ſollicitation for pecuniary favours. The lands and riches of the church, were the objects which this royal vulture and his kites determined to make their prey, and they were taken from the eccleſiaſtics. To theſe eſtates the churchmen were as juſtly entitled, as Harry to his crown; or his lay-ſubjects to their poſſeſſions. If the ſtipulations of the clergy with the kings of England, contained in magna charta, ſix and thirty times confirmed, can impart a valid property to individuals, of that earth, which is the original inheritance of all mankind.

The depraved manners of the monks, and the luxurious miſapplication of their revenues, were made the oſtenſible cauſe of this deprivation of their properties; and they were given to men, who by the very act of receiving them, evinced that they were infinitely more abandoned than thoſe, from whom they were pillaged. This rapaciouſneſs they preſumed to ſanctify by an act of the legiſlature.

Whilſt theſe lands remained united with the church, they were the inheritance of all thoſe ſubjects who choſe to renounce the expectations of ſecular advantages, and devote themſelves to a monaſtic life: and though nominally bequeathed to the clergy, they were, nevertheleſs, the property of the community in general; ſince every individual might participate in the produce of them, who choſe to become an heir, according to the will of thoſe who gave them.

Not

Not only the monaſteries, but the hoſpitals were alike demoliſhed, in which the indigent, the ſick, and thoſe whom age had rendered unable to ſupport themſelves by labour, had found relief and ſuſtenance. The lands were indeed confined to the monaſtic orders; but all men were free to embrace thoſe orders, and to participate of their revenues.

When they were thus torn from thoſe idle and voluptuous monks, were they beſtowed on men, who were more laudably employed, or leſs luxurious among the laity? Are the ſervants leſs in number, which are now nurtured in ſloth and inſolence, to ſuſtain the oſtentation and vanity of thoſe maſters, who enjoy thoſe eccleſiaſtical eſtates, than the monks who were maintained by them in ancient days? Are the religion, morality, agriculture, commerce, and manufactures of this kingdom, more improved by the thouſands which are now loſt to the ſtate in liveries, than by thoſe who were formerly ſequeſtered in cowls and monkiſh apparel? Were thoſe who were engaged in praying for the ſouls of the dead, ſo great a nuiſance to ſociety, as theſe who are inceſſantly debauching the morals of the living? Were the ſums which were given to prieſts, for maſſes of interceſſion for their fathers ſins, more deſtructively employed than thoſe, which have been ſince beſtowed on the electors, and the elected, to accompliſh the works of miniſterial corruption? Do the poor taſte of that charity from theſe laymen, which was ſo liberally beſtowed by the hands of the clergy? In what manner then is the community advantaged by fixing thoſe eſtates to individuals, and their families, which were open to the whole people, as their heritage in participation?

In

In Jerſey, the revenues, which had been the donations of piety, were taken from the miniſters of peace and mercy, and given by Harry to the children of wrath and bloodſhed; and the governor ſucceeded to the church. In what light was this prelude to the reformation, either juſt in itſelf, or beneficial to the nation?

The ſupremacy, and the Roman Catholic faith, which had been ſo long united, were now rent aſunder. The obedient parliament accepted the church lands from the king, preſented him with the ſupremacy, and the Catholic faith was left in common among them. Whoever of his ſubjects diſputed his ſupreme authority in things ſacred, were put to death; and ſir Thomas More, and biſhop Fiſher, by whom human nature was dignified, were executed for preferring the dictates of conſcience, of the conſtitution, and even the commandment of God in refuſing to pronounce a perjury, before the mandates of a tyrant, and the acts of a parliament, abandoned to profligacy and corruption.

The tediouſneſs of Katherine's divorce, had proved a remora to the impetuous luſt of Harry. He therefore adopted a more laconic method of diſſolving matrimonial contracts, and decolated thoſe queens, of whoſe embraces he was tired.

The pious Cranmer accuſes Katherine Howard, the queen, of incontinence. A freſh impulſe of laſciviouſneſs for another, perſuades the king of its reality, and ſhe is beheaded without trial, or being heard in her defence. The ſame conſcientious archbiſhop, had already pronounced the divorce of Anne of Cleves, under the ſhameful pretext, that the internal free conſent of the king, did not accompany the marriage.

Thus

Thus the ſenſations of laſciviouſneſs, diſappointed in the perſon of Anne, were received by this righteous reformer as the ſcruples of that king's conſcience, who executed two queens, and the two moſt meritorious men on earth, in defiance of the laws of God and the conſtitution. Theſe acts of tyrannous inhumanity, received the conſecration of the reforming eccleſiaſtics, and the parliament. And hence it appears that every atom of religion, honour, conſcience, juſtice, integrity, truth, and fortitude, had been extirminated from England, by the impious executions of More and Fiſher. Thoſe, the texture of whoſe conſciences was too ſtiff to receive the impreſſion of the royal ſtamp of religion, which Henry had formed, were burnt as contumacious heretics. And theſe whoſe conſciences yielded to other impreſſions than the king had ordered, were doomed to the flames for this heretical ſuſceptibility. In fact, he had aſſumed the liberty of departing from the diſcipline of religion for ages eſtabliſhed, as he pleaſed; and puniſhed all thoſe who dared to differ from himſelf and his innovations. He aſſumed the papal infallibility together with the ſupremacy, and the zeal of eccleſiaſtical vengeance was encreaſed in his poſſeſſion.

The ſentiments of decency, and the feelings of the father, were ſtrangers to his boſom. He compelled the princeſs Mary to acknowledge herſelf to be the progeny of inceſt. He wedded Ann Bullein, ſome time before his divorce from Katherine, in order to conceal the commencement of her pregnancy, leſt her delivery might afford that proof of her incontinence, to which even the aſſertion of tyrants can give no plauſible contradiction. This was both an inſult on the ſacra-

ment

ment of marriage, and an unlawful union. And though it was confirmed by the archbiſhop after the divorce, that ſacerdotal preſumption was nevertheleſs invalid. The confirmation of an illegal deed, cannot alter the pravity which it originally contains. And this confirmation is a proof, that it was then conceived in that view: or to what purpoſe was it done? But as Harry was never wedded to Anne Bullein after his diſunion from Katherine, Elizabeth was a baſtard by the laws of England. The king commands, and the parliament obey; and as he had committed the utmoſt injuſtice in robbing the clergy to enrich them, they thought it the moſt flagrant act of ingratitude not to bend their conſciences to his beheſts, they therefore enact that both Mary and Elizabeth were illegitimate.

It is a general obſervation, that gratitude is ſeldom equal to the benefits which are imparted. The fallacy of this remark was verified by the repreſentative body of this populous kingdom. For in return for thoſe territorial gifts, which they had received from the king, they preſented him with the lives, rights, liberties, and properties of the ſubjects, and even with the conſtitution itſelf. And thus, as far as in them lay, enſlaved their deſcendants, to the concluſion of all things, for they paſſed a legiſlative act, that his proclamations ſhould be equally obligatory with the ſtatutes which were made by parliament; and authoriſed him to bequeath the kingdom to whomſoever he pleaſed.

In conſequence of this impious proſtitution of their truſt, Henry, by his will, ſettled the ſucceſſion to the crown in the following manner; to Edward, his ſon; to Mary, whom he and the two houſes had baſtardiſed; to Elizabeth, who was a

baſtard

baſtard by the laws of England, and needed no act of illegitimation; and then to the iſſue of Mary, his youngeſt ſiſter, who was married to Brandon, duke of Suffolk.

By this teſtament he reſcinded Margaret, his eldeſt ſiſter, and her progeny, from inheriting the crown, at leaſt till none of the Suffolk deſcendants remained to claim it. If this will of Henry be conſidered as a legal act, the Stuarts could have no right to the crown of England; and they were in reality uſurpers, becauſe they ſucceeded to the excluſion of the houſe of Brandon. If the power which was imparted by the parliament, to authoriſe the making of that will, be not conſtitutional, nor the will a lawful conveyance, then ſhould the Stuart family have ſucceeded to queen Mary; ſince Elizabeth, being a baſtard, could not inherit the throne by the will of her father, unleſs, indeed, the act which gave Henry the power of bequeathing his kingdom, had ſuperſeded all other acts and obligations of the conſtitution and the law, reſpecting both perſons and properties. That the two houſes, in the days of Elizabeth, were of opinion that they, together with the king, had not that power, is evident from what was obſerved on the death of that queen. For James ſucceeded to the excluſion of the Brandon family, in oppoſition to the will of Henry, and in conſequence of his lineal deſcent.

Edward the ſixth being king, the old fabric of religion, from which the ornaments had been ſtolen by Henry and his rapacious parliament, was now itſelf demoliſhed. The lords and commons who had renounced the papal ſupremacy, rejected the Catholic faith alſo; and, it is ſcarcely uncharitable to aſſert, that for another gift, of equal value, they would have renounced the deity him-

himſelf. They had complimented Henry with the firſt, and Cranmer with the ſecond. And the pious archbiſhop, who by the hand of conſcience had been purely led to proteſtantiſm, burnt thoſe Proteſtants who did not proteſt exactly like himſelf; and thereby manifeſted, that the ſpirit of perſecution had not quitted his heart with the change of his religious opinions.

Before his renunciation of popery, the powers of laſciviouſneſs had prevailed over the ſacred obligations of his oath, to obſerve his chaſtity; and having emancipated himſelf from the ſhackles of the church, by the authority of that parliament which had demoliſhed popery, he indulged himſelf freely in the ſweets of concupiſcence. Thus the motives of the king and his prelate, to the reformation of the faith and worſhip of the Almighty, ſprang from the ſame fountain of ſenſuality; for they were extremely ſimilar in the contexture of their ſouls.

Edward being dead, his ſiſter Mary aſſumed the ſceptre. It was now the ſeaſon of the Catholic monſoon. The conſcientious and Proteſtant members of both houſes, embraced the gale, ſet ſail before it, and arrived ſafe at the old haven of the Roman Catholic faith. They reinſtated the pope in the ſupremacy, of which they had diveſted him; and threw their proteſtantiſm into the ocean of implicit obedience, having been previouſly confirmed by the queen in their old religion, by the heavenly benediction of poſſeſſing thoſe church lands, without moleſtation, for the grants of which they had ſo willingly rejected that very faith. And thus, by the ſame illegal donations, they were purchaſed from popery to proteſtantiſm, and from proteſtantiſm to popery. Their conſciences, like pendulums, vibrating from one ſide

to the other, according as by the Catholic, or Proteſtant weights, they were alternately ſet in motion.

Elizabeth mounted the throne like that gentleman in maſquerade, at Carliſle-houſe, who was half white, half black, with maſks looking both ways, and ſupplemental feet, to impart the air of moving with equal facility in either direction. She compoſed her council of Papiſts and Proteſtants, with a ſuperiority of number in the former, to impart a hint to the pontiff on what ſide ſhe inclined; and had his holineſs ſubmitted his conſcience to her applications, and legitimiſed her mother's marriage, ſhe had walked zealouſly into the pale of the Roman Catholic church, for ſhe had no preference but that which was created by intereſt. But this impolitic ſcrupulouſneſs of the Roman hierarch, determined her feet to proteſtantiſm. The members of the two houſes ſoon obſerved that the Proteſtant monſoon was ſprung up; they embraced the gale, and returned to the port from whence they had departed, their ſhips ſtill laden with the precious cargoes of church lands, and duplicity of conſcience. In this manner the reformation ſprang from luſt, reſentment, and profligacy, like the faireſt fruits from the manure of dung and ordure. And the moſt propitious of all national events, was derived from the moſt flagitious of all cauſes.

It is unanimouſly avowed, that the little burroughs are the rotten part of the conſtitution. In this reign, whatever they may ſince have been, was it not the houſe of commons itſelf?

The Proteſtant writers have injudiciouſly, and in vain attempted to defend this ſcandalous proſtitution of every virtuous principle in thoſe incipient reformers: and the Roman Catholics, with equal abſurdity, to throw it on the church of England. But the former

have

have miſtaken the part they ſhould have adopted, and the Roman Catholics have availed themſelves of that miſ-judgment. For thoſe nefarious acts are truly deteſtable, as the Papiſts have proved. By them alone they were thus moſt flagitiouſly committed; to them the imputations of that ſcandalous procedure, with which they have branded the church of England, do alone belong. And this ignominious and profligate pliability of conſcience to the mandates of ſelf-intereſt, which then prevailed in the profeſſors of the popiſh faith, is the ſtrongeſt proof that a reformation in religion, was then indiſpenſibly requiſite.

When Elizabeth acceded to the throne, ſir Hugh Pawlet was governor of Jerſey. He had gone through all the evolutions of popery and proteſtantiſm with great dexterity. As the people of Jerſey had not departed, but in a few perſons, from their ancient religion, and it was now thought expedient to win them to the Proteſtant worſhip, through fear of their revolting to the French, by the influence of the Catholic eccleſiaſties. A charter was granted to the iſlanders, extolling their uncontaminated loyalty, and confirming, in the ampleſt manner, all rights, privileges, and liberties, which had been granted by her predeceſſors on the throne.

During the time in which ſir Hugh Pawlet was governor, ſeveral of the Calviniſtical preachers, who had preſumptuouſly attempted to overthrow the eſtabliſhed religion of France, fled from that country, and took refuge in the iſland of Jerſey, where they were hoſpitably received. The ſpirit of reformation, animated by the fanatic declamations of thoſe incendiary teachers, ſoon eradicated the remains of popery in that iſland, and captivated the hearts of the vulgar with amazing rapidity.

The great outlines of their ancient religion, both in doctrine and diſcipline, conſiſted in a faith in Chriſt, and his apoſtles: and in the exerciſe of good works. And on an implicit obedience to the dictates of their prieſts. On the obſervation or neglect of theſe, depended their felicity, or miſery, in a future life.

Theſe Calviniſtical teachers came fraught with other tenets, in both reſpects. They pronounced the ſupremacy of the pope to be a moſt abſurd and oppreſſive tyranny over the conſciences of men. They aſſerted that liberty was given to all mankind to think for themſelves, and model their belief according to their own opinions. This doctrine, ſo new and enſnaring to weak minds, and ſo flattering to the ſelf-ſufficiency of all men, was received with rapture by the multitude. They fancied themſelves let looſe from the impriſonment of the Catholic pale, into the open fields of liberty, and under the deluſion of following their own judgments, were drawn by theſe ſeductive leaders where ever they pleaſed to conduct them.

If a new mode of religion, more reconcileable with the ſenſations of ſelf-will, and by which ſalvation is to be obtained on more eaſy terms than in the old although the tenets be ſubverſive of that very religion, which they are fallaciouſly pretended to ſupport, there will be found no difficulty to its being received among the million. The very eſſence of the chriſtian religion, conſiſts in the believing that the will of man is free; and that conſequently his actions are under his own direction: and that he is to anſwer and receive, according as he follows or departs from the acts of morality which it enjoins. For without this primary poſition of free-will, to what purpoſes was chriſtianity revealed; or on what poſition

poſition could the doctrine of rewards and puniſhments have been grounded? In this view it co-operate swith the civil powers, and fortifies the injunctions of the laws of man, by the commandments of the deity, and reaſon and religion become coincident. Notwithſtanding this foundation ſtone of the chriſtian faith, theſe innovators profeſſed the doctrine of predeſtination, which reduces the merits of all human actions to one level, and annihilates the exiſtence of remuneration and infliction.

That ancient and modern free-thinkers ſhould eſpouſe the doctrine of neceſſity, is in no ſenſe ſurpriſing. But that the very men who pronounce themſelves the advocates, and friends of religion, ſhould advance and ſupport thoſe tenets, which are deſtructive of religion itſelf, would be marvellous indeed, were there not ſomething extremely captivating in things irreconcileable, and inconſiſtent among the vulgar. It is directly contrary to what is obſerved in the nature of ſome animals; the progeny devours the parent.

However, that the minds of their followers, like ſtagnant waters, might not be corrupted by the dead calm of predeſtination, reſpecting works; they were to be agitated by a hurricane of faith. This ſubſtitute to the merit of moral actions, requiring no exertion of beneficence, was a primroſe path, which ſweetly led to the delights of Paradiſe. The ſtrongeſt believers were to be the moſt certain of beatitude. And yet this juſtification by faith, like all other things, muſt have been devoid of merit, ſince every thought, aud every act, are fixt alike by the unalterable decrees of fate.

Rank in abſurdity, and ſubverſive of all religious worſhip as are theſe tenets, they were admirably

adapted to the inſiduous purpoſes of the Calviniſts. By freeing the multitude from implicit faith in the pope, to the exerciſe of their own cogitation, they prepared them to receive their new doctrines. For although they were ſet free from papiſtical ſhackles, they were not improved in intellect. They were as equally prepared implicitly to embrace the infallibility of thoſe teachers, as they formerly had been to believe in that of the papacy; and their new deluders impreſſed what objects of credulity they pleaſed, on their yielding minds. Predeſtination alſo countenanced and urged them on to execute what was ordered: and when their ſenſations revolted from thoſe acts of outrage, which their former religion, prieſts, and habitude had interdicted, the perſuaſion that a ſoul-ſaving faith would prevail over the criminality of their actions, effaced the riſing reluctance, and they perpetrated whatever was enjoined them. It was appointed by the Lord, and the reſiſtance of man was both uſeleſs and impious.

Had the incongruity of this heterogeneous mixture of enthuſiaſm and predeſtination been obſerved, they could hardly have dared to promulge it, unleſs they founded their conduct on the knowledge of human nature, that whatever is unintelligible, is deemed divine, and proceeding on that principle, obtained their ends.

The Calviniſtical preachers having faſcinated the minds of the multitude, and being encouraged by both the Pawlets, the governor and bailly flung off the humble guiſe of ſeeking an aſylum among their brother Proteſtants, aſſumed the airs of apoſtolic excellence, and threatened to quit the iſland unleſs the church of St. Helier, of which, indeed, they had already illegally taken poſſeſſion, was given them by the queen.

The

The people received this denunciation with fear and trembling, ſcarce leſs than they would have heard the ſound of the laſt trumpet; and fancied the grace and providence of God, would inevitably deſert them with thoſe fanatics. To this arrogance theſe teachers had been prompted by a correſpondence with their brother puritans in England, who were toiling with equal induſtry, to produce that full harveſt of rebellion, which they reaped in a ſucceeding reign.

They had now the effrontery to ſubvert the religion of that potentate, in whoſe dominions they found protection and bread; to alter the diſcipline and ritual of the church eſtabliſhed; to aboliſh epiſcopal ordination; to erect a new diſcipline; ordain elders and deacons. And then proclaiming a day for celebrating the communion, in their way, they enticed great multitudes to unite in the meaſures which they intended, and renouncing the ſupremacy of the queen of England, as they had done that of the pope, uſurped it to themſelves.

They appointed alſo what teachers they pleaſed to the benefices which were in her gift. Having advanced thus far in the work of demolition, they prevailed on a great number of the inhabitants to petition her majeſty for a grant to reform that church, which ſhe had reformed.

No doctrine like that of predeſtination can countenance the acts of illegality and impudence.

Sir Amias Pawlet was a great favourite of Elizabeth, a puritan at heart, and in that reſpect a traitor to her and the conſtitution. The queen was induced to grant one part of what ſhe ſhould have totally denied. She gave them the church

of

of St. Helier, and abſolutely refuſed them all the reſt.

But a fire is as pernicious kindled by a ſpark, as by the exploſion of a magazine of gun-powder; and a drop of the viperine poiſon is as effectual, as a full draught of the juice of hemlock. For being eſtabliſhed in this, they invaded the other churches, and the iſlanders became totally polluted with the filth of Calviniſm, a few excepted. The Pawlets foſtered this progreſſion, through the contemptible motives of appropriating the revenues of the dean to themſelves. Becauſe this new fanatical erection, permitted no ſuch office; there was yet another inducement. The illegality of their uſurpation placed theſe teachers in their power, and what they dictated muſt be obeyed. The jurats, therefore, which they named, received the ſanctification of theſe ſpiritual leaders, and the people voted according to the inſpiration of the Lord, for whom they were directed.

Guernſey had proceeded in the ſame path with equal diligence: and being now ſpiritual maſters of the iſles, theſe innovators convened a ſynod, to meet in Guernſey. They conſtituted new laws, and a new church government, publicly exploded epiſcopacy, and expelled the liturgy. This convention was held in the preſence of ſir Anthony Pawlet, who was now governor of Jerſey, and of the like officer in Guernſey. Their ordinances were ratified by all the means in their power. And this flagrant apoſtacy from religion and their ſovereign, was tranſlated without the leaſt aſſent of the queen.

The ſucceſs of theſe ſubverters of the eſtabliſhed church, was conveyed to England, and received with exultation inexpreſſible, by the puritans. Cartwright and Snape, two firebrands of Calviniſm and faction, were diſpatched to Guernſey,

ſey, to attend another ſynod, which was held in 1597, where ſir Anthony Pawlet, the governor of Jerſey, and the teachers of both iſlands, were preſent alſo. They drew up an inſtrument, ſettling all their religious diſcipline and doctrines. The governors ſubſcribed it, and Snape was made chaplain of the caſtle in Jerſey, and Cartwright of that in Guernſey.

In this manner, having erected themſelves ſupreme lords of the religion and conſciences of the inſular inhabitants, they uſurped a like power in the domeſtic affairs alſo. They inſiduouſly inſinuated themſelves into the ſecrets of all families, and in their colloquies and conſiſtories, made rules and orders for their government in temporal affairs, and in all their proceedings they were incomparably more deſpotic, than the prieſts of the Roman Catholic worſhip.

If theſe tranſactions were paſſed without the knowledge of Elizabeth, the governors were egregious traitors, both to conceal, and to accompliſh it, without informing her of their proceedings. If ſhe was acquainted therewith, it was an inſtance of abſurd policy, to permit men of the ſame principles to uſurp, with impunity, on the conſtitution and her regal rights, in one part of her dominions, whilſt ſhe was endeavouring to ſuppreſs them in another.

The admiſſion of a religion, founded on principles not only ſubverſive of all religion, but of obedience to the authority of the laws, is to oppoſe the legiſlative, by the ſpiritual authority. By the latter they are taught that all actions are under the neceſſity of being done, and therefore there can be no crime in committing them. By the former they are to be puniſhed by the civil power, for thoſe things, in which it is allowed by the religious,

gious, that there is no offence. And hence the iniquitous propenſities of the people are ſtimulated into action, by ſpeculative tenets, to the perpetration of all kinds of criminality. If ſuch opinions in religion are to be tolerated, it is nothing leſs than practically erecting the will of God againſt the moral ordinances of men; and when the former is brought to juſtify their inclinations to immoral and ſelf-intereſted acts, the obligations of the latter can never prove effectual. Can ſuch contradictions coincide with the idea of legiſlation?

The inhabitants of the iſle having greatly ſuffered by the partial and inequitable deciſions of their courts, had for a long while appealed to thoſe in England, in order to obtain that right, by new trials, which was denied them in their own country. This was not a little vexatious to the bailly and jurats, becauſe the whole proceſs was again repeated, and the witneſſes were re-examined, which frequently diſcloſed the iniquitous proceedings of theſe judges.

The jurats, therefore, petitioned the queen and council, againſt this method of new trial. They knew that in appeals to the council, there was no rehearing of witneſſes; that the deciſion of the cauſe muſt depend, in a great degree, on the copy of the record, which had been made by them; and as that record* was greatly in their power to draw as they pleaſed, their unrighteouſneſs was the leſs likely to be diſcovered.

The petition was laid before the attorney and ſollicitor-general, and ſir Hugh Pawlet, the governor, was conſulted alſo on that head. It was the

* Mſs. Le Geyt.

the unanimous opinion of theſe gentlemen, that the iſlanders had no right to apply to the courts of law in England: and to this they were induced by ſir Hugh, who declared that, according to the records of their charters, ſuch appeals were to be made to king and council.

What charters had fallen under the obſervation of that governor, I know not, but in all thoſe which I have mentioned or ſeen, there is no ſuch direction given. However, that opinion was followed. The courts of England were forbidden to receive any ſuch cauſes, and all appeals have been ſince brought before the council.

Whilſt the Pawlets were encouraging the Calviniſtical innovators, to ſupplant the eſtabliſhed church of Jerſey, and to diveſt the queen of her ſupremacy in eccleſiaſtical affairs, they were not leſs engaged in transforming the conſtitution of the ſtate to their purpoſes. In order to obtain that ſanction to their meaſures, which the jurats neither lawfully could, and might not impart, they revived the convention of the ſtates, which had been long diſuſed. The utility to which this aſſembly might probably be applied, reſpecting themſelves, ſeems to have been foreſeen at the time when the charter was granted by Elizabeth to the iſlanders of Jerſey; or at leaſt, from a part which is therein contained, they took the idea of eſtabliſhing that aſſembly. But the former ſeems to be the moſt likely, as it cannot be well conceived, that this patent was drawn without the direction of ſir Hugh Pawlet, who was then governor.

In that charter it is ſaid, "by theſe preſents we ratify, approve, eſtabliſh, and confirm, all and ſingular the laws and conſtitutions within the iſland, uſually and lawfully practiſed, and anciently

ently received and approved, giving and imparting to the bailly and jurats aforeſaid, and to all other magiſtrates, miniſters, and others, whatſoever, who are appointed to any office or duty, full, entire, and abſolute authority, power, and faculty of taking cognizance, judging, and pronouncing ſentence of, and on all and every kind of plea, proceſs, litigation, action, plaint, and all other cauſes whatſoever, ariſing within the iſland, as well, real, perſonal, and mixt, as criminal and capital; and all theſe therein, and no where elſe, to be pleaded, tranſacted, proſecuted, and defended; together with the power of proceeding, or ſuperſeding, of examining, hearing, terminating, abſolving, condemning, deciding, and executing according to the laws and cuſtoms of the iſland, heretofore uſed and approved, without any appeal whatſoever, except in caſes which are reſerved for our royal cognizance, according to ancient cuſtom, or which by our right or privilege ought to be reſerved."

From this part of her charter, it ſeems to have been intended, that the ſeat of judgment was to receive a material alteration in the number of the aſſeſſors. The miniſters, which in this place can mean nothing but the clergy, the conſtables, centeniers, and all other magiſtrates, together with all who bore office, were now to conſtitute the court; and all appeals from their ſentence were interdicted. By theſe means the conſtitutions of king John, which limitted the tribunal to twelve jurats, were in that part to be aboliſhed: and the other, of interdicting appeals, to be confirmed. At leaſt this clauſe was left to be conſtructively applied to ſuch purpoſes. That ſomething like this convention had been revived, to oppoſe the iniquities

quities of the jurats in former reigns, is evident from the records of the court in Jerſey*. The firſt inſtance which remains on their rolls, is that of the year 1477, in the reign of Edward the fourth.

The method in which this convention was aſſembled, ſhews it to be of a new, or a revival of a method become totally obſolete. They were called together, in conſequence of a conſent obtained from Harlſton, the then governor; and letters to that intent were tranſmitted from him, directed to the dean, parochial clergy, and other eccleſiaſtics, the bailly, jurats, nobleſſe, commons, ſojourners, and inhabitants of the iſle. Theſe were to meet at the town of St. Helier, to deliberate on the accepting of a donation, which had been made by the pariſh prieſt of St. Saviour, for the foundation of a ſchool. And in this record it is ſaid, this donation was accepted by the ſtates.

That theſe aſſemblies, from that time, were fallen into diſuſe, ſeems evident; ſince in the reign of Henry the ſeventh, the jurats had aſſumed the power of raiſing money on the ſubjects, and by the ordinances which he made, that authority is not referred to ſuch an aſſembly, but continued to the court, with limitation of power. Nor is there the leaſt mention of ſuch an aſſembly.

In the year 1549, in the reign of Edward the ſixth, there ſeems to have been a renovation of that convention, and every conſtable was ordered by the court, to bring with him twelve of the moſt reſponſible men of his pariſh, to aſſiſt at the ſeſſions.

---

* Mſs. Le Geyt.

ſeſſions. This diminution of the number of perſons was probably made in order to avoid the tumult and impediment of buſineſs, which neceſſarily ariſe from ſo conſiderable a multitude, as were aſſembled on the former occaſion.

The Pawlets, to whom avarice and arbitrary power were as natural as eating, determined to *erect a new court, under the notion of diſpatching buſineſs, which was, in reality, to prove productive of pecuniary emolument to the bailly. And to this intent they convened the ſtates, but in a different manner from the former. They neither obſerved the firſt method of admitting all degrees of the inhabitants; nor the laſt, in which the conſtables were to be accompanied with twelve the moſt reſponſible men of the pariſh: but they ſeem to have ſelected thoſe whom they thought the moſt officially inclined to ſerve them†. In the year 1585, they were convened in May and Auguſt. In the former they conſiſted of nine jurats, three parochial prieſts, and twelve conſtables. In the latter of an equal number of the jurats and clergy, and but of four conſtables. In one of theſe ſort of conventions, the court extraordinary was eſtabliſhed.

The paſſions of men, like rivulets of water, whilſt they are kept within their due boundaries, are uſeful, and fertilize the ſoul. But as theſe ſtreams, by violent rains, riſe and overflow their banks with pernicious effects, ſo it is with the mental currents, when they are ſwoln with ſudden floods of paſſion, which ſpread a deſtructive inundation over the human conduct.

Thomas

* Mſs. Le Geyt. † Mſs. Le Geyt.

*Thomas Dumareſque, in order to free himſelf from the obligation of diſcharging a debt, had inſtigated Matthew Mahault to bring an action againſt Helier Dumareſque for that money. The cauſe was diſmiſſed, and Mahault ſent to ſeek ſatisfaction of Thomas Dumreſque by an act of the court, 17th of Sept. 1587. In this deciſion Philip and Francis De Carteret differed from the reſt. In this act it was expreſsly ſaid, notwithſtanding the noble Philip and Francis De Carteret were of a different opinion. Theſe De Carterets were the friends of their country, and conſequently the foes of the Pawlets, by whom it had been ſeverely harraſſed. This diſtinctive, notwithſtanding, was therefore thought as intended to convey an oblique inſinuation, that this difference of their opinion had ſprung from perverſeneſs or misjudgment. On this occaſion the bailly, Pawlet, told Helier Dumaraſque, that he would have committed an act of temerity if he had ſworn to ouſter Matthew Mahault.

As there was no real cauſe of ſuſpècting an intention of that kind, in Helier Dumareſque, this expreſſion was conſidered as an inſidious mode of reflecting on his integrity, as it was probably intended. Dumareſque, warmed with that idea, anſwered to the bailly, that he had done him a villainous injuſtice. This altercation paſſed in the courts, when Anthony Pawlet, lieutenant-governor, ſon of ſir Amias, and nephew to George, the bailly, was preſent alſo. The bailly received this reply with indignation, though it was certainly merited in a great degree. He aſſerted, that he was injured in the diſcharge of his office, and in his reputation; and required redreſs from the jurats. Theſe ſubſervient inſtruments of his creation

* Mſs. Le Geyt.

tion obeyed his inclinations, and Dumareſque was ordered to give ſecurity for his appearing to the plaint, which he did accordingly.

John De Carteret, Helier Dumareſque and Philip Journeaux, three of the jurats, ſtung with indignation for the ill-treatment which they had received, prepared a petition to the queen, for the reformation of this court extraordinary, which had been ſo lately inſtituted; complaining, that it was prejudicial to the iſland. And to this was affixed the voluntary ſubſcription of all thoſe who remained unawed by the power of the Pawlets, and unpoſſeſſed by the dæmon of fanaticiſm; and this was tranſmitted to the council by a perſon whom they thought proper for that purpoſe; although they knew it would be waſhing the Æthiopian to preſent a bill to the ſtates to reform the object of which they had been the creators. To comply with the rules of regular procedure, they, nevertheleſs, preſented one. The bailly, who had been the parent of this progeny, which contrary to the natural method, was to give the father a fortune, affected to declare, that his honour was greatly injured on this occaſion, and conſidered it as an accuſation of ſomething criminal in his conduct. Accordingly, he commenced criminal proſecutions for acts which were but perſonal offences at moſt. And this was done to augment the fine and puniſhment: a method which hath ſince been obſerved with ſtrict attention, by the ſucceeding and preſent baillies, in the court of Jerſey, againſt theſe three promoters of the bill and petition to their ſovereign.

Theſe gentlemen, in their anſwer to the actions, declare, they neither did, nor do intend to charge that magiſtrate with any criminal intention in the exerciſe of his duty; nor to hurt his honour, or

the

the profits of his office, in any reſpect whatſoever. The bailly, contrary to the conſtitution of the iſle, ſat in judgment in his own cauſe; and, not content with this anſwer, required the opinion of the jurats, and reparation for the ſcandal which this bill of reformation of the court might bring upon him. And then this affair was referred to the ſtates, who had inſtituted that very court. But by what right the bailly preſumed to make the ſtates the judges of a cauſe: or they to aſſume that authority, it is not eaſy to aſcertain. It was diametrically repugnant to the conſtitutions of king John, aud not to be found in any grant from the crown, except the clauſe of Elizabeth's charter be allowed to give it. And that, taken all together, like the granter herſelf, was replete with duplicity, and was ſcarce applicable to ſuch purpoſes.

De Carteret, Dumareſque, and Journeaux were committed to priſon: and on the 21ſt of Sept. they were diſcharged; on the ſecurity of four gentlemen of conſequence, who pledged themſelves body for body, and effects for effects, together with a ſpecific obligation of two hundred pounds ſterling, that De Carteret and the two others, ſhould anſwer all actions which might be brought againſt them, reſpecting the cauſe of their impriſonment. Such was the deſpotiſm of the bailly, in impriſoning three of the bench of juſtice, for a conduct ſo little, if at all exceptionable, and in direct oppoſition of the laws of Jerſey, as ſir Amias Pawlet, then governor, declared under his own hand.

" I think my ſon was ill-adviſed, and worſe counſelled, when he committed theſe men to priſon, for ſuch like reaſon, wherein he hath exceeded the bounds of his commiſſion. No jurat, by the law, could be committed, but for treaſon." But

to diſapprove the conduct of a ſon, and to promote the honeſt claims of ſubjects, who legally purſue him, are things eſſentially diſtinct. There are few fathers, who like Brutus, can willingly behold their children puniſhed for intending to enſlave their country. Sir Amias, who held in his poſſeſſion an epiſtolatory power of exculpation, which defied the utmoſt reſentment of the queen, might ſafely reprehend the conduct of his ſon, to impart the idea of juſtice and impartiality in himſelf. Subtleneſs and duplicity were his diſtinguiſhing characteriſtics, and intereſt the ſole guide and incentive to all his actions.

On the 24th of October, in the ſame year, Helier Dumareſque acknowledged that he had expreſſed himſelf in terms not agreeable to the bailly, reſpecting his quality and office. The jurats deliberated on this ſubmiſſion and acknowledgment, and determined that reparation was neceſſary between perſons of ſuch quality; and for the ſake of maintaining concord and juſtice. They fined Dumareſque in twenty livres to the queen, and twenty to the bailly: the firſt of which was, in fact, to the governor, his brother.

It ſeems a ſingular manner of making concord, by ordering a reparation on one ſide, only, when both were in fault. The different qualities of the perſons, could warrant no ſuch preference. Pawlet was bailly, and Dumareſque a jurat; and the latter was not inferior to the former in family, and was as legally to be ſupported, and as ſuſceptible of being injured, as that of the former. And this reparation was not for the injury which the bailly had incurred, but what he might receive. It ſeems difficult to determine whether the profligacy or the folly of this majority of jurats, were the moſt egregious. But it is

not

not an uncommon practice of later years, to have theſe ſort of men elected in preference to others, on the account of that union, ſo applicable to the purpoſes of the firſt magiſtrate, or his lieutenant.

On the ſame day the ſtates met alſo, " and firſt they determined that De Carteret, Dumareſque, and Journeaux, had totally condemned the exerciſe of the court extraordinary, which was found by them to be cuſtomary in the matters and ſubjects which were brought before it. Secondly, that they had fallaciouſly obtained ſubſcriptions to their bill, in order to trouble her majeſty immediately therewith, without firſt addreſſing themſelves to the governor and the ſtates, by the authority of which the ſaid court was erected. Thirdly, that they had ſubſtituted a private perſon for a public, contrary to the authority of the ſtates, to whom alone it belonged to authoriſe ſuch perſons. For theſe, and other cauſes, they were found deſerving an amende, and as a ſatisfaction of that, it was declared, their impriſonment was for juſt and reaſonable cauſes."

Every article in this act was an utter falſhood, or miſrepreſentation. Firſt, the three jurats had only preſented a bill and petition for the reformation of the court, and not for the total condemnation of it; nor could it have been cuſtomary, in any honeſt meaning of the word, ſince they themſelves had erected it. Secondly, it could in no ſenſe have been uſual to addreſs the governor and the ſtates on theſe occaſions. The governor had been interdicted from interfering in all civil concerns, by the ordinances of Henry the ſeventh, and the ſtates neither had at that time, any legal exiſtence, nor have they ſince acquired any conſtitutional authority to inſtitute courts, or to be concerned on ſuch judicial matters. Third-

ly, they could have no right to authoriſe any perſon to preſent any petition to the queen and council, beyond any private ſubject, themſelves having no authority to act, but what they had unlawfully aſſumed.

But the ſpirit of falſifying, which is as inſeparable from fanaticiſm, as poiſoning is from arſenic, had been ſo totally transfuſed through theſe ſtates, that it was become habitual to their lips, as it is for fire to aſcend, or for water to run down hill. And there will be ample and notorious eviction, that this propenſity hath not yet deſerted the court of Jerſey.

The bailly foreſeeing that the three jurats intended to appeal from this ſentence, gave the court to underſtand, that another act was ſtill requiſite to obviate the effects which their application might produce. They, therefore, ſubſerviently obeyed, and an act was made, "that the noble bailly had ſought redreſs, by means of the bench, in order by lawful methods, to reſtore peace to the public weal, and to ſettle all controverſy, reſpecting the bill for reformation of the court extraordinary, by agreeing to the advice of the ſtates. That on that account the jurats had made an act, which ſeemed to put an end to the diſpute." This was done to prepoſſeſs the council with the obſtinacy of the three appellants, who had thus preſumed to trouble them on a cauſe which was terminated. From this act and relation, De Carteret, and Journeaux, appealed alſo, and Nicholas Meſſervey, and Nicholas Tibault, were bail for the amende and expences.

The inhabitants who had ſigned the petition of the three jurats to the queen and council, were conſidered as egregious offenders, and their application to their ſovereign, was thought by the lieutenant-

lieutenant-governor, and the bailly, to be an intolerable indignity offered to their highneſſes. This affair being before the court on the ſame day, in which the preceding act had been made, De Carteret took upon him the defence of thoſe people, and ſupported the undoubted right which all ſubjects enjoy, of petitioning their ſovereign, even in the moſt deſpotic governments; or by what means, ſays he, "ſhall they make known, and be relieved from the oppreſſions of their governors and judges."

The bailly had no inclination to diſpute this right by the rules of logic. He had always in readineſs a ſet of ſtanding arguments, called the majority of the jurats, and their proofs were irrefragable. The ſame method of reaſoning remains in full energy to this day, and the two Lemprieres are as much maſters of thoſe logical powers at preſent, as the two Pawlets were in the days of Elizabeth. But although they agree in their manner of governing, I am inclined to believe there will be ſome difference in the event of it.

*This act of De Carteret, in daring to defend the petition of his fellow ſubjects, was determined to be illegal by the jurats; and the reaſons which they give for this procedure, in the act itſelf, are admirable: "becauſe De Carteret, after having carried his appeal from the preceding ſentence given againſt him, had undertaken to anſwer and act, before the ſame judge, from whom he had appealed, in the cauſe of others, who had ſubſcribed the bill, in which the bailly had ſuſpicion of ſcandal; and for that reaſon the bench had diſcovered that the nature of his appeal was changed, and they had annulled the right of applying it, as the laws declared." Againſt this act De Carteret proteſted.

* Mſs. Le Geyt.

Can there exiſt a more flagitious inſtance of that aſcendency which this imperious magiſtrate had acquired over the others, his aſſeſſors on the ſame bench? De Carteret was a jurat, and what they denominate anſwering and acting for others before the ſame judge, was an utter falſhood. He was a judge himſelf, and giving his opinion on the cauſe of men who were called before them. And for this indiſpenſible duty, he was to be reſcinded from the right of purſuing his own. And all this complaint of injured honour done to the bailly, was now ſunk to a ſuſpicion of ſcandal, contained in the bill for reformation of the court; and this judicial act of his having legally forfeited his right to an appeal, had not the leaſt foundation in the laws and cuſtoms of the iſland. It requires more than human powers, to ſupport with patience this ſubſervient infamy of theſe jurats.

*Having advanced thus far in the manifeſtation of his power over this majority of the jurats, and of their proſtitution of every virtuous principle, which ſhould animate a judge, he proceeded to an other attempt, yet more injurious. This was, that De Carteret and Journeaux having appealed from the above ſentences, ſhould not be admitted to ſit as jurats during that appeal. Four of the jurats, out of the ſeven preſent, were of that opinion, and three ſuſpended theirs, in order to have the preſence of the governor, and a full bench, that the ſentiments of all might be taken on that important occaſion. Thus the majority were profeſſedly abandoned to injuſtice, and the others had not the reſolution to vote in defence of right. The bailly interdicted their preſence for that day, and referred the affair to another deliberation. And thus it remained.

Thus

* Mſs. Le Geyt.

Thus the jurat, who dared to appeal from the judgment of the bailly, in his own cauſe, was to be diſgracefully ſuſpended from his right of magiſtracy in all others. Theſe acts were intended to fruſtrate the efficacy of thoſe reaſons, which were offered in the petition and appeals, by repreſenting to the queen and council, the opinion which the bench entertained of the characters of De Carteret and Journeaux: and that for this reaſon they had reſcinded them from the right of appealing, and of ſitting in judgment; repreſenting this determination to be legally enacted for ſuch contumacy in a jurat.

This method of miſrepreſentation of fact and law, is ſtill in great practice by the bailly, and the preſent jurats. They depend on the effrontery of aſſertion, and the difficulty of acquiring a due knowledge of the conſtitution of Jerſey, and the truth of the facts, by the privy-council, for their ſucceſs; and they have but too frequently prevailed on the ſide of falſhood againſt truth.

Dumareſque and Journeaux, either by intimidation, or ſome more culpable motive, were induced to relinquiſh the purſuit of the appeal; but it was not congenial with the ſpirit of a De Carteret, to ſhrink from the undertaking of juſtifiable proceedings. He therefore perſiſted, and repaired to England in ſupport of it.

The cauſe was brought before the council, of which ſir Amias Pawlet, the governor, among others, was to determine of the merits of this conteſt between De Carteret, and his brother, the bailly, united with his ſon, the lieutenant-governor, and on that account, but little differing from his own cauſe. It was accordingly determined in favour of the Pawlets, and De Carteret was impriſoned in the Marſhalſea.

The reaſons aſſigned by the privy-council for deciding in that manner were, that the priſoner had gone about to obtain hands and ſeals to a petition to her majeſty, for taking away the ancient court extraordinary: that the ſentence of the bailly was juſt, and the appeal without cauſe, and De Carteret's proceedings factious, and therefore he was to remain in priſon, untill he acknowledged his fault, and ſubmitted himſelf to the bailly.

Such was the righteous conformity of the privy council, with the judgment of the Jerſey jurats. And the cauſe of this ſimilar opinion in the ſuperior court, aroſe from like motives with thoſe of the lower. In the former it proceeded from the commands of the queen: in the latter from that of the bailly. This union of opinions effected the annihilation of juſtice.

Sir Amias Pawlet was a perſon of too great importance, if not of aſcendancy over the queen, to remain unindulged in any act of injuſtice which he might requeſt; and this even though ſhe might wiſh to have denied it. Pawlet was the man whom Elizabeth had eſpecially ſelected to be the jailer of the unhappy Mary, queen of Scotland. The obdurateneſs of his heart, and auſterity of his character, had warranted that opinion of him. Artful, as unfeeling, he had declared the neceſſity of removing Mary from the world, and more than inſinuated, that he was prepared to execute that office, which he knew was the ardent wiſh of Elizabeth's barbarity. She was therefore committed to his cuſtody.

He imagined the tender frame of that princeſs would ill bear the inclemency of the ſeaſons. He therefore limitted her apartment to two miſerable rooms in the caſtle of Fotheringay, ſo ruinous and decayed, that they were acceſſible to the

the winds and rain on all ſides. By means of this expoſure to ſeverities, he hoped that diſeaſe might accompliſh her execution without the aid of manual violence. Health depends but little leſs on the ſenſations of the ſoul, than on the diſpoſition of the body. He therefore treated her with indignity, unbecoming a man, and inſulted her royalty with acts inhuman and unpardonable. He even denied her liberal hand to give its wonted charities, and robbed the indigent to encreaſe her ſufferings. The caſtle was converted to a common jail, and one unhappy youth, who diſdained to bend his conſcience to the love of life, and renounce the Roman Catholic religion, was impriſoned in the ſame manſion. With ſuch unrelenting ſavageneſs was he perſecuted, that by gradually encreaſing miſeries, he daily languiſhed, and died at length, beneath the eyes of Mary.

But thoſe injuries, inflicted on the ſoul and delicate frame of that ill-fated queen of Scotland, were unequal to the effecting of that concluſion, which was ſo earneſtly expected. The unexampled deed of dooming a queen to death, who had ſought an aſylum in the dominions of a ſovereign, united with her by the ties of conſanguinity, and by whom ſhe was promiſed ſuccour, was reſerved for Elizabeth. It hath fixed that ſtygian dye on her character, which contrary to the uſual ſtains of cruelty, that by time inſenſibly wear out, hath conſtantly encreaſed in blackneſs, from the hour of Mary's execution to the preſent. Every reſearch into the life of the queen of Scotland hath proved the many nefarious falſhoods, which her rebel ſubjects, and the queen of England had fabricated, to countenance their barbarities, and to contaminate her character. And that load of infamy which was ſo malicioufly laid upon her, is now

leſſened

leſſened to thoſe frailties, which are inſeparable from woman. In the mean while the infamy of Elizabeth hath augmented, by new diſcoveries of her character, and will ſtill grow greater, till the diſſolution of all things ſhall put an end to the powers of ſenſation and the memory of man.

Theſe acts of barbarity having proved an unavailing application to procure the death of the Scotiſh queen, Elizabeth grew impatient of the delay, and intended to quicken the tardineſs of Pawlet to aſſaſſination. She gave him more than hints, that ſhe wiſhed he would accelerate, by violence, the removal of that beauteous rival, whom ſhe envied even in miſery. Wherefore, to obviate thoſe obſtructions which compaſſion might lay in her road to eſtimation, after an act ſo execrable, numerous reports were framed, and diligently promulged, of horrid plots to aſſaſſinate Elizabeth, by popiſh perſons, whom Mary encouraged to that intent. By theſe means ſhe doubted not to perſuade the credulous multitude, that the preſervation of the Proteſtant religion compelled her to that unchriſtian meaſure. And thus to conſecrate that ſanguinary act, and breach of God's commandment. Thou ſhalt do no murder, by the hypocritic care of promoting the religion which pronounces it.

Pawlet was a puritan at heart, in whom craftineſs and ſubtilty are ſignally characteriſtic. He knew the duplicity and inſiduouſneſs of the queen, and apprehended the fatal conſequence which would follow his obedience to the murderous inſinuations of a woman ſo notoriouſly daring and deceitful; and tho' he would with pleaſure have beheld the death of Mary, conſecutive of his brutal treatment, he was not ſo deſirous of that event as that it ſhould be productive of his own. He was convinced, that being perſonally her actual exe-

executioner, he muſt eventually become his own; ſince Elizabeth, who could diſdain the ſentiments of humanity, the bonds of conſanguinity, the promiſes of protection, and the obligation of all laws, both divine and human, to emancipate herſelf from the embaraſſments of Mary's life, would not heſitate to doom him an oblation to the public reſentment; and by his death attempt to exculpate herſelf, and convince the world that he had been the unbidden executioner of the queen of Scotland.

Actuated by theſe motives, he affected not to underſtand the indirect ſuggeſtions of his miſtreſs, and perſevered only in his uſual exerciſe of cruelty towards the princeſs in his cuſtody.

Elizabeth had probably conceived that this retardation of accompliſhing her deſires, proceeded from the apprehenſion of his carrying them into execution without a written order. She therefore abandoned her reſerve, and ſent him a letter written with her own hand. The bloody hand of female cruelty. In this letter ſhe complained of his tardineſs to reſcind the life of Mary. She entreated him to call to his remembrance the duty of a faithful ſubject, and relieve his ſovereign from her dread and danger, by finiſhing the days of the queen of Scotland.

This complaint of Pawlet's dilatorineſs, ſufficiently indicates the promiſe which he had made her; and evinces that ſomething more than the known brutality of his character, had determined the queen to commit that princeſs to his cuſtody.

Pawlet having received this authentic and permanent eviction of Elizabeth's remorſeleſſneſs, aſſumed the importance of honourable ſenſations. He knew, with this teſtimony of her aſſaſſinating ſpirit in his poſſeſſion, that by declining the horrid act he was not only ſafe from her reſentleſs cunning,

ning, but the deteſtation which muſt follow the committing of it. And that the apprehenſion of her being diſcovered to the world, would prevent her daring to deny what favours he might aſk. Pawlet therefore returned an anſwer to the queen, and with indignation rejected his compliance with ſuch ſanguinary deſires. He lamented that any actions of his life could have ſuggeſted an idea that he was capable of becoming an aſſaſſin. He who by every means, except the actual commiſſion of the deed, had ſought to procure the death of Mary, affected to entertain abhorrence at his becoming her executioner; and by a duplicity, equal to his ſovereign's, duped her to his purpoſes, as ſhe had intended to ſeduce him to her's.

On the receipt of this letter, Elizabeth called him a dainty fellow, who promiſed much, and performed nothing. But though her reſentment was fired at this deception, her hypocriſy prevented her from ill treating Pawlet, or even cooling in appearance. This was the intereſt which prevailed in the council to ratify the injuries which his brother had committed againſt De Carteret, and ſent him to the priſon of the Marſhalſea.

Such was the iſſue of appealing to the privy council, and petitioning that ſovereign, whoſe reign is ſtill applauded by the unexamining multitude, as the moſt propitious to the rights and liberties of Engliſhmen.

De Carteret had been diſcharged from the Marſhalſea, on making ſubmiſſions to ſir Amias Pawlet. Though bent to the earth, like the branch of an alder, he took freſh root, and ſhot forth with full vigour.

Sir Amias was now dead. De Carteret, and the friends of right and liberty, imagining that the intereſt which the family had held in the heart of

Eliza-

Elizabeth, might be buried with the father, renewed their oppoſition to the ſon, and charged him with mal-adminiſtration, when he was lieutenant-governor to ſir Amias. To this intent they drew up an inſtrument, containing various charges of malverſation; and De Carteret came to England, and laid them before the council, deſiring that a power might be given to proper perſons of examining witneſſes in Jerſey, to the proof of what they included. This was undertaken with a view of preventing Anthony Pawlet from ſucceeding to the government, and of being freed from thoſe oppreſſions which the iſlanders had endured under the grandfather and father, and during the lieutenancy of Anthony himſelf.

The two Pawlets, Anthony, and George, the bailly, propoſed to obviate this ſecond application; and to that intent, convened the ſtates, who had been the ductile inſtruments of theſe Pawlets in the preceding acts of injuſtice, and falſe aſſertion; and who were, in fact, the acceſſaries of all the iniquities, againſt which De Carteret complained. Theſe conſcientious magiſtrates ſigned the inſtrument which the two Pawlets had drawn up, and it was tranſmitted to the council.

*On the 4th of May, 1589, the complaint was brought before the board; and though De Carteret had petitioned to have the ecclairciſement of that affair, by witneſſes in Jerſey, without acceding to that requeſt, the cauſe was then determined againſt him.

The ſame motives to injuſtice ſubſiſted in the boſom of the queen, which had operated ſo omnipotently in favour of ſir Amias. Her majeſty's execrable epiſtle had deſcended from the poſſeſſion of the father, to that of the ſon; and though Eliza-

* Mſs. Le Geyt.

Elizabeth would undoubtedly have rejoiced to have been freed from that chain of her iniquities, with which ſhe had bound herſelf, and that Pawlet and the letter had gone together to the infernal regions; yet whilſt the latter remained in the hands of the ſon, ſhe dared not to refuſe her ſanction to whatever crimes the Pawlets might preſume to perpetrate.

The privy council therefore received the commands of her majeſty, and determined, "That De Carteret had framed certain injurious and ſlanderous articles againſt Anthony Pawlet, and George Pawlet, bailly of Jerſey. That he had taken upon him to complain in the behalf of the community, without commiſſion, warrant, or direction from them; and called things in queſtion a ſecond time, which had been ordered already by their lordſhips; whereof ſome part of theſe articles touched the credit and reputation of Sir Amias Pawlet, knt. ſome time a member of this board, and a perſonage of that honour and ſincerity, as was well known to their lordſhips. For which ſlanderous ſuggeſtions he received puniſhment by their lordſhips cenſure, and ſubmitted himſelf to the ſaid ſir Amias Pawlet, and now, after his deceaſe, reviveth the ſame. And alſo, not being able to produce any proofs of any of his aforeſaid articles of his complaint againſt the ſaid Anthony and George Pawlet, by which it appears to their lordſhips, that theſe his reproachful articles, proceeded rather from ſome other evil cauſe and former ſpleen, than upon juſt cauſe and reaſon; whereunto their lordſhips are induced by a certain inſtrument, which the ſaid lieutenant Anthony Pawlet, in the name of the whole ſtates, in which it is certified of the good carriage of the ſaid Anthony, in his charge, contrary to the ſaid

De

De Carteret's ſlanderous allegations. For which reaſon, together with the evil diſpoſition of the ſaid party, their lordſhips have committed him to the priſon of the Marſhalſea, there to remain during their lordſhips pleaſure, untill he ſubmit himſelf unto their lordſhips, and to the ſaid Anthony Pawlet."

Such was the determination of that privy-council. They declared that De Carteret had no proofs. And by what means could he have adduced them, when he was denied the juſtice of examining evidence in the iſland, in teſtimony of the truth of what he had alledged. His allegations were, therefore, adjudged to be ſlanderous and injurious ſuggeſtions againſt Anthony Pawlet, proceeding from ſome evil cauſe of former ſpleen, and evil diſpoſition. And this was their determination, though no witneſſes had been examined to teſtify the futility of the complainants reproachful articles. But although there was no teſtimony there were cauſes aſſigned for theſe opinions. Sir Amias was a man of credit and reputation; a member of that board, and a perſonage of honour and ſincerity, well known to their lordſhips. Beſides this, the candid repreſentation of the ſtates, who were witneſſes in their own cauſe, and for their own exculpation, was received as an authentic voucher of the Pawlets, and their own innocence. And it was believed, on that evidence, that De Carteret had no direction from the community to apply to the queen and council, although he was denied the right of examining witneſſes, as he requeſted.

By the ſame deciſion alſo it was further enacted, "That at De Carteret's enlargement, he ſhall not depart from hence, untill he have obtained leave from the whole table. And if the ſaid De

Carteret

Carteret ſhall perſiſt any new matter to follow, againſt the ſaid Anthony and George Pawlet, if their lordſhips will judge the ſame fit to be examined, their letters ſhall be written to the jurats and juſtices there, to examine the truth of the ſaid accuſations, and to make report thereof to their lordſhips. Which their lordſhips order was commanded to be regiſtered in the council book."

This part of the order of the council was nothing leſs than a condemnation of the former. They grant De Cartaret permiſſion to have the future accuſations which he may make, to be examined by the jurats and juſtices. Why then did they deny him the ſame requeſt, before they had ſentenced him to priſon? They refuſed him alſo the right of returning to his native country, without the permiſſion of every member of the council. This interdict was, in reality, a ſentence of baniſhment, which reſcinded him from that privilege, which the laws of all nations, however arbitrary, have eſtabliſhed, that every ſubject ſhall have the permiſſion of conducting his own cauſe before his judges. At the ſame time the jurats who had pronounced the antecedent ſentences againſt him, between whom and himſelf, the conteſt lay, almoſt as much as between him and the Pawlets, were to ſit in judgment on their own and the bailly's oppreſſive acts, and of the truth of that teſtimony which the witneſſes on the part of De Carteret might depoſe.

When the rights of property were lawfully decided by ſingle combat, and he who conquered was deemed to have the juſt title to the object in conteſt. Had it not been an act the moſt inequitable to have amputated the hands of one of the diſputants, and then allowed him to engage the other, who remained entire? Yet ſuch was the

juſtice

juſtice of this order of the privy-council, they deprived De Carteret of his lawful rights, and not only left the others in full poſſeſſion of theirs, but added thoſe alſo, which were repugnant to the laws of Jerſey : that they ſhould be judges in their own cauſe.

Whilſt John De Carteret was infamouſly confined in priſon, Anthony Pawlet was ſcandalouſly appointed governor of Jerſey ; and, to do him juſtice, conſidering the powers he poſſeſſed over Elizabeth, he was modeſt in not requiring to hold the iſle in appenage, with regal rights, as it had been held by thoſe princes of the blood, whom I have already mentioned. Such was the triumph of a deſpotic officer, over the patriotic ſtruggles of a virtuous ſubject.

Anthony Pawlet was now to leave the kingdom of England, to take poſſeſſion of the little iſle of Jerſey, where he reſolved to reign imperiouſly. And in order to impreſs an idea of his conſequence at the court of Elizabeth, on the minds of the iſlanders, he obtained a letter from the lords of the council, directed to the jurats, who had been the obſequious paraſites of his former tyranny*. This letter bears date the 10th of May, 1590. It ſignified the choice of Anthony Pawlet to be their governor, appointed by patent, under the great ſeal of England, to govern and take charge of the iſland, in as ample a manner as his father, or any of his predeceſſors had done. They were required to ſee that he took the uſual oaths, and expreſsly that of the ſupremacy.

From this ſpecific injunction it ſeems not unlikely, that Anthony was more than ſuſpected of his apoſtatiſing conduct in the iſle ; and that this oath

* Mſs. Le Geyt.

was intended to prevent his farther progreſſion in that path of rebellious uſurpation. This ſacred depoſition the new governor took without heſitation. But it made no more impreſſion on his mind, than the ſhadow of a cloud paſſing over a corn-field does on the grain it bears, and from that hour he paid not the leaſt attention to the obſervation of it. For in the year 1595, he was preſent at a ſynod in Guernſey, as it hath been previouſly ſhewn, and ſigned that inſtrument, by which the ſupremacy was taken from the queen, and imparted to theſe Calviniſtical innovators of the eſtabliſhed worſhip. For, to what purpoſe is the liberty of conſcience adopted by theſe advocates of that right, if they are to be bound by any obligation, ſacred or civil, from the freedom of promoting their own intereſts on any occaſion. That this is the liberty for which the ſwarms of ſectarian locuſts ſo conſcientiouſly contend, and that tenet alone, in which they are unanimous, is manifeſt from the writings which they publiſh, and the practice they purſue. But the ſame aſcendency over the queen, which ſanctified his oppreſſive acts of civil government, gave him the hardineſs to perſiſt in that of the eccleſiaſtical. For, to what other cauſe can it be reaſonably aſcribed, that a woman ſo imperious and jealous of her prerogative, ſhould ſo ſignally indulge the Pawlets in this audacious uſurpation of her royal right, and ſubverſion of the eſtabliſhed religion.

*In this letter from the lords of the council to the jurats of Jerſey, the unſteadineſs of government, the great diſorders, diſcontentments, and diſ-

* Mſs. Le Geyt.

diſquietneſs of the iſland, and the hindrance of juſtice, were expreſsly mentioned. And it was added, " foraſmuch as her majeſty hath now reſolved on the choice of your governor, we think it the leſs needful to admoniſh you either to reform the abuſes and diſorders aboveſaid, or to reſpect him as becometh in duty, and as in former times hath been obſerved, wherein you ſhall ſhew yourſelves very careful of your own good, and become very acceptable unto us." This was in fact, a menace, that if theſe magiſtrates did not perform what Anthony Pawlet might think proper, that the queen had given him authority, and would protect him in doing it by himſelf.

By the ordinances of Henry the ſeventh, the military and civil government of Jerſey had been divided, as powers too great to be exerciſed by the ſame perſon; and the nomination of the bailly was reſerved to the king. The actual diſunion of theſe departments had been indeed obſerved; but it had virtually exiſted from the time in which George Pawlet was made bailly, during the government of his father. And this military commander aſſumed alſo the right of nominating him. The ſame coalition of powers ſubſiſted between the nephew and the uncle; and the miſchiefs which that ſeparation was intended to prevent, were practically reſtored, and the law evaded.

The cauſes which came before the court of Jerſey, were by the ordinances of Edward the ſecond, and of Henry the ſeventh, expreſsly prohibited from being determined by leſs than the unanimous opinion of ſeven of the jurats. This ſalutary order was held in total diſregard, and all litigations were decided by a majority of thoſe, who were preſent on the reſpective

trials. *The bailly, Pawlet, paid as little regard to the majority of opinions, as the jurats did to the orders of the kings abovementioned. And though that magiſtrate hath no right to refuſe the deciſion of ſuch a majority, nor to give his own, but where the numbers of the jurats are equal, in order to decide the ſuit, he eluded the obligation of the former, and indirectly accompliſhed the end of the latter. For there are inſtances innumerable in which, whenever he pleaſed he left the law-ſuit undecided, in contempt of a majority; and referred it to another time, till he could prevail on thoſe jurats to retract, or add to that number ſuch as were the profeſſed ſycophants of his power, and obſequious to his mandates. And then the judgment of the court was undeviatingly conformable to that of the bailly.

This contemptuous treatment of men, who had ſworn to judge according to juſtice and the laws; and their puſillanimous obedience to his will; together with that inſolent violence of committing De Carteret, and the two other jurats to priſon, and interdicting them the ſeat of judgment, filled every man with reſentment, who felt the ſtings of inſult and degraded character; and he diſdained to become the companion of ſuch deſpicable diſpenſers of the law, and the deſtructive inſtruments of ſuch a tyrant.

Peter Soulement, and Hugh Lempriere, were choſen to the office of jurat. They ſcorned to accept the charge, and refuſed to act. The Pawlets complained to the queen of this noncompliance with their election, as an act of contumacy, and illegal.

At

---

* Mſs. Le Geyt.

At that time there exiſted no law in Jerſey, by which any man elected to that magiſtracy, was obliged to comply with it. Notwithſtanding this privilege of refuſing, the queen's majeſty was as imperiouſly abſolute to ſuppreſs the lawful right of theſe two ſubjects, as ſhe was ſubmiſſively abject in ſuffering the Pawlets, and the Calviniſtical teachers to uſurp her ſupremacy*. In the letter before mentioned, ſhe let them underſtand "that ſhe was greatly diſpleaſed with this refuſal of thoſe two perſons, and ſhe ordered the jurats to admoniſh theſe parties ſo offending, forthwith to reform themſelves; and in caſe of refuſal, to charge them to make their preſent repair hither, to alledge ſufficient cauſe for their ſo doing." In this manner the power of the crown was deſpicably brought in aid to the deſpotiſm of the Pawlets; and the imperial miſtreſs became the opprobrious miniſter of her oppreſſive ſervant.

Notwithſtanding theſe circumſtances, ſo mortifying to minds of vulgar form, they effected nothing on that of John De Carteret. He was nevertheleſs reſolved to deliver his country from the enſlavement of the Pawlets. He therefore made his ſenſe of honour, and the reſentment, which he had perſonally received, by his repeated ill-treatment, ſubſervient to that more liberal deſire of reſcuing his fellow-ſubjects from oppreſſion. Induced by that laudable motive, he ſubmitted to the terms, impoſed on the day of his commitment to priſon, and obtained his enlargement. And ſoon after permiſſion was given him to return to the land of his nativity, the welfare of which he was determined never to relinquiſh.

* Mſs. Le Geyt.

This illuſtrious object of the Pawlet's perſecution, being returned to Jerſey, he perſiſted in his reſolves, and was joined in that purſuit by John Perin. They ſoon diſcovered freſh cauſes of complaint, and adding theſe to the former, drew up a charge, containing the ſeveral articles which are ſubſequent, and with theſe he haſtened to London, and preſented it to that council, which had treated him ſo indignantly. It was now he obtained the examination he deſired; and it was granted by the queen that commiſſioners under the great ſeal, ſhould repair to Jerſey, to hear and determine the ſubjects of thoſe complaints. This proceeding was of a ſingular kind. The accuſations which De Carteret had brought, as reaſons for precluding Anthony Pawlet from the government, were to be examined after he had been appointed to the office. But previous to their being nominated, the queen was reſolved to be well informed of the real foundation of theſe cauſes of accuſation, to prepare the commiſſioners on all thoſe points which might effectually defeat the honeſt intentions of Perin and De Carteret, and to countenance her appointment of Anthony Pawlet, under the idea of his being not culpable. There remained no other method of ſubduing the reſolution of De Carteret, to reſcue his fellow ſubjects from their miſeries. In this manner the appearance of a juſt enquiry, was deſtined to ſupport the real acts of tyrannous intention.

June the 4th, 1690, a letter was tranſmitted to five of the jurats only, and the queen's attorney-general in that iſle. Theſe were the men who had abetted and ſuſtained the proceedings of the Pawlets, both in the proſecutions which had been brought by De Carteret, and the judgments which had been given againſt him. The other jurats were

were excluded; and any five or four of them had authority to execute this commiſſion. The very commencement of the procedure is demonſtrative of that injuſtice which was intended to be the concluſion of it.

*In this letter, after relating the articles exhibited by Perin and De Carteret, to be the cauſe of it, it is ſaid, "we have thought fit to approve Mr. Pawlet's humble ſuit for his better purgation to addreſs theſe our letters of commiſſion to you, requiring you, as perſons indifferently nominated, to enter into the due examination and proof of the articles contained in the ſchedule here incloſed; and thereupon to certify us what you have found therein, with convenient ſpeed. And whereas it was among other things concluded, that the ſaid De Carteret and Perin ſhould put in good ſecurities, to be bound in good ſums of money, for the ſatisfaction and reparation of Mr. Pawlet's credit, if they ſhould fail of their proofs of theſe matters objected againſt Mr. Pawlet, ſuch as we ſhall think fit to be by us received. Foraſmuch, as by the reaſon of De Carteret's ſmall acquaintance here, and the abſence of Perin, ſuch good ſecurities cannot be put in by them, as Mr. Pawlet would allow. We pray and require you, before you enter into examination of the ſaid matter, to take good bonds of the ſaid De Carteret and Perin, to her majeſty's uſe, or of De Carteret alone, in the abſence of Perin, with ſufficient ſecurity there to be bound in 500*l.* ſterling, condition agreeable to that already entered into here by the ſaid De Carteret: which bond our meaning is ſhall be cancelled, after the new bond

* Mſs. Le Geyt.

ſhall be taken by you; the true copy whereof we ſend you here incloſed."

The meanneſs, falſhood, and obvious intention of this letter, reflects an indellible ſcandal on the queen and her miniſtry. Had Anthony Pawlet been willing to effect his purgation, why did he receive the government, until that end had been honourably accompliſhed?

Could theſe five jurats, and the attorney-general have been ſelected from the others, for their being indifferent in the examination of this matter? Was the bail already taken not to be continued, becauſe Anthony Pawlet, his enemy, would not allow it to be ſufficient? And another bond of 500*l.* to be given in Jerſey, on that account? And as the proofs were to be ſuch as ſhe ſhould think fit to receive, was it not a flagitious example of premeditated injuſtice in a crowned head?

The reaſons for theſe orders are ſufficiently obvious. The circumſtances of the caſe were to be known, that the moſt effectual means of rendering the examination fruitleſs, might be adjuſted before the commiſſioners left England. And the bond was to be encreaſed, and given in Jerſey, where the Pawlets vainly imagined they had power ſufficient to prevent any men from entering into the obligation; and by theſe illiberal artifices they hoped to preclude De Carteret from proceeding in his proſecution. But the bail was given, and he perſiſted, to their diſappointment.

The faithful jurats undoubtedly diſcharged their truſt, and tranſmitted that evidence which they thought would prove moſt grateful to her majeſty. The articles and the evidence were compared. Pyne and Napper were appointed commiſſioners, by recommendation of a letter from the attorney and

ſol-

ſollicitor-general, and placed in training under thoſe two officers. How aptly theſe men were ſelected for the purpoſe, and how adequately they anſwered to it, will be ſhewn in their conduct, and the report which they tranſmitted to her majeſty.

But notwithſtanding the Pawlets were ſo very ſanguine in obtaining the orders of their purgation, they were, in fact, but very ſlow in taking the medicine, which was to effect it. So that a petition was preſented by De Carteret, on the 13th of February, 1590*, that the commiſſioners might be diſpatched to the iſland. This was eight months after the queen's letter to the jurats.

On this petition, they were commanded to prepare for their voyage. And ſuch was the ſubtlety of the queen, her Walſingham and Cecil, that the iſlanders were told in the information of their coming, "that this Pyne and Napper were nominated at the recommendation of the attorney and ſollicitor-general, who had had ſome hearing of the ſaid cauſe†." In this manner the affair was determined before it was enquired into by Pyne and Napper; and theſe two worthy commiſſioners, who were to examine the merits of the cauſe, in fact were ſent, as two public executioners, to accompliſh the ſentence of an unjuſt judgment already given. In this letter it was ordered alſo, that the expences of Pyne and Napper, ſhould be equally borne between the two Pawlets and De Carteret and Perin, while the examination was making; and that thoſe who were found culpable, ſhould pay the whole at laſt.

At

---

* The years began at Lady-day, at that time.

† Mſs. Le Geyt.

At the time that theſe articles were delivered by De Carteret to the commiſſioners, there were others, alſo, committed to their care, which had been preſented by George Pawlet againſt De Carteret and Perin: and as theſe, though poſterior in the time of being preſented, were to be examined, in preference to thoſe of the complainants, I ſhall tranſcribe them, and the anſwers of the commiſſioners, which were returned to the council.

Certain articles, which George Pawlet, eſq; deſireth may be annexed to the commiſſion appointed by the lords of her majeſty's privy-council, to be ſent into the iſle of Jerſey, under the great ſeal.

Imprimis.

To examine the verity of certain articles, exhibited to the lords of the privy-council, by John Perin and John De Carteret, of the ſaid iſle of Jerſey, againſt Anthony Pawlet, eſq; governor, and George Pawlet, eſq; his uncle, the bailly there, and therewith ſent you; and to receive the depoſitions and atteſtations of ſuch witneſſes, as by law may be produced, for that purpoſe, and to admit both parties to thoſe proofs, to be heard for the defence of their cauſe; and thereupon to ſet down ſome good order for a perfect reconciliation, and final agreement to be made between them, if you can; or elſe to return their certificates to their lordſhips, and what they ſhall find in the examination of the ſaid cauſes, together with their opinions concerning the ſame.

Anſwer. "We have fully certified your honours touching our proceedings, in our letters; and the reſt

reſt of the articles is anſwered by this our certificate."

2. Item. To examine whether the ſaid John De Carteret did, in open audience, at his laſt being in Jerſey, give the *dementie*, (or lye) to Anthony Pawlet, eſq; being his governor; with other indecent behaviour, and upon what occaſion?

Anſwer. The ſaid De Carteret did charge the ſaid Anthony Pawlet with tranſporting a ton of wheat to Spain, which was falſe. And that the ſaid Anthony Pawlet could make no other defence before the lords of her majeſty's council, but took hold of her majeſty's pardon; whereunto the ſaid Anthony Pawlet ſaid, that the ſaid De Carteret did lye; whereunto the ſaid De Carteret replied, keep that to yourſelf. And De Carteret confeſſed before us, that he did miſdemean himſelf towards the ſaid Anthony Pawlet, in calling him jailer of the caſtle, and in giving him other unfit ſpeeches; but he ſaid it was in his choler. But it ſeemed to us to be in the heat of his malice."

This their firſt anſwer contains an ignominious evaſion of the truth; a direct falſhood, and a malicious inference. The queſtion is, whether the lye was given by De Carteret; and theſe honeſt men anſwer that he charged Anthony Pawlet with exporting a ton of wheat, which was falſe. Is charging a Perſon with doing the thing which he did not, giving him the lye? This affair of tranſporting wheat, makes one of the articles in De Carteret's charge; and ſo far is it from being a falſhood, the very witneſſes examined by theſe commiſſioners, will prove it to be true, to every man of common ſenſe, even as they report it. That Pawlet had no proof before the queen, ſeems certain, becauſe he could bring none before the com-

commiſſioners. Inſtead, therefore of De Carteret's giving him the lye, Pawlet gave the lye to De Carteret. Although he ingenuouſly confeſſed he miſdemeaned himſelf towards Pawlet, and ſaid it was in his anger, and the lye thus given could not but have excited it. And although theſe commiſſioners were not preſent at the altercation, they penetrated into the boſom of De Carteret, and found reaſon to ſay, that it ſeemed to them to be in the heat of malice. They became judges of what was never before them; and witneſſes to what was never heard nor ſeen, for there could be none to the laſt part of their anſwer. That having paſſed in the heart of De Carteret.

This anſwer ſufficiently pronounces both the integrity and underſtanding of theſe commiſſioners. For no honeſt men could have demeaned themſelves in ſo flagitious a manner. And no men of ſenſe have ſo egregiouſly expoſed their inclinations to iniquity. And from this ſcandalous behaviour, the probability is a thouſand to one, that they were puritans, purpoſely ſelected for this opprobrious miſſion.

3. Whether the ſaid John De Carteret did not, on his laſt being in the iſle, contemptuouſly refuſe to obey the commandment of the ſaid governor, in matters of her majeſty's ſervice; as alſo denying to own any ſubjection to him, as governor there, under her majeſty.

Anſwer. He was commanded to be preſent at muſters, but came not, and ſo departed the iſland without leave of the governor; which was urged to be a contempt of the government; which was excuſed, becauſe it was fineable with twelvepence; and he was to attend upon your honours. But the latter part of the article was proved againſt him,

him, by an act of court, which was before ſet down by the jurats."

What a twelve-penny contempt, and breach of the governor's commandment, and neglect of her majeſty's ſervice, did this Pawlet lay before his ſovereign. By the ordinances of Henry the ſeventh, he had a right to leave the iſland without the governor's permiſſion. And as to the proof of his denying any ſubjection to the governor, the commiſſioners, through ſhame, concealing what it was, take it from an act of the jurats, over the majority of whom the two Pawlets had as abſolute a command, as alderman Beckford had over his negroes, and applied it with as little reſerve.

Having in this manner given the full and prevaricating anſwers of theſe two men, to the preceding articles, and manifeſted their characters, I ſhall abridge the others, without deviating from the literal meaning of them.

4. Whether the ſaid De Carteret, and his confederates have procured, and as much as in them lieth do nouriſh a great ſedition and diviſion amongſt the inhabitants of the ſaid iſle.

Anſwer. There was a great faction; it began 20th of Sept. 1587, by a petition to overthrow a court extraordinary. The authors were De Carteret, Dumareſque, and Journeaux. But Dumareſque deſiſted in the beginning. The cauſe was a private quarrel between the bailly and Dumareſque. They wanted their procuration, and ſo ſecretly practiſed divers hands and ſigns, made many conventicles, in great numbers, day and night, and ſo ſhewed themſelves mal-contents with the ſtate and government."

The anſwer is extremely long; but the above are all that was attempted to be proved. One part of it

is .

is a falſhood. For the quarrel was not the cauſe, but the occaſion of their entering on the means to be delivered from the tyranny of the Pawlets, under three generations of whom they had egregiouſly ſuffered. The term, ſecretly practiſing of hands and ſigns, was ignominiouſly intended to convey an accuſation of forgery againſt De Carteret. But their mentioning the conventicles of great numbers defeats their own falſhood. And in another part they poſitively declare, they were ſigned by thoſe numbers, which proves that theſe men, ſo met, ſet their hands and ſigns, and not De Carteret. In fact, this great faction, and terrible ſedition, conſiſted in forming a petition to their ſovereign, againſt the oppreſſions of two baſhaws, who would moſt infallibly have received the bow-ſtring for the like crimes committed in Turky.

And here alſo their great evidence conſiſts of the acts of the jurats. In this very report no mention is made of any violence intended againſt any one. But to ſpeak the name of Pawlet in a rough accent, was then a criminal act in Jerſey, as it has of late been to pronounce that of Lempriere.

5. Whereas certain other complaints have been exhibited to the lords of the council, by certain inhabitants of the ſaid iſle, againſt George Pawlet, bailly, there you are to enquire of the ſaid George Pawlet's behaviour in his office, and other her majeſty's officers there, towards the inhabitants; and to call them before you, with their accuſers, and upon due examination and trial thereof, to take ſuch orders with the parties in whom you ſhall find the offence, as by your diſcretion ſhall, in equity and conſcience, be thought meet; or elſe

to

to certify their lordſhips of your proceedings in your examination,

Anſ. The ſaid George Pawlet, for any thing that doth appear to us to the contrary, hath very well behaved himſelf in the ſaid place; hath good experience in the laws, and hath uſed diligence and integrity in the ſaid office. And we find the jurats and other officers, very well affected to her majeſty, and to the advancement of juſtice, and the common good.

From this report it is indiſputable that the commiſſioners either purpoſely avoided examining the rolls of the court, or knowingly pronounced a moſt flagrant falſhood*. For the court rolls are full of proofs, and reproaches of the injuſtice which he committed. And as the jurats were his coadjutors, the ſame cenſure falls with equal weight on them alſo. In fact, the hardineſs of the Pawlets inſerting this article among the number, by which they were to be exculpated, conſcious as they muſt be, that the records of their own proceedings would evince their arbitrary and illegal deciſions, is an unanſwerable evidence that they were previouſly convinced that Pyne and Napper would return ſuch anſwers, as they ſhould dictate. For no man would otherwiſe have riſqued a diſcovery, ſo important, on any other motives.

6. To examine the refuſal of Hugh Lempriere to be a jurat in that iſle, and the cauſe of John le Febure, late conſtable of St. Ouen, concerning injurious words, uttered againſt the ſaid governor, bailly, &c. and to take ſuch order therein, as ſhall appertain to equity.

Anſwer.

---

* Mſs. Le Geyt.

Anſwer. "We find that the ſaid Hugh Lempriere did refuſe to be a jurat, and did before us deliver ſo many probable excuſes, and in our opinion ſhewed himſelf to be the fitter man for that place. Le Febure, on his ſubmiſſion, was diſmiſſed."

It is not eaſy to produce a more atrocious inſtance of converting arguments to the contrary of their meaning, and to the prejudice of the perſon whom they juſtify. Lempriere brings reaſons to prove his right to refuſe the being a jurat, which they neither relate, becauſe it muſt have included a cenſure on the Pawlets, whom he diſdained to ſupport in their mal-adminiſtration; nor confirm, becauſe it would have traverſed the deſign of exerting compulſive means to oblige him. They therefore, treacherouſly omit thoſe reaſons, and encourage his being compelled to ſerve, becauſe he was a fit perſon; the very obligation from which he choſe to be free. Thus his liberty was to be violated by royal order, ſince he could not be robbed of it by the laws of his country.

7. If you find any appeals, or other cauſes of variance, wherewith the lords of her majeſty's privy-council ſhould be importuned, to call the parties before you, by virtue of this commiſſion, and to examine the matters in controverſy, and all their witneſſes lawfully produced on both ſides; and to make ſome good end for the compounding the differences according to equity, if you may; otherwiſe to ſignify to their lordſhips what you ſhall find, together with the order of your proceeding in that behalf.

8. To eſtabliſh and confirm ſuch good orders, as by you, with the advice and counſel of the captain, bailly, jurats, and ſtates of the iſle, ſhall be thought profitable, and neceſſary, for the union

commonwealth of the ſaid iſle, and agreeable to the ancient laws and cuſtoms thereof; and to reform ſuch inconveniences and diſorders, as ſhall be repugnant thereto.

Anſwer to the 7th and 8th. We have affirmed the ſentence given reſpecting the land. We have ordered that between Soulement and Lempriere, being but a ſuppoſed aſſault and battery, which hath never been before the jurats. And that no appeals in criminal caſes be allowed before your honours, which ſtandeth with the cuſtoms here, as it hath been certified by Mr. attorney and ſollicitor-general before this time. And we have made two laws, the one that whoever complaineth before definitive ſentence, here given, ſhall forfeit to her majeſty ten pounds ſterling. The ſecond, that no appeal at all, in caſes where appeal was before given, ſhall lye, unleſs the matters mentioned be of the full value of ten pounds; and what puniſhment they ſhall receive upon ſuch petitions, to be preferred there, we refer to your grave wiſdoms.

This anſwer is replete with manifeſt falſifications. By the laws of Jerſey aſſault and battery was a perſonal, and not a criminal offence. The attorney and ſollicitor-general, on the caſe they cite, do not declare that no appeal will lye in criminal caſes, but that the ſentence given by the bailly and jurats was juſt, and the appeal without cauſe. Two poſitions extremely different. *And this cauſe between Soulement and Lempriere had actually been before the court, and their opinion given.

9. To enquire if the property of a piece of ground, being by the caſtle, called the Mead, be in her majeſty's gift; and whether it may, without prejudice to the title of the neighbours, be

* Mſs. Le Geyt.

made a warren for conies, to the uſe of the governor of the ſaid iſle.

Anſwer. " And, laſtly, we dwelt not on the points of this article, becauſe the governor and neighbours adjoining, had entered into articles of agreement, before our coming, touching the coniger to be made, to the uſe of her majeſty's governor there." But this was an illegal compact, becauſe it being a common belonging to the pariſh, the preſent inhabitants could have no right to compromiſe the diſpute, and deprive their ſucceſſors of that privilege. This uſurpation was too notorious to be laid before even ſuch commiſſioners. On this account, though the Pawlets had preſumed to inſert this article among the others, to be examined, they thought proper to preclude that enquiry, by a previous agreement; leſt even the conſciences of Pyne and Napper might not extend to that degree of flagitiouſneſs.

The commiſſioners having in the preceding manner given their anſwers, they concluded in a canting ſtrain of duty, " That they have many notes in their books, taken at future examinations, enforcing what they have ſaid, but which they have omitted, fearing they ſhould be over tedious to their honourable lordſhips."

In this concluſion they ſeem conſcious that their viſible anſwers muſt prove inadequate to the purpoſes of their errant and examination; and the opinion they were to give. They therefore add the ſuggeſtion of yet more concluſive evidence, and inſinuate, that theſe proofs were omitted, through the apprehenſion of being tedious; and by theſe means to impart a fallacious ſtrength of teſtimonies inviſible, to the feebleneſs of what they had reported.

They

They aſſert alſo that Perin was drawn into the petition by the ſuggeſtion of De Carteret, and had no other cauſe, as he hath confeſſed. The latter, however, manifeſted no ſymptoms of retraction. Though deſerted by all his coadjutors, he ſtood alone, like a rock, braving the ſtorms of vengeance, and remained immoveable. The manuſcript of Mr. Le Geyt affords an evidence beyond the power of refutation, that either Perin pronounced a falſhood in the above declaration; or the commiſſioners in attributing it to him.

They then proceed: And finding no readineſs nor willingneſs in De Carteret, to make ſuch open and public ſubmiſſion, as in our opinion were fit. For that former ages hath nor ſeen nor heard, that any former governor of the ſaid iſle, we may not ſay, called in queſtion before her majeſty and your honourable lordſhips, which is fit and uſual for greater perſonages. But as a common perſon to anſwer at the bar, in a place, and among people ſubject, under her majeſty, to his government, and that ſo many days together; and that in cauſes ſo criminal, which it hath declared her majeſty's princely care and zeal to juſtice, as both of us, at our coming and departure amply delivered. So do we moſt humbly refer the cenſuring and judgment of the ſame, and of all our ſaid proceedings, to your moſt grave and honourable conſideration.

Tertullian Pyne, *Robert Napper.*

Her majeſty's zeal for juſtice, the grave wiſdom and honourable conſideration of their lordſhips, will be ſeen in the iſſue of this enquiry. This affectation of conſidering the ſituation of Anthony Pawlet, as an indignity to his high office, and

the humility of his demeanor, are forced in, to add importance to the ill treatment which he aſſerted he had received.

Such were the articles of recrimination by the bailly Pawlet; ſcandalous in him to prefer, and more flagitiouſly reported by Pyne and Napper, who in this exerciſe of their commiſſion have ſhewn, that neither veracity, juſtice, conſcience, nor honour, did enter into their compoſition. Such flagrant defects in every requiſite of head and heart, evidently prove that they were ſhamefully ſelected by the Pawlets, to ratify the miſchiefs which they had done; and to conſecrate the moſt atrocious acts of oppreſſion, by a fallacious enquiry to diſcover truth and eſtabliſh equity.

As I have ſeen no copy of the articles of accuſation againſt Anthony and George Pawlet, I am obliged to give them as they were delivered by the queen and council to the two commiſſioners; which, from the conduct of her majeſty already related, are more than probable not ſuch as they were preſented by De Carteret.

Articles to be enquired into by the commiſſioners appointed upon the griefs exhibited to her majeſty, and the lords of the privy-council, by John Perin, and John De Carteret, gentlemen, againſt Anthony Pawlet, eſq; governor of the iſle of Jerſey, and George Pawlet, eſq; bailly thereof, Feb. 15, 1590.

1. Whether the ſaid Anthony Pawlet hath compelled the inhabitants of St. Clement's, and other inhabitants of the iſle, to do carriage which they ought not to do; when he ſo did; upon what occaſion; and how many.

2. Whether

2. Whether the ſaid Anthony Pawlet, or any other by his directions, have cut down any trees, and how many, of Edward Hampton's, or others, contrary to the courſe of juſtice; when he ſo did, and upon what occaſion.

3. Whether the ſaid Anthony Pawlet hath taken up of any of the inhabitants of the ſaid iſle, any victual, under pretence of proviſion for the caſtle there, contrary to the privileges of the iſle. Of whom; when he ſo did; and upon what occaſion.

Anſwer. "We have found that the governor hath done nothing againſt the privileges of the iſland." Such is the reply to the three preceding articles, which theſe right worthy commiſſioners have given to their grave and honourable lordſhips. They paſs them over without the leaſt diſcuſſion of the ſubject. They adduce no proof from witneſſes. They bring no authority from charters, grants, or orders of council. The facts charged in theſe articles were allowed to be true. The governor had taken the carriages of the inhabitants. He had cut down their trees, and had ſeized their proviſion. And that theſe were illegal acts, will be manifeſt from the opinions of more honeſt commiſſioners, who were ſent in the ſucceeding reign, to rectify the evils eſtabliſhed in that of the preſent. Theſe anſwers ſufficiently explain the true reaſons why a hardy aſſertion, by Pyne and Napper, were to ſupply the deficiency of atteſtation and to ſuppreſs the truth.

4. Whether the ſaid Anthony Pawlet hath, about four years paſt, tranſported a *ſacre out of the ſaid caſtle, to the ſeigneur of St. Ouen, and upon what occaſion. Was the ſame ſerviceable, or not. And whether the ſaid Anthony hath ſold away any

* A piece of ordnance.

other pieces of ordnance, called fowlers; or others appertaining to her majeſty for the defence of that caſtle. How many ſuch were there ſold; when were the ſame ſold; and upon what occaſion?

The truth of the above allegations were proved by eighteen witneſſes. They prove that it was to be lent to the pariſh of St. Clement for eighteen crowns, which evinces that it was ſerviceable. But this word lent was interlined in the original, and is only depoſed by one witneſs. They prove that it was carried from the caſtle, and that numbers of pieces of ordnance were ſold to the ſmiths of the iſland. And yet ſuch is the anſwer of the commiſſioners, "that the ſacre was not ſerviceable, and did not appertain to the queen; though no ſuch thing appears in the depoſitions; and that Anthony Pawlet had not ſold any pieces of ordnance; the contrary of which is proved by the greateſt part of the witneſſes, and denied by none. And they evade their belonging to the queen becauſe they had been previouſly judged to be unſerviceable. But how did their being rendered uſeleſs convey the property to Pawlet? To avert that objection, they add that they were ſold by the earl of Warwick to Pawlet, which appeared by Pawlet's receipt. But what right had that earl to ſell, or Pawlet to buy ſuch property of the queen? To this there was no teſtimony but the written accounts of the Pawlets; and theſe, according to all laws, could not be brought as evidence in defence of themſelves, unatteſted by others. And of that particular there is no proof.

5. Whether the ſaid Anthony did ſend a ton of corn, in a bark called the Mary of Jerſey, into Spain. When he ſo did; and how know you it to be true?

Depo-

Depoſitions. " John Guillaume depoſeth, that he met Jacques Le Roux, one of the owners, and a mariner of the ſhip, who told him that they came from Spain. That Guillaume ſaid they would be troubled by the governor on that account, and Le Roux anſwered, that the governor would not trouble them, becauſe he had three tons of wheat in the ſame ſhip."

The other witneſſes depoſe that they went to Spain, and ſold the wheat; but that they were forced there to avoid a corſair, and that they took their paſſports for France. But theſe deponents were part owners of the ſhip: an acknowledgment of a voyage intended for Spain, would have been a forfeiture of the veſſel; and therefore their deſign muſt neceſſarily be covered with a paſſport for France.

Anſwer. The commiſſioners declare that it did not appear unto them, that the governor had any intent to ſend a ton of wheat into Spain; but that he ſent it to France, to buy ſome ſmall trifle for his wife, and by caſual manner the ſhip was forced into Spain, and obliged to unload by a pinace, which ſeemed to be very clear, becauſe it ſtood proved by witneſſes of the plaintiffs part, againſt the ſaid Anthony, as himſelf certified.

The firſt witneſs teſtifies what one of the mariners told him, before he was aware of the examination. That perſon was not brought, becauſe the commiſſioners were authoriſed to reject all, whom they pleaſed. The others were witneſſes in their own cauſe, and therefore not to be credited. And yet that the governor did export a ton of wheat is certain. That he ſent it to Spain is more than probable; and that De Carteret had juſt reaſon to accuſe him cannot be denied. And yet the commiſſioners poſitively declare in their anſwer to the firſt article of the Pawlets, that ſuch a tranſ-

port of corn was abſolutely falſe. And in this anſwer the teſtimony is ſuch, as will convince every unprejudiced perſon, that the charge was true.

6. Whether did the ſaid Anthony Pawlet commit Nicholas Arthur, and others of St. Mary, or any other the inhabitants of the iſle to priſon, for no other cauſe but that they were miſuſed by William Starch, and other ſoldiers. Or for what other cauſe, and when the ſame was done.

Nicholas Le Rue depoſeth, that the governor committed and detained Nicholas Arthur in priſon, for the quarrel that happened between him and Starch: that he was preſent at the time, and heard Starch confeſs that he gave Arthur two blows upon his head with his dagger.

John Le Couſtear depoſeth, that he found Arthur and Starch holding a naked dagger between their hands, which he took from them. Others depoſe that Starch's head was broken by Mary Le Rue, and that Arthur was not committed on the account of the quarrel, but becauſe Arthur and Mary Le Rue had broken the peace, when the quarrel begun.

Anſwer. "The governor did not commit the ſaid Arthur for the cauſe mentioned in the article, but becauſe both he and Starch had broken the peace, as the governor, in ſuch caſes, lawfully might do."

The ſaid Pyne and Napper were either extremely ignorant of the laws of Jerſey, in pronouncing this commitment lawful, becauſe by the orders of Henry the ſeventh it is expreſsly declared, that neither the governor nor his lieutenant, ſhall impriſon any ſubject of the iſle; or, knowing it to be falſe, they were extremely hardy in daring to report that falſhood to the lords of the council.

Or

Or being previouſly directed to give the face of untruth to every charge of De Carteret, they knew that the greateſt and moſt exemplary falſifications would be received as proof of heavenly writ. But whichever be the caſe, they were contemptible miſcreants, whether they dared to ſpeak peremptory of what they did not, and ought to underſtand; or to utter ſuch audacious falſities, to the prejudice of a virtuous man, and the welfare of his country.

The ſeventh and eighth articles are omitted in the two tranſcripts which I have ſeen; and Mr. Le Geyt ſays in his manuſcript, that he had never met with them. But as the anſwers of the commiſſioners remain, theſe will ſhew what they were intended to be.

Anſwer. "In a general muſter of twelve pariſhes, the ſaid John Pipon, and one Humphry Hampton, a conſtable, growing from words to blows, the ſaid captain (Anthony Pawlet) firſt meeting with the ſaid Pipon, did, for his ſtriking the ſaid conſtable, ſtrike him by way of correction; and ſent him therefore, with conſent of the jurats, to priſon, where he ſtaid but one night."

Such was the treatment which the iſlanders received from this imperious governor. He tarried not to examine into the merits of the cauſe, but beat Pipon at firſt meeting, and then ſent him to priſon. And yet theſe commiſſioners declare, without hearing a witneſs on the article, "Our judgment is, that conſidering the time, place, and company, and forces in readineſs, the inconveniency that might enſue, and being a martial matter, this his impriſonment was juſtifiable?"

But ſince there was no enquiry made into the cauſe of the quarrel, why were they not both committed? Why was Pipon conſidered as culpable

pable, and Hampton not? Can ſuch flagrant partiality be juſtifiable by any judges but Pyne, Napper, and the jurats who conſented to his impriſonment?

The eighth article muſt have conſiſted of a charge againſt the governor for prohibiting De Carteret, Perin, and Soulemont, from ſelling their corn.

Depoſitions. Several witneſſes declare that they know nothing of the governor's hindering theſe three perſons from ſelling their corn; but Edward Biſſon depoſeth, that the governor had three years ago refuſed him leave to ſell his corn.

James Pipon ſwore, that the cuſtomer would not ſuffer him to tranſport three quarters of corn for his ſhip at St. Maloes, about three weeks ago. Such was the evidence, and the note of the commiſſioners is excellent.

Anſwer. *N. B.* That now and then theſe witneſſes held of the leaguers part; (that of De Carteret). This method of rendering atteſtations invalid, was at once a demonſtration of the partiality, wickedneſs and folly of theſe judges. For if it be probable that they forſwore themſelves, becauſe of their connexions with De Carteret, is it not equally credible, that Pawlet refuſed them the ſale of their corn, becauſe they were his opponents? The oath, therefore, on the ſide of the witneſſes, is certainly a reaſon for their being believed, in oppoſition to no evidence, on the part of the governor.

9. Whether by order, and law of the iſle, the court of heritage ought to be kept every ſix weeks, and the court of cattel every fortnight, as the complainants do alledge. Whether theſe courts have been kept at the time the order of the ſaid iſle doth permit; and if not, in whoſe default the

the ſame hath been, and when. And if any matters belonging to the ſaid court have not been tried in a court called extraordinary.

Anſwer. "The court of heritage ought not to be kept every ſix weeks, and the court of cattel every fortnight." They deny every charge contained in this article, and aſſert the records ſupport them, and that the plaintiff ſeemeth to be ſatisfied. But men who have ſo notoriouſly violated the truth, unſupported by authentic tranſcripts from the records, which are to be had with ſuch facility, and are totally omitted, are not to be credited on their own aſſertions, nor even thoſe of the confederating jurats. And yet no mention is made of any act of the court, or allegation of the magiſtrates, in evidence of what this Pyne and Napper declare, and theſe acts quoted in the preceding ſheets, which enjoin what they deny.

11. Whether any ſentence hath been given againſt John De Carteret, or others, during their attendance here before the lords, or elſewhere, by George Pawlet, eſq; bailly there, and other the jurats, and ſet to fine, and declared outlawed, without juſt cauſe; and when the ſame was done.

Anſwer. "The plaintiffs have not proved before us any ſentence given, without cauſe, againſt them, during their attendance before the lords; or that the ſaid Carteret was ſet to fine, or outlawed without cauſe: but he became nonſuit by his own default, for that he appointed not an attorney, as he ought to have done. And further, he being ſummoned in a criminal cauſe, and contemptuouſly refuſing to appear, and thereupon departing the iſland without licence, contrary to the privilege there; that thereupon ſentence of contumacy was pronounced againſt him, by an act of

of court*, 14th of October, 1587." The appeal of the ſaid John De Carteret is ſaid to be diſmiſſed the court, becauſe he departed the iſland without leave. By the orders of Henry the ſeventh, there is no licenſe neceſſary for his departure. Thus it appears from the act abovementioned, and the orders of Henry the ſeventh, that this nonſuit was without juſt cauſe. But it will be ſeen hereafter, that theſe ſcandalous examples are not unfollowed in the preſent practice of the lieutenant-bailly of Jerſey; and that the reaſon why De Carteret had no advocate, was then as it is now: not one of the whole number will dare to defend, or carry on a cauſe againſt the chief magiſtrate.

11. Whether, when Laurence Mallet was robbed in that iſle, complaint was made to George Pawlet, the ſaid bailly. What the ſaid George did thereupon; and what default was in the ſaid George concerning the ſame.

Anſwer. "By all the witneſſes examined, it appears that this accuſation of the bailly was groundleſs." And this is the only inſtance of a groundleſs charge.

12. The ſaid commiſſioners ſhall examine and certify unto their lordſhips all ſuch wrongs as ſhall be preſented unto them to be by the ſaid Anthony and George Pawlet done to any perſon within the ſaid iſle, againſt the privileges thereof; foreſeeing that the commiſſioners ſhall take bonds of the parties that ſhall offer any complaint, that if the complaint ſhall not be found true, that the complainants ſhall make recompence unto the ſaid parties, as the commiſſioners ſhall aſſeſs, or repair to the lords of the council to receive due puniſhment.

13. That

* Mſs. Le Geyt.

13. That ſuch perſons as do favour the ſaid Anthony and George Pawlet within the ſaid iſle, and being malicious parties to Perin and De Cateret, ſhall upon their corporal oaths be bound to peace.

Anſwer to the 12th and 13th. We cauſed three proclamations to be made, two on market days, and one in each pariſh, if any would inform us againſt the captain, or bailly, or other officer, upon and according to the contents of the 12th and 13th articles, they ſhould be heard. Whereupon ſome petitions, containing ſundry griefs, were preferred, but they all refuſed to enter into bonds."

And thus the deſign of this obligation, inſerted in the articles, was fully anſwered. For what man who had beheld the treatment which De Carteret had received, by three impriſonments, the influence of the Pawlets with the queen and council, could imagine that a bond to make good his accuſations, was in any ſenſe different from one ſpecifically to pay the money. The very condition of coming at a diſcovery of the truth, was an inevitable method of preventing its being ever diſcloſed. From this reſtrictive obligation it appears alſo, that this article ſtood not in the petition delivered by De Carteret in the preceding manner. He would never have embaraſſed his proofs, by giving bonds, to make them valid; nor have aſked to have the information of things, the truth of which he was aſcertained. The charge, therefore, was undoubtedly transformed into a liberty of giving information, and the perſons who would have appeared as witneſſes, of whom no ſuch obligation could have been aſked, were converted into informers, and obligated by that permiſſion not to exert it. To what contemptible artifices

artifices were this queen and her council driven, to evade the deteſtation of deſpotic meaſures, by the flimſey ſubterfuge of proceeding in a legal manner, to the commiſſion of vindictive cruelty, againſt an individual ſubject.

14. The behaviour and conditions of all her majeſty's officers of the ſaid iſle, ſhall be duly examined and certified, without reſpect to any perſon concerning the government, or material cauſes there appertaining to juſtice. This examination not to be uſed by any generally, as it were *ex officio*, but upon particular informations, to be delivered unto them.

Anſwer. "The ſaid Perin and De Carteret required us to do nothing touching the ſame." They knew them to be the inſtruments of Pawlet's revenge and oppreſſion, whom neceſſity of circumſtances had obliged to act againſt their inclinations, and generouſly diſdained to riſque the ſervants ſuſtenance, becauſe their maſter was a tyrant.

15. What ſums of money have been levied by the ſaid Anthony and George, or at their direction, of the inhabitants within the ſaid iſle, for proviſion of munition and furniture for needful defence of the ſame, ſince the ſaid Anthony was captain or lieutenant there; and to ſhew what value the ſame was of, and where it is employed, and what munition and furniture remaineth. This alſo to be examined upon information given in a particular manner, and bonds to be taken, as is aboveſaid.

Anſwer. "None would offer to bring proof of the charge, becauſe of the obligation of being bound in ſums of money, to juſtify their charge. At length, permiſſion was given to accuſe, without being bound." But this the commiſſioners declare was declined alſo. The affair was never brought

brought to examination, becauſe De Carteret had no authority to call evidence to that effect. That proof was artfully avoided by requiring bonds, as above related. And although permiſſion was given to informers to accuſe without that penalty, was there a man of common ſenſe, who could conceive that Pyne and Napper, or the governor and bailly, had an authority to ſuſpend, or annihilate the order of queen and council; or that this very indulgence was not intended to enſnare them.

16. Whether the ſaid bailly, and all other her majeſty's officers, within that iſle, have been placed there according to order ſet down in that behalf by Henry the ſeventh; and if there have not been any contrary uſage, during the ſpace of twenty years now paſt; and whether the privileges of the ſaid iſle have been, and are duly obſerved or broken; and in what ſort, and by whom.

Anſwer. " It did appear to us, that by the ordinance of king Henry the ſeventh, that the offices of bailly, dean, ſheriff, and attorney-general, were reſerved by the king: but upon peruſal of the letters patent unto Anthony Pawlet, it did appear that the diſpoſition of theſe offices lay in his gift, and had been in that of the governors for twenty years paſt." This article, therefore, was fully anſwered in favour of the complainants.

17. What jurats, or other officers there, have been diſplaced, contrary to the ſaid orders and privileges; and that they may again be returned to their former office, if there ſhall be no juſt cauſe ſhewn to the contrary.

Anſwer. " We found not any jurat diſplaced contrary to the orders and privileges there: but upon the hearing, it appears, that John De Carteret

teret and one Journeaux, were for good cauſes ſequeſtered from their places, by an act of common-council."

But, ſince De Carteret and Journeaux had appealed to the queen and council, and that appeal had been admitted by the jurats, on what authority could Pyne and Napper aſſert that there was nothing but good cauſe for their ſequeſtration? Can the laws of Jerſey give the right of appeal to every other ſubject, and ſuſpend the operation of the ſentence, till that appeal be determined; and yet lawfully refuſe that privilege to a ſuperior magiſtrate. The very ſuppoſition refutes their aſſertion, and proves their diſregard to veracity.

18. And laſtly, Perin and De Carteret ſhall be allowed to produce ſo many witneſſes, as they can find within the iſle, for proof of articles formerly preferred and delivered againſt the ſaid Anthony and George Pawlet; and that no exceptions be taken and allowed againſt the ſaid witneſſes, unleſs the law diſable them, by being parties; or otherwiſe of notorious miſbehaviour. And the depoſitions to be had, and taken in the abſence of the ſaid captain, bailly, and jurats.

Anſwer. "The ſaid captain did take exceptions, on the firſt, unto divers of the witneſſes produced by the plaintiffs againſt him, for that ſome of them were tenants of the ſeigneur de Roſelle, one of the plaintiffs, and divers others had been of the faction againſt him, and had joined in the ſubſcription of hands and ſigns, in divers complaints againſt him; but when they came to be examined, he waved the benefit of theſe exceptions, and left it to our conſideration. But we refuſed but one or two, who were as parties."

Tertullian Pyne, *Robert Napper.*

This

This permiſſion to recuſe the witneſſes, who were brought by the complainants, was certainly according to the laws of Jerſey. But the injuſtice was, that De Carteret had no ſuch expreſs permiſſion, and could not except againſt the evidence of the jurats, the acts of the bailly and the court, who were moſt certainly parties in the cauſe, and ought not to have been heard or attended to. And the Pawlets might well wave their right of recuſation, when they knew in what manner Pyne and Napper would examine and report.

The examination of the articles, and the atteſtation of the witneſſes being thus gone through, Anthony Pawlet produced his corps de reſerve, of ſpiritual coadjutors, in order to prop the feebleneſs of his ſecular teſtimonies, and the inſufficiency of the report. This corps conſiſted of ten of the Calviniſtical preachers, who by his rebellious encouragement had been ſupported in the iſland. "Theſe ſaid preachers having firſt depoſed, did with their own hands ſet down their depoſitions."

"I do acknowledge that there hath been by John De Carteret and his confederates, ſo dangerous a faction in this iſle, that the people of our pariſhes, yea, all the iſland, were divided in contrary parties; the one ſaying they would have my lord Seymour for their governor; the other that they would have Mr. Anthony Pawlet: and that thereupon the people would have caſt off the yoke of all good order, eſtabliſhed in the church of the iſle. All which I know, becauſe I have heard many of mine own pariſh ſpeak thereof, and ſay, that John De Carteret was the procurer of thoſe that held for my lord Seymour. Written

Written and ſigned by his own hand, John Parene, miniſter of St. Brelade."

Such was the depoſition of miniſter John Parene, which contains ſome ignorance, and ſome falſe ſwearing. Faction is an oppoſition to the powers eſtabliſhed. Now Anthony Pawlet was no more a fixed power than lord Seymour. There was then no governor, and therefore thoſe who adhered to each party, were alike culpable, and neither of them were a faction. If two candidates for a borough, are followed by the populace, and contending who ſhall obtain the laudable opportunity of ſelling his conſcience to the miniſter, is this a faction on either ſide? The yoke of all good order, eſtabliſhed in the church of the iſle, could not be caſt off. For their eſtabliſhment was not the church of the iſle, but an uſurpation of power, which the Pawlets had permitted to be made. And laſtly, he knew this, becauſe he had heard others ſay, that John De Carteret was the procurer of thoſe, who held for the lord Seymour. And thus he became a poſitive evidence upon hearſay. But were not the procurers for Anthony Pawlet equally factious?

The next depoſeth, "I do confeſs that while John De Carteret was in England, the ſtate of this iſland was not in ſo good peace as before; and that there was great likelihood of a dangerous faction, if God had not provided for the ſame."

N. Baudoyn.

This miniſter, brought as a witneſs by the Pawlets, ſwears that the abſence of John De Carteret was the cauſe of the likelihood of a faction, and that the iſland was not in ſo good peace, as before he left it. In this manner John

De

De Carteret is made the author of this likelihood of faction, which happened in his abſence; becauſe when he was preſent, the iſland was in good peace, and De Carteret is made culpable of the things he could not do.

Mr. Parene ſwears poſitively to a dangerous faction, and Mr. Baudoyn to the likelihood of ſuch an event. The former either atteſts the exiſtence of what did not exiſt; or the latter calls that a probability, which was a fact. Both of which cannot be true.

There are eight more of thoſe conſcientious reformers of reformation, who unanimouſly depoſe that John De Carteret was the promoter of the faction. By theſe atteſtations they prove their zeal for the Pawlets, and evince that George, the bailly, was equally factious with De Carteret. Two of them ſwear, that they preached againſt the confederates. Thoſe preachers then on their own depoſitions prove they were parties on the ſide of Pawlet, and as factious as the confederates: and it evinces that they deliver an intereſted evidence, miſrepreſenting the truth, and not deſerving to be credited.

Such is the reſult of liberty of conſcience in religion, backed by predeſtination; and goaded by juſtification by faith, when they are brought to operate in civil tranſactions. It is impracticable that conſcience can be free in the former, and limitted in the latter; that conſcientious freedom leads the profeſſors of it to the boundaries of religious faith, and predeſtination puſhes them into the ſphere of ſecular concerns. Within that pale the influence of paſſion and ſelf-intereſt ſuperſede all ſpeculative ideas of reſtraint; their actions become dependant of their advantages and purſuits alone; the obligations to morality and truth

which the laws have inſtituted, are overborn by the impulſe of that ſuperior obedience, which is due to the divinity, all enormities are cancelled by a juſtifying faith at laſt, and this ſyſtem is the will of God. Such is the procedure which thoſe principles obſerve in human minds, and their actions conſtantly correſpond with their religious tenets. And whether it be reſpecting the rights of men, as individuals, or as ſovereigns, legiſlators, and judges of the law, the reſult of all thoſe reformating apoſtates, hath been uniformly to obtain their end *per fas aut nefas.*

As there are but two out of the twelve parochial preachers, who are not deponents on this occaſion, it ſeems probable that they adhered to their principles; to the church of England eſtabliſhed in Jerſey; and to the truth; and therefore that they were not ſummoned to teſtify for the Pawlets. Out of the twelve apoſtles there was but one apoſtate. Out of the twelve eccleſiaſtics of Jerſey, there may have been two of integrity. The ten, however, did not betray their maſter, They only exerted the liberty of their conſciences by forſwearing themſelves in his cauſe.

Theſe were the reports delivered to the council by Pyne and Napper. John De Carteret, ſenſible of the wrong which he had received by the partial and inequitable proceedings of theſe commiſſioners, drew up exceptions, and delivered them to the council board. It was impoſſible their lordſhips could have been inobſervant of the fallacy and inſufficiency of the evidence, which are ſo manifeſtly apparent in theſe examinations. They were held between the obligations of doing juſtice and the mandates of Elizabeth; and the former inſtantly gave way to the latter, ſo readily does virtue yield to the views of intereſt, the

cauſe

cauſe muſt be given in the favour of Anthony Pawlet. The exceptions were therefore rejected, and the council tranſmitted their orders in the ſubſequent letter to the governor, bailly, and jurats of Jerſey.

June 30th, 1591.

" Since the return of the commiſſioners, granted for the examination of the informations delivered by John De Carteret, and John Perin againſt the governor, the ſaid De Carteret hath taken exceptions againſt the commiſſioners and their proceedings."

Their lordſhips find cauſe to miſlike theſe exceptions and meaning to preſerve and maintain their doing as juſt and upright to the execution of their charge, have committed the ſaid John De Carteret to priſon, there to remain untill he ſhall yield to ſubmit himſelf, and acknowledge his fault, as well towards him the governor, in ſuch ſort as their lordſhips ſhall think fit, as towards the commiſſioners; and untill he have anſwered the reaſonable charges diſburſed by them about the examination. They are required to call before them Perin, that he may make ſuch ſubmiſſion, and acknowledge his offence, in the unjuſt accuſations delivered againſt the governor, and anſwer one moiety of the charges employed in the examination of the commiſſioners; which if he ſhall refuſe to do, they are required by their lordſhips to take bonds, to her majeſty's uſe, for his perſonal appearance before their lordſhips, to anſwer his contempt. And thus much their lordſhips thought good to let them underſtand of their preſent orders and purpoſe; to the end that it may appear what care their lordſhips have to main-

tain the credit of the governor, and remove the cauſes of faction among them."

Such was, at laſt, the peremptory and unjuſt iſſue of this cauſe. Their lordſhips had twice before impriſoned De Carteret on that account; and they had confeſſed it to be unjuſt, by deputing commiſſioners to examine into the merits of thoſe very accuſations, for which they had previouſly puniſhed him. They now inflict a third puniſhment of a priſon, and even to aſk pardon of Pawlet, Pyne, and Napper, who had treated him with ſuch indignant, and partial uſage, becauſe he ſtill perſiſted in the defence of his, and his country's rights; and excepted to ſuch reports, as no men, who ever intended to act uprightly, could poſſibly have received, as the juſtification of the two Pawlets, or as the condemnation of De Carteret. But having travelled thro' this long and dirty road of pretending to find him guilty by a legal trial, they found at length it was impoſſible to impart the ſurface of juſtice, to the ſubſtance of their iniquity. They condemned him as arbitrarily at laſt, as if it had been done on the firſt moment of his appeal. Such was the miſerable concluſion of this affair, by the contemptible cunning of Elizabeth, her Walſingham and Cecil; and ſuch in general was the method and event of her adminiſtration. Such were the royal means by which the proceedings of Pyne and Napper were meant to be preſerved and maintained, as juſt and upright, by the grave wiſdoms of their honours of the council.

De Carteret having been four times impriſoned for his perſeverance in reſcuing his native land, from tyranny. Deſerted by all who entered on the ſame laudible meaſure, yielded to the ſentence of the queen and council; and

added

added not to the joy of his oppreſſors, by obſtinately refuſing liberty. He was diſcharged from confinement, and paid the expences of thoſe wretches, who had renounced both conſcience, law, and juſtice, in their enquiry and reports.

It is no eaſy undertaking to decide which of thoſe who were concerned in this flagitious tranſaction, were moſt deſpicable and unjuſt: the jurats, who conſecrated every oppreſſive deed of Pawlet's government, by their acts; the commiſſioners, who falſified and miſrepreſented all they examined; the council, who pronounced ſentence on ſuch inſufficient and nugatory reports; or the queen, who authoriſed the whole iniquity by her aſſent. But the letter, that fatal letter, which Pawlet held in his poſſeſſion, ſaved him from that puniſhment, which he ſo righteouſly deſerved, and effected this injurious treatment of De Carteret, than whom no man hath ever more eminently deſerved the approbation of his fellow-ſubjects.

During this reign, however, there was one uſeful article among the orders of the queen and council, which was obtained at the interceſſion of Helier De Carteret, of St. Ouen, in 1572. "That no appeal be hereafter received, without the copy of the ſentence, or judgment, as alſo of the whole proceſs of the cauſe, cloſed together under the ſeal of the iſle; and that there may be no lett to the appellant in having thereof, it is ordered by the ſaid lords, that the bailly and jurats of the iſle, from whom the appeal ſhall be made, ſhall, upon requeſt made to them, deliver, or cauſe to be delivered to the ſaid party appellant, the ſaid copy, within eight days after ſuch requeſt."

The utility of this order is manifeſt: for, although the bailly and jurats were obliged by their

original conſtitutions, by ſubſequent orders, and particularly by thoſe of Henry the ſeventh, to enter every cauſe on record; yet as there was no ſpecial injunction for them to deliver a copy of it to appellants, in all caſes which were oppreſſive and unjuſt, they were never granted. Yet certain it is, and indiſputably it ſhall be proved, that the preſent lieutenant-bailly, and his jurats, have denied the record to be made, that the copy might not be taken, and by that diſobedience to royal authority, evaded the obligation of both orders, and compelled the appellant to apply to the council, by way of *doleance*; the only means to which, in ſuch caſes, he can have reſort.

CHAP.

CHAP. VIII.

Of the original formation of the ſtates of Jerſey.

THE commiſſioners, Pyne and Napper, had diſcharged their duty ſo perfectly correſponding to the intentions of the queen and council, and ſo advantageouſly to the governor and bailly, that theſe gentlemen were now converted into legiſlators, to reform all the errors and abuſes which were grown rampant in the government of the iſle, and to inſtitute a new conſtitution. Accordingly they proceeded as they had begun, and eſtabliſhed a government, as abſolute as can be well imagined to have taken place among mankind.

The articles which they formed, are too numerous to be inſerted in this publication. I ſhall therefore tranſcribe ſuch only as are requiſite for the underſtanding of the conſtitution of the iſle. This ſingular act of legiſlation is entitled.

Orders, laws, and ordinances, concerning the iſland of Jerſey, made for the eſtabliſhment of the honour of God, of the ſervice of her majeſty, and of the public good, the 3d of April, and in the 33d year of the reign of our ſovereign lady, queen Elizabeth, by Tertullian Pyne, doctor of laws, and Robert Napper, eſq; commiſſioners authoriſed to that intent, by her majeſty; in like manner by the conſent of Anthony Pawlet, governor of the ſaid iſle, of the bailly, jurats, and ſtates, under the great ſeal of England.

* The ſtates of Jerſey were now to conſiſt of the governor, the bailly, the twelve jurats, the twelve parochial prieſts, and of twelve conſtables.

† The jurats were to be choſen by the greater part and number of the ſtates, with the conſent of the governor, as it hath been heretofore; and whoever ſhall refuſe that office, after being elected, ſhall for every ſuch refuſal forfeit forty pounds ſterling, twenty to the queen, and twenty to him who ſhall take the place which he refuſed. And this ſum is to be levied by arreſt of perſon, or ſeizure of effects.

‡ Three conſtables are to be choſen in each pariſh, by the ſuffrages of the greater part of thoſe, who could freely ſpend the annual rent of three quarters of wheat. Thoſe three being choſen, ſhall be preſented to the governor and the jurats, to ſelect one from among them, and for what time they pleaſe. And whoever is elected, and

---

* Art. 5. † Art. 7. Art. 9.

and refuſes to accept the charge, ſhall forfeit twenty nobles, to be employed to the uſe of that pariſh, for which he is choſen.

* Every miniſter ſhall be in the preſentation of the governor. Which preſentation is made in the public aſſembly of the clergy, called the colloquy; and there to be placed and accepted by the pariſh, in which he ought to ſerve, according to the order and diſcipline of the churches there reformed, which hath been there eſtabliſhed in that point, and practiſed in that iſle, which remains confirmed according to that, which is ſigned by the governor, magiſtrates, and miniſters.

† All cauſes of great importance, which concern the iſle, and do not touch the ſupreme government of it; which are reſerved to her majeſty, or governors there appointed, are to be under the direction of theſe ſtates. The governor is to receive their aſſiſtance, or of the greateſt part, agreeing in the ſame opinion. To give his expreſs conſent to every act, in the name of the queen, whom he repreſents, without which it could have no force, and he had a negative voice, which interdicted the paſſing of any act that he diſapproved.

Beſides this, if any jurat, miniſter, or conſtable, was found unequal to the charge, and after having been openly heard by the governor, bailly, and jurats, he ſhall be declared ſo to be, that then another ſhall be choſen in his place, and be ſworn to keep ſecretly all their conſultations, untill they ſhall be allowed to be divulged by mutual conſent. And whoever ſhall abſent himſelf from his duty, without

* Art. 8. † Art. 5.

without juſt and approved excuſe; or if he ſhall behave in any reſpect diſobedient, or irreverently, he ſhall be puniſhed by diſmiſſion, by corporal, or pecuniary infliction, as it ſhall be thought proper by the governor, bailly, and jurats, or the majority of them.

Such was the legiſlative body of the iſland of Jerſey then eſtabliſhed; and which was undoubtedly intended to delude the people with the viſion of an aſſembly, analagous to the parliament of England. But it was ſo conſtituted, that without the aid of pecuniary influence, every member was abſolutely in the power of the governor. The election of the jurats was now confined to the ſtates, by which the ancient mode of chuſing theſe magiſtrates was aboliſhed; and the chief people of the iſland robbed of their privilege of voting for thoſe judges on whom their rights and properties depended. And as no jurat could be received without the conſent of the governor, that conditional circumſtance was, in fact, all but appointing whom he pleaſed to fill that part of the ſtates, and the bench of juſtice. The liberty of every ſubject was now violated; and becauſe the laws of Jerſey had juſtified Hugh Lempriere in refuſing to accept that office, no man, for the future, was to enjoy that freedom, but at the price of forty pounds ſterling, to be repeated as often as a majority of the jurats ſhould think fit. One half of this money was to be applied to the uſe of the governor, for all fines and forfeitures due to the crown, conſtitute a part of his revenue.

The conſtables alſo were not leſs in the diſpoſal of the commanding officer. Three of thoſe were to be returned by the votes of each pariſh, and the governor and jurats were to ſelect which of them they pleaſed. In this inſtance, the odious

idea

idea of arbitrarineſs, were ſeductively removed from the immediate exertion of the governor. But that perſon, by whoſe conſent the jurats muſt be choſen, was morally certain, that of the three conſtables returned, he alone, whom he ſhould prefer, would be nominated by theſe jurats. And in this inſtance alſo, every man's liberty of not accepting the office, was burthened with a fine. And as the qualification for voting for theſe repreſentatives was confined to thoſe who had the annual rent of three quarters of wheat, or twelve Engliſh buſhels, it was ſcarce inferior to that of voting for a knight of the ſhire in this kingdom.

The remaining part of the ſtates conſiſted of the twelve preachers. Thoſe alſo the governor took into his poſſeſſion. Not one of them was to be preſented to a benefice, but by him; and if the pariſh did not like him, they muſt remain without a teacher; for they had no right to receive any other than he ſhould preſent. And as the livings differ in value, they were, all but the perſon that held the beſt, bound by ſecular intereſts, to obey his dictates, or remain unpreferred.

Notwithſtanding this deſpotic arrangement of things, it remained ſtill poſſible, that men choſen by the governor might after their election act diſcordant to his views. To obviate the danger of ſuch diſobedience, every jurat, preacher, or conſtable, who was found unequal to his office, was to be tried, not before the ſtates, but by the governor, bailly, and jurats, and diſmiſſed, or puniſhed, either corporally, or by fine.

By this ordinance that of Henry the ſeventh, which inhibited the governor from interfering in civil cauſes, was annulled. And it is not to be doubted, but that whatever action ſhould diſpleaſe the governor, would be deemed diſobedience and

ir-

irreverent demeanor. And no conſtable was to remain longer in his repreſentative ſtate, than the governor and jurats ſhould pleaſe to approve of him.

Such was the arrangement of things both in electing and expelling the members of this aſſembly, by a majority of whom every bill was ſuppoſed to be paſſed. But the efficacy of that ſuperiority of numbers was totally evaded by the power which was given to the governor. By him alone they were to be convened. Every act muſt have his aſſent; and his negative reduced their reſolutions to an inanity. By this inſidious conduct of theſe commiſſioners, directed by the influence of the two Pawlets, the conſtitution of the iſle was rendered abſolutely deſpotic. It bore the appearance of being inſtituted on the plan of a mixed government, wherein the laws to be enacted are ſuch, as all parts of the community, by their repreſentatives, unite in the eſtabliſhing them. And yet, in reality, the whole legiſlative authority was no more than a mere machine, which the governor put into motion, directed, regulated, and ſtopped at his will. And the members, in giving their votes, exerted but little more of intellectual freedom, than a clock which ſtrikes the hour, as it is ſet by the hand of him that poſſeſſes it. Of this aſſembly the bailly was prolocutor, or ſpeaker.

The legiſlative powers being thus modelled by the perſons abovementioned, there remained yet another part to complete their plan of deſpotiſm. The juriſdictive was in like manner to receive ſuch alterations, as might moſt effectually contribute to that end. It was accordingly ordered that the bailly and jurats ſhould not only poſſeſs the right of holding, hearing, and determining all pleas whatever. But that they ſhould hear, order and direct, as chancellors, according to the courſe

and

and form of chancery. And thus the power of deciding according to equity, was united in the ſame perſons, who were to determine in conformity to the laws. By theſe means, where the laws were expreſs and poſitive, and their inclinations of another tendency, they deviated from the letter of the former, and under the idea of their chancery department, decreed as they liked, and ſanctified injuſtice by the name of equity.

The interdict of not appealing from the court of Jerſey, in caſes criminal, had been ſuperſeded in practice, though perhaps without any conſtitutional authority for ſuch procedure: and this reſource had been admitted with great juſtice; becauſe the governors who received the fines which were impoſed on thoſe who were found guilty, had commanded the attorney-general to proſecute thoſe actions, as criminal, which were in law but perſonal. By this meaſure two objects, perfectly congenial with the love of power, were more eaſily obtained. Theſe were money and revenge. For all fines being proportioned to the delinquency of the perſon found guilty, they were larger in criminal than in perſonal caſes. And as ſuch perſons had no right of appeal in theſe cauſes, the governor, bailly, and even the attorney-general might exerciſe their vindictive ſpirits, againſt whomever they pleaſed, without the danger of having their iniquities diſcovered, or themſelves reprehended for miſdemeanor and injuſtice, in the diſcharge of their office. The Pawlets, therefore, who were both avaritious and revengeful, determined to preclude all appeals of that nature, and to unite as much as poſſible, the criminal and perſonal law.

To the jurats, therefore, by the ſecond article, the definitive ſentence of all criminal matters what-

whatſoever, which concern tranſgreſſions and miſ-conduct, was again committed; and from thence there was to be no appeal.

By the fourth article alſo it was enjoined, that no appeal ſhould be permitted, before a definitive ſentence was given in the iſle; and that whoever ſhould appeal in cauſes well decided in criminal actions, or make requeſt to the council in ſuch caſes, ſhould forfeit ten pounds to her majeſty: and whoever ſhould proſecute any cauſe in chancery, or any other court in England, ſhould incur both pains and penalties.

This was but little leſs than a negative of all legal applications to the council, reſpecting both civil and criminal cauſes. For who, that was conſcious of the intereſt which the Pawlets held in the council, would preſume to appeal from their deciſions? The juriſdictive authority, as well as the legiſlative was, by theſe means, ſolely in their hands. Every ſiniſter inclination of oppreſſing the iſlanders, by unjuſt determinations, either in property or perſon, might be ſafely indulged; for every man foreſaw that the ſentence from which he appealed in Jerſey, would be confirmed in England. His defeat became more mortifying, and his expences enormouſly encreaſed. This ordinance was, in fact, ſubverſive of the legal rights of the iſle, and a preclusion of the ſubjects from obtaining juſtice.

Such being the ſecurity which was provided againſt thoſe dangers, which ought to attend the mal-adminiſtration of juſtice, they now reſolved to reſcind the peril and vexation which might accompany the petitioning of the throne againſt the oppreſſive meaſures of the governor or bailly. It was therefore ordained by the ſixth article, that no man ſhould purchaſe or obtain a ſubſcription mark, or ſign, for the reformation of any affair, either

either public, or private, without the command of the governor, bailly, jurats, and attorney-general; and that every one ſo ſigning, ſhould pay ſuch fine, or ſuffer ſuch corporal puniſhment, as ſhould in that caſe be thought fit, by the ſaid governor, bailly, and jurats. In this manner were the unhappy iſlanders deprived of that right of petitioning their ſovereign, and ſeeking redreſs from the oppreſſions of their magiſtrates, which is granted to the ſlaves of the moſt arbitrary monarchs upon earth.

Theſe magiſtrates knew no controul; for certainly they would neither command the inhabitants to petition againſt their miſconduct, nor leave unpuniſhed thoſe who ſhould dare to preſent their complaints to the throne.

There remained another obſtacle in the adminiſtration of juſtice, which was to be removed, to clear the road from all poſſible impediment to abſolute dominion. Notwithſtanding the poſitive injunction in the conſtitutions of king John, that the jurats alone ſhould be the ſole judges in all cauſes, the manifeſt injuſtice which frequently aroſe from motives of conſanguinity, and others already mentioned in the conſtitution of Normandy, had ſuperſeded that reſtrictive article. The jurats had on that account been recuſed wherever thoſe reaſons in the Norman law interdicted their being preſent on the ſeat of judgment. Were this recuſation ſtill to be permitted to the inhabitants, they might not unfrequently oblige the bailly to remove thoſe perſons whom he wiſhed ſhould remain, and by retaining them on the bench, he muſt infract a cuſtom, that, by long continuance, and immemorial uſage, had obtained the import and conſideration of a conſtitutional principle.

This ſalutary preſervative of right was once more to be reſcinded; and for a reaſon diametrically oppoſite to that which had proved to be the origin of its ordination. In the time of John it was made to prevent the pernicious effects of obtaining the determination of law-ſuits in favour of wrong, by the prevalence of money, which was cuſtomary in appeals to the exchequer of Normandy. In this of Elizabeth, it was to prevent the appealing from the iniquitous deciſions of the court of Jerſey to the council in England.

To the preceding intent it was ordained by the ſixteenth article, that no ſuch exceptions ſhould be alledged or ſuffered; but that the majority of the bench are, and ſhall be, by this preſent ordinance, declared and confirmed to be the lawful judges, notwithſtanding all ſuch exceptions whatſoever, except only in ſuch cauſes which hereafter the perſons ſhall have duly and lawfully appealed, according to the orders expreſsly declared on that head, in theſe preſents; "That if any ſuch exceptions ſhall be produced, and placed beforehand, whether it be through malice or contempt, or by whomſoever it may be done, he ſhall for the future be duly and ſeverely puniſhed, according to diſcretion and equity." The reaſon aſſigned for this order, is not a little ſingular, "becauſe thoſe who are magiſtrates, having taken their oaths, the intention of the law is that they ſhall be indifferent."

The intention of the law is certainly that all judges ſhall be indifferent; and the intention of keeping them in that ſtate, was that cauſe which inſtituted the ſalutary privilege of excepting againſt all thoſe, on whom other motives than the love of juſtice might perniciouſly prevail, and to the intruſion of which the ſacred obligation of an oath

is

is not always a preventive. The right of exception was not, however, abſolutely reſcinded. It was ſtill permitted under the conditions abovementioned, if free from malice and contempt. But as the intervention of thoſe motives was to be decided by the bench, it almoſt amounted to an interdict.

And laſtly, by the 37th article it was ordained, that if any one ſhall factiouſly, arrogantly, or unduly, diſobey, or contradict theſe ordinances; or practiſe, by ſigns or murmurings againſt them or againſt the ſaid magiſtrates in general, or particular, they ſhall be ſeverely puniſhed by impriſonment, by fine, or both, at the diſcretion of the governor, and the court. And the magiſtrates, on their oath, are to extinguiſh the roots, occaſions, and commencements of all miſbehaviour which may thereafter arrive.

Theſe orders, laws, and ordinances, contain ſeveral notorious untruths, and acts of inſolence and uſurpation. The jurats before that hour, had never been choſen by the ſtates, nor had theſe ſtates an immemorial exiſtence, as it hath been already ſhewn: neither was it true that the preachers had been appointed in that manner, according to the order and diſcipline of the reformed churches, by law eſtabliſhed in the iſle. For that inſtrument, which is abovementioned, could contain no energy of law, becauſe the queen had ſpecifically mentioned, that the governor ſhould take the oath of her ſupremacy. The epiſcopal authority was therefore the only lawful power by which the parochial prieſts could be inſtituted and inducted. All theſe are falſhoods; not the leſs becauſe they were promulged and authoriſed by the queen, under the great ſeal of England.

That the Pawlets and the commiſſioners ſhould unite in the inſtitution of a ſtate, ſo repugnant to

the nature of all ſocial community, is not ſurpriſing; but that the ſtates ſhould coincide in the enſlavement of themſelves and their fellow-ſubjects, affords an evidence of what contemptible materials mankind are formed. In England, the two houſes of parliament bartered their liberties and the conſtitution with Henry the eighth, for the church lands. They received a commutation for what they gave, and Harry was a king. But in Jerſey the ſtates preſented to Anthony Pawlet, their equal, all that right and freedom, which is the inheritance of the human race. Such was that ſhameful intimidation, which had ſucceeded to the arbitrary and injurious treatment that John De Carteret had ſo heroically ſuſtained.

The governor was now abſolute in every department, both legiſlative, military, and juriſdictive. The people were held in chains, and even denied the liberty of murmuring againſt thoſe beings, who delegated to protect and ſolemnly ſworn to preſerve their rights and liberties, had ſo flagitiouſly enſlaved them. Pawlet made what laws he pleaſed, and appointed all thoſe officers, who were to carry them into execution; even thoſe expreſsly reſerved to the king, by the ordinances of Henry the ſeventh. Such was the fatal effect of patriotiſm defeated, in her honeſt purpoſe. The dominion of the deſpote was encreaſed, and the people reduced to the moſt abject ſtate on earth.

This was the reſult of thoſe ordinances, which are impiouſly declared by theſe fanatic miſcreants, to be inſtituted for the ſervice of the queen, the public good of Jerſey, and even for eſtabliſhing the honour of God; that God who created the very beings to be free, whom thoſe men had ſo nefariouſly doomed to intolerable enſlavement.

After

After this inauſpicious iſſue, the conſequence was ſuch as triumphant deſpotiſm uniformly produces. *The governor grew more atrocious in diſregarding the laws, and in oppreſſing the people. His will was the univerſal rule of all things. Criminals, and men who had been ſentenced to baniſhment, found an aſylum in the caſtle; and from him they obtained even letters of pardon. He levied impoſts, tailles, and numerous exactions, which were not due to him. He extorted from every pariſh an annual quantity of oxen and ſheep, at a price below their juſt value. By his orders thoſe trees which either ſheltered, or adorned the houſes of the individuals were felled, and he meaſured their rent corn by a fallacious method.

Such was the oppreſſive ſtate to which theſe unhappy iſlanders were reduced. So much more prevalent is the intereſt of thoſe flagitious favourites, who miniſter to the iniquities of their ſovereigns, and poſſeſs their opprobrious ſecrets, than that of virtuous individuals, who ſerving them with honour and fidelity, advance the welfare of their country by laudable purſuits. For although the imperious diſpoſition of the queen was manifeſted by innumerable acts of arbitrary proceedings in England, it is hardly to be imagined that ſhe would have erected a tyranny ſo uncontrouled, and have enſlaved theſe iſlanders, untainted with diſloyalty, to thoſe Pawlets, who had uſurped her regal rights, had not the dread of that murderous letter been added to her native ſpirit of tyranniſing.

In this manner the fate of Jerſey remained, during the reign of that ſovereign, who to every

* Mſs. Le Geyt.

vice which ſo ſignally diſgraced her father's character, added that of hypocriſy in her own, unalleviated with any ſupplemental virtue, and unexalted by real magnanimity. She lived to ſee herſelf neglected by her courtiers, and ſervants: and ſhe aſcribed that inattention to their abject haſte of ingratiating themſelves with that prince, who was aſcending the ſeat of empire, which in reality ſprang with equal energy from the averſion which they entertained of her abominable deſpotiſm, viciouſneſs, and diſſimulation.

James the firſt had ſcarce aſſumed the ſceptre when the Calviniſts, who had uſurped the eccleſiaſtical authority of the crown in Jerſey, haſtened to expreſs their loyalty, by addreſſing their new ſovereign; and they petitioned that the diſcipline of the church might be confirmed to them, which was permitted and eſtabliſhed in that iſland by the queen, his predeceſſor. Anthony was gone to give an account of his government before a tribunal, where the reports of Pyne and Napper would prove to be no evidence, and where neither the queen nor her letter could avail him any thing In this application they were encouraged by the bailly Pawlet, who imagined that on the firſt acceſſion of James, and on the congenial ſtate of Preſbytery in Scotland, he might the more voluntarily grant their requeſts; and leſs incline to examine into the truth of what they might deliver, reſpecting the eſtabliſhment of the eccleſiaſtical ſtate of the iſland. This application ſucceeded as they wiſhed. James believed their aſſertion, which had no other ſupport than that fallacious article, which had been introduced among thoſe orders of the flagitious Pyne and Napper, already related; and which was in fact, an abſolute untruth. For ſo remote

remote was the queen from permitting, much leſs eſtabliſhing that diſcipline in the iſland, that ſhe had expreſsly in her letter to the magiſtrates, confined it to the church of St. Helier alone, "provided always that the reſidue of the pariſhes in the ſaid iſle, do continue there the order of ſervice, ordained and ſet forth within this realm, with the injunctions neceſſary for that purpoſe." But to approach a ſovereign with lying aſſeverations, is congenially inſeparable from Preſbyterianiſm. For ſo intimately is the ſpirit of falſification amalgamated with the droſs of which they are compoſed, that divide them, as far as matter is diviſable, and a lye ſhall be found in every atom.

The conſequence correſponded to the idea of the bailly and their preachers; and the king, by letter, granted that the iſles ſhould quietly enjoy the ſaid liberty, in the uſe of the eccleſiaſtical diſcipline there eſtabliſhed. Such was the ſucceſs of audaciouſly daring to addreſs their new king with an entire falſhood. In this manner the arbitrary power which the Pawlets had erected, remained in full operation till an auſpicious incident detected the mendacious application of the preachers, and relieved the inhabitants from the miſeries of Preſbytery.

To Anthony Pawlet ſir Walter Rawleigh ſucceeded. But his government was of ſo ſhort duration, that no improvement was produced. Sir John Peyton was next appointed to that charge. By his patent, in imitation of thoſe of Elizabeth, he was authoriſed to nominate even the bailly, and other officers of the court, and to preſent to all the livings which might become vacant.

This power was ſubverſive of that, which the Calviniſtical preachers had uſurped. And as

they have never manifeſted the leaſt reluctance to the obtaining of any requeſt by illuſive and unjuſt repreſentations; ſo they as conſtantly contend to preſerve, by equal effrontery and force, what they have obtained by falſhood and deceit. They plumed themſelves on this letter of James, and encreaſed in arrogance, as they imagined they were more permanent in power. They refuſed therefore to admit any man to be a parochial miniſter who, as they termed it, had not a call from them.

The governor preſented a living to a ſtudent, regularly educated at Oxford: and the Calviniſtical colloquy would not receive him, as one lawfully called. They ſupported this oppoſition on that article of Pyne and Napper, wherein it is declared, that the governor ſhall preſent, and the pariſhoners accept none but whom he ſhall appoint. Peyton perſiſted in his right, and the Preſbytery in oppoſing it. The affair was, of conſequence, tranſmitted to the king and council. Through this crevice the rays of truth began to break in upon the darkneſs of thoſe truthleſs preachers of God's word.

This oppoſition of the governor appeared ſo new and unexpected to the natives, whoſe ſouls had been frozen by the benumbing power of the Pawlets, that like ſunſhine on the plains of Nova Zembla, which diſſolves the ſnows, and vivifies the withered herbage, the vegetative principle of liberty again ſhot forth, and the hope of being freed from thoſe ſufferings, to which they thought themſelves for ever doomed, warmed them into vigorous exertions.

It was now the horrid uſurpations and falſhoods of thoſe apoſtates were perfectly diſcloſed. The very men who had fled from their native country, in order

order to enjoy the liberty of conſcience, by ſerving God in their own way; who had proclaimed the utmoſt abhorrence of perſecuting chriſtians on that account, had revolted from all thoſe principles, on which they founded their ſeparation from popery. They had impriſoned a native of France, as an heretic, becauſe he diſſented from the doctrines which they as heretically profeſſed, and was intending to introduce a ſchiſm into their church, which according to the ſole doctrine and diſcipline that were legiſlatively eſtabliſhed in Jerſey, was itſelf a ſchiſm.

This ſtretch of power was the more remarkable becauſe theſe very men had commenced and defended their ſeparation from popery, and their non-conformity to the church of England, on that very right of judging for themſelves, which this man now as juſtly exerciſed, whom they were perſecuting as an heretic. At this time there exiſted no law in Jerſey, againſt hereſy, ſave that which might remain of popiſh inſtitution. But they were a race for whom predeſtination made what laws they liked, and juſtified the breach of all which they choſe not to obſerve. *This heretic, however, was diſmiſſed from priſon, on application to the king, to know in what manner he ſhould be treated.

Nor did their inſolence arrogate alone the ſupremacy in church affairs, they invaded the civil authority, and in their conſiſtories of miniſters, elders, and deacons, brought before them, and examined the domeſtic conduct of every family. By the brotherly confeſſing of their ſins to each other, which they had inſtituted on a text in ſcripture, the ſecrets of every individual were known to theſe teachers, who in return revealed not their own

* Mſs. Le Geyt.

own tranſactions. And as they were not bound to preſerve them inviolate, like the popiſh clergy, they had erected a tyrannic dread over the minds of their pariſhoners infinitely more intolerable than that of the papiſtical communion; and harraſſed them with cenſures for actions, the moſt frivolous and indifferent. So that no man enjoyed a moment's freedom or repoſe from their imperious inquiſition.

Animated by the example of the governor, the inhabitants of rank and underſtanding renounced the injunctions of theſe conſiſtorial tribunals. They applied to the magiſtracy for their being ſuppreſſed as illegal, and boldly charged them with tyranny and hypocriſy. Tormented by thoſe reformers of the church reformed, they reſolved to be emancipated from their thraldom; and convinced by a long and ſevere experience how fatally their lives had been embittered, and the very eſſence of religion annihilated by the imperious tenets, abſurd doctrines and blaſphemous exploſions in the ſermons of thoſe innovators, they reſolved to return to the church of England.

Nor were theſe the only ſufferings to which the iſlanders were reduced. Their properties were alſo invaded. For though averſe from the doctrines, theſe preachers were extremely tenacious of the revenues of that church which they had condemned as unchriſtian, and extended their claims of tythes beyond the limits of the law and ancient cuſtom. At the reformation, the great tythes of all the pariſhes, were aſſumed by the king, and thoſe of one pariſh only being appropriated to the dean, the others were added to the governor. It had been a cuſtom, however, on breaking into tillage either woods or lands, uncultivated and untilled before, that the tythes ſhould belong to the parochial prieſts. Theſe ſectarian teachers not only

only inſiſted on their being entitled to the produce of ſuch tillage, but of all grounds which had lain but forty years unploughed, of orchards and of meadows converted into arable lands. And by theſe means they had encroached on the revenues of the crown, and oppreſſed the people.

The union of theſe enſlavements became ſo abſolutely intolerable, that the people petitioned his majeſty to be relieved from their egregious oppreſſors, and that he would be graciouſly pleaſed to reſtore to them the church of England.

The preachers oppoſed that application by a counter petition; and though they were aſſured that the examination of that permiſſion which they had received from the king, would infallibly detect the untruth in their firſt addreſs, that their church was eſtabliſhed by the queen, they nevertheleſs proceeded with their natural effrontery, and urged their right to being continued in that mode of worſhip and diſcipline, as if it had been verily and indeed legiſlatively eſtabliſhed.

This detection of their fallacious principles, and want of truth in their repreſentations, created an abhorrence of their cauſe. The king and council were reſolved to ſubdue that deceitful race, and to that intent they were ordered to form new canons, analogous to thoſe of the church of England; to receive the liturgy which had been formerly in uſe; and for that time only to name the perſon whom they would chuſe to be their dean. Theſe were ſymptoms too manifeſt, not to diſcover that their hereſy and power were near expiring. The influence of intereſt prevailed over their zeal for ſupporting the ſchiſm which they had erected; and fearing an expulſion from their livings, and being deſerted by their pariſhoners, they readily embraced that church as conformable to ſcripture,

which

which they had proſcribed as heretical, and received the doctrines, ſervices, and diſcipline eſtabliſhed in England, as neceſſary to ſalvation, which they had exploded as repugnant thereto. The joy of the laity in being freed from the hypocritical ſanctimony of thoſe tyrannic Preſbyters, was only equalled by that averſion, in which from that hour they have undeviatingly held them. And the iſland has hitherto engendered no ſuch vermin.

This diſpoſition of their minds was amply manifeſted by their heroic oppoſition to the ſectarian regicides of Charles the firſt; and that propenſity ſtill exerts itſelf with equal energy againſt all thoſe of ſimilar principles, who now traduce and villify his preſent majeſty.

Such was the origin, procedure, and concluſion of this ſchiſm in the iſle of Jerſey; embraced with zeal, ſupported with horror, and thrown off with exultation. Happy had it proved had the people of England been warned by this event in Jerſey, and ſuppreſſed the like principles in this kingdom, which by temporiſing and indirect permiſſion, ſtimulated the profeſſors of them by murder and through ſeas of blood, to ſubvert the conſtitution of the realm. To be deteſted when their villainies were irremediable, and yet to be indulged with toleration, undiſtinguiſhed by ſome characteriſing mark of contempt, inſeparable from their perſons, was certainly a ſtrange polity. Perſecution is indeed odious, both for its inhumanity, and becauſe it generates the very ſpirit it is intended to ſuppreſs. But a yellow hat, a green piece of cloth faſtened to the garment, together with that contemptuous idea which may be affixed to it, is no object to create an admiration of thoſe who bear it, like the conſtancy of ſuſtaining

ing bodily inflictions; and yet it will more infallibly prevent the encreaſe of converts to all ſchiſmatical invaſions on the legiſlative eſtabliſhments of the realm.

The effect of ſuch diſtinctions, legiſlatively affixed, is inſurmountable; and there are numbers who would ſuffer martyrdom, in preference to the being marked by the *inſignia* of national diſdain.

There is no ſubject on which mankind in general are leſs capable of judging, than on the rectitude and propriety of religion. There is none which ought to be more diligently preſerved from innovation and change. There is none which judiciouſly directed, can ſo powerfully operate on the morals of a people. And yet in this country there is nothing left ſo indiſcretely expoſed to the canvas and direction of the rabble: an indulgence productive of infinite evil to the ſtate, and univerſal corruption of national manners.

*The Romans, among whom polytheiſm was eſtabliſhed, were too wiſe to ſuffer the ſame deity to be adored in different worſhips. But in England that capricious irreligion is not only tolerated, but even the diſputing whether the object of our adoration be a God.

During the time in which theſe contentions ſubſiſted between the eccleſiaſtics and laity, there exiſted no leſs agitation reſpecting the civil affairs of the iſland. Philip De Carteret, attorney-general of the iſle, had offended the bailly and jurats, by oppoſing the mal-adminiſtration of juſtice. The bench diſmiſſed him from his office, and appointed another in his place. De Carteret appealed to the council; the affair was diſcuſſed, and it was adjudged by that board, that the diſmiſſion was an injuſtice againſt him, and an uſurpation of his majeſty's

* Tit. Liv. paſſim.

majeſty's prerogative, in appointing another. And the court was ordered to reſtore him to his place.

Peyton was of a character not to ſurrender what he imagined to be his right. At his entering on his government he demanded all thoſe dues and ſervices, which Anthony Pawlet and his anceſtors had illegally received; and which were indeed, in ſome degree, legiſlatively eſtabliſhed by the queen and council, in the ratification of thoſe determinations, orders, laws, and ordinances, which were made and reported by Pyne and Napper. Herault, the then lieutenant-bailly, the ſtates, and the whole iſland, oppoſed the continuation of them. Peyton applied to the king and council, to determine whether the objects he claimed belonged to him as governor. The ſtates and the people, in two ſeveral petitions, repreſented them as unlawful and oppreſſive, and requeſted their being delivered from ſuch onerous obligations.

Beſides theſe applications to the throne, the number of appeals was become ſo exceſſive, that the whole time of the council might have been ſufficiently employed in hearing them. Such were the fatal effects which had proceeded from the tyrannous alterations that had been made in the conſtitution and the laws, and the partial and oppreſſive adminiſtration of judgment, which had been exerciſed by the Pawlets.

James being thus petitioned by the iſlanders, in the year 1607, liſtened to their complaints, and ſent ſir Robert Gardiner, and James Huſſey, doctor of laws, commiſſioners to Jerſey. They were ordered to enquire into the cauſes of their preſent grievances, and of their appeal. To ſettle the ambiguities, contradictions, and inconſiſtencies of the laws and cuſtoms. To hear the complaints of the people, and to reduce their own

own obſervations into a good form and order, to prevent ſuch numerous applications to the throne, for the future. In the execution of this truſt they were to be aſſiſted by the governor, bailly, jurats, miniſters, and all other officers, in all cauſes, except in thoſe wherein they, or any of them, ſhould be parties, or have any private intereſt in the matter in queſtion.

By this ſpecial command, the bailly and jurats were again laid open to recuſation in the ancient manner, and the people reſtored to their juſt claim of excepting againſt them. At the ſame time, that this commiſſion might be the more effectually executed, and the ends of it more adequately obtained, a letter from the council was previouſly diſpatched, commanding the governor, and the court to examine into their laws, and prepare them to be laid before the commiſſioners, in order to the reconciling of their differences and contradictions; to abrogate ſuch as were oppreſſive and unjuſt, and to inſtitute thoſe which might ſupply the deficiency of theſe already exiſting.

The time was now come in which the illuſtrious oppoſition of John De Carteret was to receive that conviction of being virtuouſly undertaken, and laudably ſuſtained, which the deciſion of kings and councils can never ſo adequately impart. It was now that the diſhonour of the queen, the diſgrace and ſervility of her council, the uſurpation and deſpotiſm of the Pawlets, the mendacity and miſrepreſentation of Pyne and Napper, the abject and traiterous conduct of the ſtates, and of the court of Jerſey, the falſe ſwearing and hypocriſy of the Preſbyterian teachers were to be expoſed to full view, and conſigned to eternal infamy and execration. Every ſurviving jurat, the ſtates alſo, who had ſo ſcandalouſly ſupported the Pawlets to their own enſlavement

ſlavement, petitioned for the removal of thoſe identical particulars, as grievous and oppreſſive, which they had pronounced to be lawful and right, in the year 1561. And this ſingular revolution John De Carteret lived to animate and accompliſh: an event which ſeldom happens to men, who have ſo virtuouſly contended, and ſo ſignally ſuffered in the defence of their country.

Gardiner and Huſſey were men of characters diametrically oppoſite to thoſe of Pyne and Napper. As manifeſtly the friends of juſtice, of liberty, and the rights of humankind, as the others were the foes of all that was meritorious, equitable and patriotic.

The governor, unacquainted with the laws and cuſtoms of the iſland, oppoſed in the exerciſe of thoſe powers, and the receipt of thoſe dues and ſervices, which the Pawlets had aſſumed, petitioned the throne for the ſettlement of thoſe ſubjects of controverſy.

1. He complained that the people defrauded him of half his revenue, by the alteration in the money, which had been made by the ſtates, and requeſted to have that affair to be adjuſted.

2. That the governor's authority in the ſtates might be aſcertained, both in the approbation and election of the jurats, and of allowing and diſallowing ſuch public ordinances, as were made in the ſtates.

3. That the civil and eccleſiaſtical juriſdictions which were confounded, might be examined and eſtabliſhed, as it may ſtand with the public good of the iſland.

4. That the laws may be ſettled and aſcertained.

5. That the affair relative to the oxen and ſheep taken out of every pariſh by the Pawlets, at what price they pleaſed, might be adjuſted.

6. That

6. That it might be ſettled what rent corn was to be carried by thoſe who owed it, and what not.

7. What tythes were to be taken by the miniſters, as from novals and deſarts.

Such were the moſt material objects of Peyton's petition. On the arrival of the commiſſioners they were preſented with a paper, entitled Abuſes, preſented by the bailly, and jurats, as exiſting before the time of the preſent governor.

This demonſtration of De Carteret's rectitude in his former reſiſtance to the imperious conduct of the Pawlets, was given even by George Pawlet, who was ſtill bailly. But his nephew Anthony being dead, himſelf ſuperannuated, and another governor appointed, the chains with which they had held the people in enſlavement were broken, and the jurats now voted without the influence of magiſterial intimidation. This peculiar attention in ſpecifying the objects of their complaint, as ſubſiſting before the arrival of Peyton, was undoubtedly deſigned as an exculpatory compliment to him. But it exhibited a ſelf-condemnation of all thoſe who had been antecedently active in ſuſtaining thoſe iniquities; a juſtification of De Carteret's uprightneſs; and it fixed a brand of infamy on all who had been inſtrumental in eſtabliſhing the orders of Pyne and Napper, from the queen herſelf, to the clerk in the court of Jerſey, who had entered them on record.

The chief articles of theſe abuſes were thoſe which follow.

1. That the governor may not grant licences to export goods, imported from England, nor levy cuſtoms for his privy gain, without any warrant but his own will.

2. That ſuch prices be not paid the governor for his wheat rents, as he pleaſeth to put, far beyond thoſe ſettled at the court, in which the governor giveth his vote.

3. That he may not pay his own price for wages, carriages, and commodities, from the merchants and inhabitants, ſuch as beef, mutton, fewel timber; nor take the ſame againſt the conſent of the owners.

4. That they may not pay the money which is due to him, at a lower rate than that in which it paſſeth current.

5. That in the payment of ſuch debts as he pretendeth due unto him, he may obſerve the ancient courſes formerly uſed; and not to force, by impriſonment, and otherwiſe, any of his majeſty's ſubjects to payment, which they contradict, before judgment given, after lawful trial and conviction.

6. That the receiver may not exact money of the poor people, for accepting them to payment of corn rents.

7. That he may not urge them to pay, and carry to his grainge, ſuch rent corn as it was not uſual to carry.

8. That he may not meaſure the corn as he pleaſeth.

9. That he ſhall be obliged to give them acquittances for the corn rents, when paid.

10. That the caſtle porter exact not unlawful fees.

11. That the exact ſums of money may be mentioned for ſuffering the priſoners friends to bring them victuals.

12. That the porter ſuffer not the priſoners to have farther liberty than he hath expreſs warrant from

from the court, concerning their expences, and licenſing them to depart to their own houſes.

13. That the governor give warrant to pay the debts of thoſe priſoners, who eſcape from the caſtle.

15. That if the king's procureur, and other like officers, abuſing ſo much their places, ſhall be found convinced of having troubled the ſaid court, and vexed his majeſty's loving ſubjects, with ſuch mere frivolous ſuits, as do argue more malice in them than otherwiſe. That then the ſaid officer ſhall be adjudged anſwerable thereof, and accordingly cenſured in their own and proper names, by the ſaid court, according to due order of law.

19. That the governor may not take up the horſes of the inhabitants for his own ſervice.

An abſtract of complaints delivered by the inhabitants.

Theſe were in general the ſame with thoſe of the bailly and jurats. They complain of being forced to do unlawful work.—That the ſoldiers cut down trees round their houſes, and paid what price they pleaſed.—That they took their oxen and ſheep at a third of their value.—That when the pariſhoners have not wheat ſufficient to diſcharge their rents, the receiver proclaimeth in every pariſh, that on pain of not carrying their rent corn, they are to pay four crowns for every quarter, which is a greater price than the jurats tax on all other rents.—Againſt the carriage of rent corn not uſual.—And that the governor refuſed to receive the ſums called rent fouage, or moneyage, which are paid every three years to the king, according to the preſent currency.

Such were the complaints now delivered againſt grievances expreſsly declared to have exiſted when De Carteret was three times impriſoned, as having violated the integrity and honour of ſir Amias and Anthony Pawlet, who are now confeſſed and accuſed of being the perpetrators of them.

The commiſſioners proceeded in a road directly oppoſite to that of Pyne and Napper; and the king and his council were as readily diſpoſed to relieve and aboliſh, as Elizabeth and her ſervile miniſtry, had been prompt to aggravate and fix their oppreſſions and enſlavement.

The two fiends who were moſt active, inſtrumental, and virulent in executing the arbitrary mandates of the governor, and tormenting the inhabitants, were the receiver of the king's rents, dues, ſervices, and other revenues and profits accruing to that commander in chief; and the procureur or attorney-general, who by converting actions indifferent into criminal offences, and proſecuting the people on every trifling occaſion, when the conſcience of the court was in the hands of the Pawlets, had them convicted and fined as they pleaſed, which ſums were the property of the governor.

The firſt of theſe officers was, by the conſtitutions of king John, to prevent the procureur from acts of extortion, committed to the election of the people; and this right was confirmed in the reign of Edward the ſecond. The latter was reſerved to the king, by the ordinances of Henry the ſeventh, that being independant of the governor, he might not be induced to harraſs the people with proſecutions vexatious, and on nugatory cauſes. But Elizabeth by her patents to the governors, had given them the right of nominating thoſe two officers, who by that criminal indulgence were obliged

liged to act in obedience to the avaricious and vindictive ſouls of thoſe who conſtituted them.

To the complaints the commiſſioners replied, that the alteration of the coin was reaſonable, and that the people ſhould pay, and the governor receive according to the preſent currency.

The ſtates were not to be convened without the governor's conſent, and actual ſummons; and that was not to be refuſed when applied for by the bailly or jurats. It does not appear that any alteration was then made reſpecting the approbation of the jurats by the governor, nor in the mode of electing conſtables.

The civil and eccleſiaſtical juriſdictions were ſeparated and aſcertained.

The price of proviſions was to be as fixed by two perſons, one of whom was to be appointed by the governor, the other to be the conſtable of that pariſh, by which they were to be delivered.

All the rent corn was to be paid and received at the houſes of thoſe from whom it was due, or to be demanded on the grounds chargeable therewith, except that which was called the king's proper, or by leaſe or grant otherwiſe ſtipulated. The rent corn, to the carriage of which the inhabitants were liable, was to be carried to the caſtle within three weeks before Chriſtmas, upon proclamation made in the open market, at leaſt three weeks before that time, with nomination of the time and days of delivering by each pariſh.

The fallacious manner of meaſuring was corrected.

When the rent corn of each pariſh was delivered, the receiver was to give a general acquittance of the payment to the conſtable of that

pariſh, or to each party, if he brought it ready written for ſigning.

This written diſcharge was enjoined with a view to obviate that infamous practice of the Pawlet's receivers, in demanding a ſecond time what had been paid without evidence, and to aſcertain the ſum received, ſhould any act of extortion be committed by the receiver.

If this proclamation was not complied with, the governor was to proceed by lawful means formerly uſed to oblige them, but not by ſales to be ſet thereupon by the bailly and jurats, as had been oppreſſively done. And if the receiver did not proceed according to that order, or pretended to refuſe the corn, becauſe it was not ſweet or merchantable, on any pretence whatſoever, on purpoſe to drive the owner for non-payment, that then the party aggrieved might complain to the bailly and jurats, who were to judge, order, and puniſh the ſame.

The taking tythes by the miniſters from novals and deſerts, was limitted to thoſe lands, which were formerly intended by thoſe appellations.

All debts contracted, and bargains made by the governor, were to be tried and determined by law before the jurats.

The governor was inhibited from granting licences to export Engliſh merchandiſe, to levy cuſtoms for his own advantage, and to licence taverns.—He was to receive his money in lieu of his wheat rents, as they were received by the inhabitants, to whom ſuch rents were due.—The paying of wages, for carriages and labour, the prices of fewel and timber, and cutting down trees, were regulated and prevented.—And the people were no longer to pay their dues to the receiver, below the currency of the iſland.—The

re-

receiver was prohibited from exacting money from the poor, for accepting them to pay their corn rents in money, when they had no wheat.—From obliging them to carry their rent corn to his grainge, to which they were not legally obliged.—He was not to meaſure for himſelf.—Nor to take the horſes of the inhabitants for his own ſervice.—No money was to be exacted for bringing victuals to priſoners.---The porter was not to take unlawful fees.---Nor to ſuffer the priſoners to take unlawful liberties.---Or licenſing them to depart to their own houſes.---The governor was to pay the debts of thoſe who eſcaped from the caſtle.---And the porter to be bound, with two good ſecurities, in a hundred marks, to diſcharge his duty with fidelity.

The attorney-general, and other officers, prompted and ſupported by the Pawlets, had treated the jurats with that inſolence, to which ſuch proſtituted magiſtrates are always expoſed. He was now no longer openly in court, to ſpeak irreverently of the bailly and jurats, but by the authority of the ſaid court was to be put to amende, and fined after ſuch manner, and to ſuch value, as the quality of his offence ſhall well deſerve, according to ancient laws and cuſtoms. To thoſe penalties he was ſubjected, provided he move or proſecute any frivolous ſuit. But they were to give him no cauſe to appeal, eſpecially concerning his majeſty.

Such were the orders which were righteouſly formed by Gardiner and Huſſey, and beneficently ratified by James the firſt. But the moſt important object of the whole commiſſion was left untouched. This deficiency was that of not reconciling the inconſiſtencies and contradictions of the laws and cuſtoms; the abrogating ſuch as

were ſlaviſh and intollerable, and the inſtituting others which might improve the legiſlature to a degree of competibility with the rights, liberties, and privileges of human nature; or at leaſt to a more comfortable analogy with the laws of England.

The cauſe of this flagrant omiſſion is to be aſcribed to the vicious luſt of power, which ſtill prevailed in the lieutenant-bailly and the jurats. Herault was ambitious and magiſterial. He had his patent of reverſion in his hands. He had no inclination to prefer the welfare of the people to the continuance of exceſſive power.

The magiſtrates were convinced, that whilſt the laws remained in their preſent heterogeneous ſtate, that it was impracticable for the governor to be acquainted with what they really were, and the extent of his authority. They knew alſo, that theſe contradictions and inconſiſtencies, however repugnant to all legiſlative inſtitutes, would afford them pretexts of criminal indulgence, both to ſave their friends and condemn their enemies, according to which of the contradictory acts they ſhould ſelect as precedents in their determinations. And thus, by means of this double power of deciding different ways, keep even the governor in ſome awe, and the people abſolutely ſubſervient, through the terror of being diſtreſſed or ruined by thoſe judgments, which might be given to the ſuits which were brought before them. On this culpable account it was, that a few days before the departure of the commiſſioners, the bench of juſtice excuſed themſelves from their non-compliance with his majeſty's orders, becauſe they had not found time to bring the laws together and collate them. For this reaſon, on a future application to the throne, in the ſubſequent year, they were

were reminded of this neglect, and a mode, and perſons nominated, by which the laws were to be collected under ſeveral heads, and tranſmitted to the commiſſioners in England; and an expreſs declaration that no anſwer could be juſtly given, till this order was executed. The bailly and jurats ſtill evaded that order, ſo that with an inexpreſſible multiplication of the like pernicious acts, the laws and cuſtoms of the iſland exiſt at this day, not as the preſervatives of a people from injury and injuſtice, but as the inſtruments of avarice, revenge, and deſpotiſm. Of which truth I ſhall exhibit incontrovertible evidence, from the horrible exactions, and oppreſſive acts which have been perpetrated within a very few years by thoſe magiſtrates, who now preſide on the ſeat of judgment.

George Pawlet, the bailly, was now grown old in iniquities, and nothing remained of all that he had acquired by his oppreſſions, but the execration of the iſlanders. During the government of his father, brother, and nephew, he had at all times been lieutenant-governor in their abſence, and by that meaſure actually united in the ſame perſon thoſe powers, which had been ſo long ſeparated by the laws of the iſland, and exerciſed them imperiouſly.

Peyton deemed a man, ſuperannuated by the incumbrance of eighty years, improper for that duty, and removed him from the charge. Pawlet was ſenſible of his impotence, not only to ſupply that office, but the other of bailly alſo. He therefore petitioned the king, and complained of Peyton's diſmiſſing him from the lieutenancy, and deſired that he might be permitted to ſurrender his place of bailly to John Herault, who had been his deputy, and to whom his majeſty had granted letters

letters patent of that office, on ſurvivorſhip of the ſaid Pawlet. And laſtly, that Herault might be obliged to allow him thirty pounds a year, having no other means of livelihood but the place of bailly.

Sir John Peyton oppoſed this meaſure as an infringement of that right which had been imparted in his patent of governor: and certain it is, that in imitation of thoſe letters which had been granted by Elizabeth, the power of appointing that magiſtrate, and all other judicial officers, was given to him. Herault conteſted the validity of that grant, and ſupported himſelf on the ordinances of Henry the ſeventh. This was a foundation of great ſupport to his cauſe, and without that additional enforcement, his claim being grounded on a patent, like that of Peyton's, his right was not only not inferior, but more than equal to that of the governor.

This important conteſt was carried before the king and council, where after a long application it was at length determined that Peyton ſhould pay George Pawlet twenty pounds a year, during his life, and that John Herault ſhould be put in the preſent and peaceable poſſeſſion of bailly, without any diſturbance or hindrance to be by the ſaid John Peyton. And we do command and order, that henceforth no bailly, dean, viſcount, procureur, and advocate to us, ſhall be made and appointed, but immediately by letters patent under our great ſeal, in the name and authority of us, &c.

And it was determined alſo, that Herault had not been guilty of thoſe accuſations, with which he was charged by the governor, of uſurping on his office, and of undutifulneſs to the king, or injuſtice

injuſtice in the civil government. But he was ſharply reprehended for his words to the governor.

He was to be allowed ſixty pounds for his expences, and ſome other ſmall ſums, to be paid by Peyton.

The charge of the military forces was to be wholly in the governor: the care of juſtice, and of civil affairs in the bailly.

This reſtoration of the ordinances of Henry the ſeventh, was of ſignal advantage to the people. The chief magiſtrate was no longer under the influence of the governor, and induced to obey his ſiniſter inclinations, through the miſtaken obligations of gratitude. Nor the attorney-general to augment the profits of that commander, by criminal proſecutions for inoffenſive, or at moſt for perſonal actions, through fear of being diſmiſſed, or of incurring his diſpleaſure. To theſe improvements was added alſo, the regal appointment of the ſollicitor-general. This poſt, which although it was not at that time created, was evidently exalted into an importance which it hitherto had not enjoyed. And it hath proved to be of the moſt ſalutary and indiſpenſible ſervice to the welfare and ſecurity of theſe inſular ſubjects. The reaſons on which this opinion is grounded, ſhall be ſhewn in the chapter concerning the royal court of Jerſey.

The attention of James the firſt to promote the happineſs of the people, and to ſecure them from the invaſions of the French was conſpicuous. In the year 1617, ſir Edward Cornway, and William Bird, doctor of laws, were ſent commiſſioners to the iſland, to enquire how long ſir John Peyton had, at any time, been abſent from his duty. For in thoſe days the office of governor was not a *ſinecure*, as at preſent. Nor could he leave the iſland

iſland without ſpecial licence. They were to enquire into the caſe of Philip Marret, who complained that he had been diſmiſſed from the place of attorney-general, without legal trial. And to examine in what ſtate of defence the iſland then ſtood, reſpecting the caſtles, ſoldiery, ammunition, and other military requiſites, which commiſſion they diſcharged with fidelity.

In the year 1618, various ordinances were tranſmitted from the council.

1. That the bailly ſhould take precedence in the court and ſtates, and the governor in all other aſſemblies.

This was certainly an order, by no means compatible with the charge and dignity of the governor, who repreſents his majeſty in his legiſlative and military powers. For although the bailly, as chief magiſtrate, ſhould undoubtedly preſide in the court on the adminiſtration of juſtice, and the execution of the laws, yet it is equally right that the governor ſhould take place in the conventions of the ſtates, becauſe by him the laws and ordinances which are intended to be enacted, are to receive their ratification or denial; and the legiſlative power is conſtantly and juſtly decreed to be ſuperior to that of the judicial. And for this additional reaſon alſo, becauſe in the ſtates the bailly is no other than the ſpeaker of that aſſembly, which is in fact, to be the ſervant of that corporate body.

2. That ſir John Peyton, and all others ſucceeding him, be entitled governor. That no aſſembly be convened without his conſent. That he have a negative voice in the aſſembly. That no ordinances be made prejudicial to his majeſty's ſervice, and the public good.

In

In the year following theſe particulars were further explained and ſettled, "that if the bailly or jurats ſhall require an aſſembly of the ſtates, the governor ſhall not defer it above fifteen days, except he have ſuch cauſe to the contrary, either in reſpect to the ſafety of the iſland, or our ſpecial ſervice otherwiſe, as he will anſwer to us, or to the lords of the council; whereof he ſhall give as preſent advice, as poſſibly wind and weather may ſerve. And concerning the governor's negative voice to the making of ordinances, it is now alſo ordered, that he ſhall not uſe his negative voice, but in ſuch points as ſhall concern our ſpecial intereſt; the rather in regard that ſuch acts as are made in their aſſembly, are but proviſional ordinances, and have no power of law until they be confirmed by us."

3. That all diſagreements between the governor and bailly, be decided by king and council, as in the time of Henry the ſeventh.

7. That the charges of Philip Marret, attorney-general, againſt the bailly, being found on oath to be ſlanderous and falſe, the ſaid Marret is ordered to return to the iſle, and make ſatisfaction and ſubmiſſion to the jurats.

In conſequence of petitions in the name of the three eſtates, for ſuch was the title which the body corporate of Jerſey aſſumed, it was ordained that a *ſous tournois* ſhould be laid on every pot of wine ſold by retail, to be applied to purchaſe ammunition and arms for thoſe, who were not of ſufficient ſubſtance in themſelves.---That a ſmall cuſtom be laid on all commodities imported, to build a port.---That liberty be given to export certain commodities, which either grow, or are made in the iſland, to England, to be dreſſed and re-imported, duty free.---That places be granted in colleges

colleges for the educating of ſcholars, who are recommended by the ſtates, and to receive like benefits with the ſubjects of England.

In the year 1635, petitions were again preferred by the three eſtates, to the commiſſioners Conway and Bird. In conſequence of which it was granted, that gentlemen who were poſſeſſed of fiefs, honours, courts, and ſervices, with little or no demeſne lands, yet ſuch as were partable among coheirs, ſhould have all the right of entailing on their eldeſt ſons; on the beſt of ſuch fiefs a hundred quarters of annual wheat rent; on theſe of leſs value fifty, and to remain impartable. That the roturiers, or plebeians might entail on their eldeſt ſons, not more than fifty, nor leſs than five quarters of rent corn. And the bailly, jurats, and king's attorney were empowered to grant patents under the inſular ſeal, to all ſuch who choſe to entail either lands or corn rents on their eldeſt ſon.

Every Jerſey tenement, except thoſe in the town of St. Helier, and of St. Aubin, were to have four acres of land annexed to it, and occupied therewith.---Care was taken of orphans, by obliging their guardians to deliver inventories to the court, within forty days after their accepting their charge, and before they entered on the tranſaction of any buſineſs.---No appeals were now allowed for leſs than the value of twenty pounds; and all ſuch applications were to be preſented to the council between the beginning of Eaſter, and the expiration of Midſummer terms, and not otherwiſe.---A committee was appointed for hearing all ſuch appeals, and if the party did not proſecute his appeal within the time above limitted, the defendant was diſmiſſed, with good damages,

and

and ſuch further penalty as their lordſhips ſhould think fit.

All laws and orders formerly made, and not repealed, were to be duly executed, and the governor, or his lieutenant, to have due care thereof, and from time to time to require a due execution of the ſaid orders.

The governor, or his lieutenant was to be preſent at all ſentences, in any matter which concerns the king's intereſt or prerogative. And the king's miniſters might appeal wherever his majeſty was concerned.

No man was to purchaſe, or contract for any debt, or other thing, whilſt it was in litigation.—The viſcount and other officers were duly to levy the crown revenues upon the bodies, lands, or goods of the parties, by diſtreſs, extent, or otherwiſe, at the appointment of the governor or receiver, as well out of term as in, and the ſame yearly and duly to anſwer.

During the commiſſion of Gardiner and Huſſey it was ordered, that all evidences and public records concerning the public ſtate of the iſle, ſhall be brought in, and delivered to the bailly and jurats, to be kept in a common cheſt or treaſury.

That it ſhall not be lawful for the bailly, or any of the jurats, or other perſons to take any of theſe evidences into his own cuſtody, without the conſent of the bailly, and ſeven of the jurats, at leaſt; and that only to ſhew for ſome public good, or neceſſary uſe, concerning the ſtate, or the poor inhabitants of the iſland.

If any man, for his private uſe, or ſatisfaction, ſhall deſire to ſee the ſaid evidences, he ſhall do it in the preſence of the key-keepers, or their deputies, or elſe a true copy thereof, by their appointment, or by order of the court, ſhall be tranſcribed by

by the greffier, with a true teſte, ſignifying that it was agreeable with the original: the party paying the greffier, as it ſhall be appointed by the bailly and jurats.

Before the enacting of this ordinance, no man whom the bailly or jurats diſliked, could avail himſelf of ſuch authentic evidence, as theſe public records contained; in conſequence of which, their friends were aſſiſted with ſuch teſtimonies, as might moſt indiſputably prove the facts which were advantageous to their cauſes; and thoſe whom they diſliked, were denied that right and evidence, which might elucidate and ſtrengthen their claims. As the reſult of that power, in all ſuch caſes, deciſion was not in the laws, but in the will of the court, and in which it ſtill remains, notwithſtanding this ſalutary ordinance.

During the time in which the preceding tranſactions were negociating, a contention aroſe between Philip De Carteret of Vinchley, and Philip Lempriere of Dillament, concerning the place of precedency in the jurats. Lempriere pretended that Dillament was held in franktenancy, and therefore ſuperior to that of Vinchley. On the contrary, De Carteret aſſerted that Vinchley was held in capite from the king, and therefore of ſuperior rank in tenure, which was undoubtedly true. And on examination it was found that Dillament was not held in franktenancy, but of the fief of Roſelle; and that the ſaid Lempriere's grandfather, when attorney-general to Elizabeth, and the pernicious agent of the Pawlets, had fraudulently inſerted the fee of Dillament in the book which contained the liſt of franktenants, and to which title it had no right. The cauſe was decided in favour of De Carteret, and the precedence of the jurats ſettled in this manner,

ner, that the four fiefs hautbert, St. Ouen, Roſelle, Saumarez, and Trinity, ſhall continue their ranks and places as formerly; and that the cadets of theſe houſes, and all gentlemen who ſhall hereafter be choſen jurats, take their places as they are elected. And Lempriere was ordered to pay De Carteret the coſts, charges, and for the troubles, to which he had been put by the obſtinate and refractory carriage of the ſaid Lempriere.

That this ſpirit of uſurping precedency has not deſerted the race of that name, will be ſhewn when we come to delineate the proceedings of Charles Lempriere, the preſent lieutenant-bailly. Since that time the order of precedency hath been altered, with ſtill more favourable diſtinctions to the family of De Carteret.

The reign of James the firſt proved to be the moſt propitious that had ever happened to theſe iſlanders; and it had been completely filled with acts of beneficence, had not the prepenſe intention of precluding all means of forming a new code of laws, and of reſtoring the ancient conſtitution been ſedulouſly carried into execution by the bailly and jurats. But through that ſiniſter conduct, the changes which were made by the moſt arbitrary and oppreſſive of the orders of Elizabeth, were ſuffered to remain, and they have ſince that time, and even in the preſent, afforded too favorable pretexts to their magiſtrates for treating the unhappy iſlanders with ſuch tyranny as is incredible, conſidering they are fellow-ſubjects with theſe of this realm, and equally deſerving to enjoy the protection of their ſovereign, and the liberties of Britons.

The reign of Charles the firſt was paſt by the iſlanders in harraſſing the ſhips of the parliamentarians, and preparing to defend the iſle from thoſe rebels, who had taken up arms, with malice pre-

meditated, to deſtroy their country. Their behaviour on that occaſion hath been already deſcribed. During the aſcendency of Cromwell and his regicides, the iſlanders were governed by three colonels, Haines, Gibbons, and Macon, and the bailly of Jerſey was Michael Lempriere, progenitor of the preſent lieutenant in that poſt. Even after the reduction of the iſland, ſo ſtedfaſt was the allegiance of the inhabitants to their exiled king, that not a gentleman among the inſular nobleſſe, could be prevailed on to accept that office, the preceding Michael excepted.

The nation being tired with the monſtrous transformations which it had gone thro' ſince the parliamentary rebels had prevailed in battle, and the king was murdered, longed for the reſtoration of their ancient conſtitution. Even the Preſbyterians, diſappointed in their expectations of being the rulers of the land, deteſted that offspring, which they had ſpawned, and from the ſole motive of ſuperior averſion from them than from the king, were not unwilling that he ſhould return to empire, in order to diſappoint the ambition of thoſe, who had diſappointed them.

The propitious return of that prince being accompliſhed, the loyalty of the men of Jerſey was the frequent topic of applauſe. The revolt of Guernſey was that of condemnation. It was in a converſation on that ſubject, that Charles the ſecond declared he muſt do juſtice to both the iſlands. I have found, ſays he, one traitor in Jerſey, and one honeſt man in Guernſey. The former was this Michael Lempriere, the latter Mr. Andreu. This ſeems to be a ſingular phænomenon in moral nature, that iſlands ſo near, whoſe natives are ſprung from the ſame origin, ſubject to the ſame ſovereign, poſſeſſed of the ſame conſtitution, and governed by like laws,

ſhould

ſhould be productive of inhabitants ſo diametrically oppoſite in their political principles. Nor is it eaſy to decide whether it be more marvellous, that the virtue and reſolution of Andreu, ſhould ſuſtain him in allegiance and loyalty, againſt that tempeſt of rebellion, amidſt a people ſo totally revolted and diſloyal; or that the audaciouſneſs of Lempriere, who renounced his fealty and obedience amidſt a people uncontaminated but by that ſingle degeneracy could bear the reproaches of an act ſo ignominious, and perſevere in his treaſon. As a magiſtrate he lived deſpiſed and hated. At the reſtoration he was expelled with infamy from his office; and hanged in effigy, as a rebel, on that gallows, which the Cromwelians had erected for the execution of thoſe loyal ſubjects, whom he as a traiterous magiſtrate was appointed to condemn: and tradition has delivered him down with abhorrence to the ſucceeding generations. Since that auſpicious hour, no Lempriere hath ever been entruſted with the magiſtracy of bailly, or his lieutenant, untill the preſent Charles, who by his conduct hath inconteſtably demonſtrated, that the ſpirit of oppoſing kings, and of uſurping their regal rights, hath not yet deſerted the boſoms of that family.

The conſtitution of Jerſey had now received that form, in which it ſubſiſts at preſent. I ſhall therefore proceed to give an account of it, and inſert ſuch orders of the king and council, as are of moment, with references to the times in which they were introduced.

CHAP. IX.

Of the ſtates of Jerſey, as they now exiſt.

IT has been already ſhewn in what manner this aſſembly was originally formed and convened, and that it conſiſts of the governor of the iſle, the bailly, twelve jurats, the twelve parochial prieſts, and twelve conſtables. The governor and bailly are appointed by the king; the former by commiſſion, the latter by patent; but as neither of theſe for a conſiderable time hath reſided in the iſland; their poſts are become *ſinecures*, and their duties are diſcharged by lieutenants. Neither the governor nor his lieutenant can enter on the diſcharge of his office, before he has delivered his commiſſion to the court, and has taken the oaths.

* The jurats are no longer choſen by the ſtates, nor approved of by the governor. They are elected by thoſe who are maſters of families, and who contribute to the inſular taxes and expences. The election is made in the ſubſequent manner: notice being previouſly given in the court, the day is fixed, which is always on a Sunday. At that time the votes are taken, as the inhabitants paſs out

* Orders of council, 1677.

out of church in every pariſh. The different numbers for each party, if there has been a conteſt, are brought together from all the pariſhes, and whoever has the majority of the whole, is duly elected.

Every jurat muſt be a native of the iſle, and a Proteſtant of the church of England; and they are choſen for life, unleſs they forfeit that right by an improper behaviour in their office. No perſons are rendered incapable of that magiſtracy, but ſuch as are bakers, brewers, or vintners; and before he enters on his office, he muſt be ſworn on the evangeliſts.

*The conſtables are no longer choſen by men, qualified to vote by the annual income of three quarters of wheat rent, but in the ſame manner, and by the ſame perſons who chuſe the jurats. Every pariſh ſends one of theſe officers to the inſular aſſembly, as their repreſentative, with this difference in their elections from thoſe of the jurats, that the majority of each reſpective pariſh determines the right of ſerving in that poſt. And the former method of returning three by election, for the jurats to receive one of them whom they pleaſe, is aboliſhed. Neither the governor, bailly, jurat, nor other officer, is to interfere in any manner in their election, and they are all ſworn on their admiſſion among the ſtates. No laws, nor ordinances, relative to the iſland, which come within the limits of their legiſlative power, can be legally enacted but in theſe ſtates. The conſtables who were originally diſmiſſed, or expelled at the will of the governor and court, or retained as long as they pleaſed, are now choſen for three

 years.

* Orders of council, 1671.

years. But ſince the power of the governors hath paſſed, by means which will be ſeen hereafter, from them to the bailly, or his lieutenant, they have been held in place as long as they were agreeable to thoſe magiſtrates. And the triennial election is diſregarded.

The governor, or his lieutenant, repreſents the king in his legiſlative capacity, and as commander of his forces. No aſſembly of the ſtates can be convened without his order. No act receive authority without his conſent; and his negative renders all they may reſolve of no ſignificancy. The bailly is prolocutor, or ſpeaker of the aſſembly. *The ſtates have a right of naturaliſing foreigners, of fixing the prices of proviſions, labour, carriages, and ſuch things, and to fix the value of the French coin, which is the currency of that iſland. They can inſtitute occaſional ordinances, and temporary acts, for the raiſing of ſmall ſums of money on the iſlanders, for their common utility, and they may enact orders for the ſuppreſſion of immorality and irreligion, for the prohibiting whatever may prove injurious to the commonwealth, in matters of inferior moment; for the ſupport of the poor; the preſervation and repair of the high roads, and other inſular concerns, of a ſimilar kind. But they are not authoriſed to the enacting of ordinances, which may touch the king's prerogative; nor the rights, privileges, and properties of their fellow-ſubjects; or ſuch as derogate or deviate from the Norman laws, as they are delivered and explained by Rouillé and Terriên; nor from the orders of the king and council of England, tranſmitted to that iſle. Every act

* Orders of Henry the ſeventh and Elizabeth.

act therefore which is repugnant to any thing, either in thoſe juriſprudential writers; to the orders of council; or to their ancient cuſtoms, unleſs it be confirmed by the authority of his majeſty, is ſtill-born; and though it bear the form of a legiſlative inſtitute, is void of animation and activity. For this reaſon, ſhould the bailly and jurats preſume to determine a cauſe, on ſuch a law, and an appeal be brought before his majeſty in council, the previous enquiry ought to be, not whether the cauſe hath been determined conformable to that act, but whether the act itſelf be reconcilable with the ancient laws and cuſtoms of the iſle, and the orders and ordinances of preceding ſovereigns. Had this conduct been obſerved, there could not have exiſted ſuch inſtances of enormous deciſions, as have of late been made. But the lieutenant-bailly and jurats, inſtead of being nurtured in ſuch inſolence and uſurpation, would have received that chaſtiſement, which is condignly due to thoſe, who as legiſlators in making acts, and as judges in executing of them, have ſubverted the rights, and ſacrificed the properties of the people. Had that conduct been adopted, the inhabitants had been leſs oppreſſed, and the council untormented with the numerous appeals which have employed their hours, and created a diſpleaſure againſt theſe iſlanders; whereas in ſuch applications they ſought for nothing but that juſtice which was denied them in their own country. In theſe they have too often failed before the council, through an inadequate knowledge of the nature of thoſe laws, on which theſe cauſes had been previouſly determined, and through a too implicit confidence in the integrity and truth of the royal court of Jerſey.

When the governor was inveſted with full power to convene the ſtates, among the ordinances of Elizabeth, there was no authority which could oblige him but as he pleaſed; and conſequently, when the ſtates might intend to enact an ordinance of public utility, which was diſpleaſing to the governor, he refuſed their aſſembling. In 1619, by the orders of James the firſt, the governor is obliged to ſummons their meeting within fifteen days, if the bailly or jurats ſhall require it. This alteration was probably the moſt productive of beneficial effects that hath in any reign been inſtituted; and yet it was left to the governor to refuſe his compliance with that requeſt, on occaſions adequate to ſuch denial.

The king was convinced alſo, that this obligation to convene the ſtates on ſuch notice, would prove inadequate to the intent, unleſs the governor was enjoined to give his conſent to the acts which they made, excepting thoſe wherein the intereſt of his majeſty might be concerned. But in what act can the intereſt of the ſovereign be not concerned, in which his ſubjects may be either aſſiſted or aggrieved? The governor, therefore, has a right to ſuſpend his conſent on all occaſions, in which he has reaſon to be diffident of the utility of any act. And this is more particularly enjoined by the ſubſequent part of that order, that ſuch are but proviſional ordinances, and have no power or property of law, untill they be confirmed by the king.

It is undoubtedly a beneficial law, that the governor can neither delay the convening of the ſtates, nor pronounce his negative, but on the conditions abovementioned. And it was not leſs advantageous to the people, that the ſtates could not

avail

avail themſelves of the power which they then acquired, and prejudice the rights, liberties, privileges, and properties of their fellow-ſubjects, by inſtituting ordinances which are favourable to themſelves, and oppreſſive of the others, without the preſence and conſent of the governor or his lieutenant; nor proceed on them as laws, without the royal aſſent.

Whatever deciſions may have been made, or other judicial proceedings carried on, in conſequence of ſuch ordinances, unconfirmed by the king and council, they are unwarrantable, illegal, and invalid; except on ſuch as are occaſionally formed, which are relative to the general concern of the iſland, in thoſe immaterial circumſtances already related; and which by ancient cuſtom are not entitled to more than the duration of a year. In all others, by the preceding order, their operation is poſitively ſuſpended, till they have received the royal aſſent.

Of how little influence this moſt ſalutary inhibition of the legality of the ſtate ordinances has proved to the community of Jerſey, will be ſhewn in the ſubſequent ſheets, when I ſhall treat of the royal court of that iſland.

It is not to be inferred from the preceding paſſage that this aſſembly of Jerſey, although they have aſſumed the appellation of the three eſtates, can bear a parliamentary reſemblance or authority, like the two houſes in England; or that ſuch a triplicity of eſtates hath any real exiſtence. The lay-members are all alike elected by the people, and the office of jurat is not confined to the nobleſſe of the country, ſince every mechanic has a right to be elected, and none of the inhabitants are legally diſqualified but brewers, bakers, and vintners, which inhibition ariſes from

the

the nature of their occupations, and not from that of their quality.

The commiſſioners Pyne and Napper do indeed denominate them a parliament, but they poſſeſs not the right of the provincial aſſemblies in America. For it is by no means neceſſary that every law by which the iſlanders are governed, muſt paſs through that aſſembly to be ratified by the king. For, of the innumerable acts which they have made, contradictory, abſurd, and ſubverſive of all juriſdictive rectitude, and on which they proceed as regularly, and with as much confidence, as if they had received the royal aſſent; not a ſingle ordinance hath ever been tranſmitted to the king and council. And what may ſeem more amazingly paradoxical, but few of them have been voted in the ſtates, nor aſſented to by the governor; but abſolutely erected by the lieutenant-bailly and the jurats. Thus the legiſlative right hath been uſurped not only from the king and his repreſentative, the governor, but from the ſtates themſelves.

The ſole power which is truly legiſlative, reſides as it always hath done, in the king and council. Whatever ordinances they make are valid, and what they abrogate are no longer the law of Jerſey, without the leaſt conſultation, advice, concurrence, or aſſembling of the ſtates. And whenever, on the miſſion of commiſſioners to the iſle, they have been admitted to conſultation, it was an act of royal indulgence, and not conſecutive of right in that aſſembly. The legiſlative power of the ſtates does not even extend to that of corporations in England, though they be analogous in one reſpect. They can both indeed make by-laws, but the Jerſey common-council are not in truth coercive beyond a year; whereas thoſe of bodies cor-

corporate in this kingdom, are eternal, provided they are ſuch as are coincident and co-operative with the laws of the realm; and they are invalid and effectual, only when they contradict the ſtatute and common law. Such alſo is the condition of all acts which are made in Jerſey. If they correſpond not with the ancient laws, cuſtoms, and uſages of the iſle, they are void the inſtant they are made. And yet there are thouſands now ſubſiſting of that kind, by which the bailly and jurats carry the moſt palpable contradictions into the execution of juſtice, and indulge their malignancy or friendſhip, as they are inclined to puniſh, or to favour.

In this aſſembly of the ſtates, every member is of equal import, and poſſeſſes a like right of delivering his ſentiments with freedom. The vote of a pariſh prieſt, or conſtable, is equal to that of a jurat; and a majority of the whole number, determines the fate of whatever is propounded in their ſeſſion. In conſequence of this eſtabliſhment by regal authority in the year 1591, all the legiſlative power of the iſland, and as it appears to me the juriſdictive, in all inſtances of great concern was imparted to that corporate body, or common-council by Elizabeth, and from that time it could not legally reſide in any other part or diviſion of thoſe ſtates; nor can ſuch part poſſeſs an authority to exerciſe the right of enacting occaſional ordinances. For is it not an abſurdity beyond compariſon, that a third part of a conſtitutional eſtabliſhment, or any thing leſs than the whole, ſhould have a right to exerciſe that authority, which is imparted to none but the whole incorporation; and that the eccleſiaſtics and conſtables, who were inſtituted to ſuperintend their own rights, and thoſe of the people; and by their votes

votes to controul any attempts for the erecting of arbitrary powers by the bailly and jurats, ſhould be excluded by theſe jurats from their privilege of repreſentation in the aſſembly, which is equal with that of the bailly and jurats themſelves. Are they not alike the creatures of royal grants, and ordinances of the king and council? Yet ſuch is the event, that this ordinance which gave being to the ſtates, and ſettled the conſtitution of the iſle, is ſcarce regarded by the preſent bailly and jurats, who ſeem to have formed one general rule of conduct, to pay no obedience to the orders of their ſovereigns, when they are reſtrictive of their domineering ſpirit.

The moſt authentic evidence, and moſt coercive obligation, either on officers or magiſtrates, are the duties and the acts which they are obligated to obſerve and perform by their oaths of office. As the governor is not a juriſdictive officer, I ſhall inſert his oath in this place, and omit thoſe of the bailly and jurats, till I ſpeak of the court; as the contents of their depoſitions are more relative to the judicial, than to the legiſlative power.

The governor renounces all allegiance to every power but to that of the king. He ſwears to guard the royal rights, to aſſiſt and defend the juriſdictions, privileges, pre-eminence, and authority belonging to his majeſty, and with all his care to preſerve, and cauſe to be preſerved the iſland againſt all its enemies, as well as all the liberties, rights, privileges, dignities, laws, and cuſtoms of the ſaid iſle, together with the common good and the advancement of it. He is to ſupport the juſtice of his majeſty, ſo that it be revered and obeyed, and the ſentences and ordinances thereof be duly executed. And this he is to perform according to his conſcience.

From

From this oath it is evident, that the officer who is to have both the care of his majeſty's rights and dignities, and the privileges and liberties of the people muſt have a ſeat in the judicial, as well as in the legiſlative aſſembly. For, without his attendance on ſuch occaſions, by what means ſhall he be informed whether the ſubjects whom he is ſworn to ſuperintend be equitably governed? And to this right he is entitled by the ordinances of James the firſt, which were made poſterior to the abſolute ſeparation of the governor from intermeddling in the juriſdictive authority. Theſe declare, "that the governor, or his deputy, ſhall be preſent at all ſentences in any matter which concerns the king's majeſty's intereſts or prerogatives, and that the king's miniſters may appeal wherein the king is concerned. And they are to have a care that all laws and orders formerly made, and not repealed, ſhall be duly executed, and to require the due execution from time to time of the ſaid orders.

It is therefore the indiſpenſible duty of the governor, or his lieutenant, in obedience to his oath, and to the laws, to be vigilant that no particular part of the conſtitution uſurp the province of the other. And that the court preſume not to make ordinances, to the formation of which the ſtates alone are authoriſed; and thus preclude both him and the others, from the exerciſe of thoſe powers, to which he is delegated by the king, and they by the people. To him it belongs to provide that no occaſional ordinances made by the ſtates, reſpecting things of private right and perſonal liberty, be carried into execution before they have received the royal aſſent. That the records of all cauſes be duly entered; that

that copies be given to thoſe who require them, in order to appeal to the king and council: and to act with energy againſt all methods which may encroach on the rights of his ſovereign and his ſubjects. In the exerciſe of this duty he is not interdicted either by the ordinances of Henry the ſeventh, or of James the firſt; for ſuch intervention is not a juriſdictive act, but an official, inſeparable from the obligation of his oath, and the duty of a governor. He is indeed forbidden from interfering in the judicial adminiſtration, either by ſpeech, or other influence on the trials of private cauſes. But he is nevertheleſs commanded to be preſent at all law proceedings, for without that preſence, by what means can he judge whether the rights of the king and his ſubjects be preſerved in the determinations of the court of Jerſey.

That he is to attend in things which concern the king is certain; on what plea then can he be abſent from court, unleſs he imagines that it is not the concern of a ſovereign, that his ſubjects ſhall be governed by juſt laws, and a righteous adminiſtration of them.

Beſides the preceding duties, the governor is inveſted with the right of adminiſtering an oath, whenever it is refuſed by the bailly and jurats.

Such being the duties of the commander in chief in the iſland of Jerſey, it would be aſtoniſhing in any other country, that the chief magiſtrate and the judges ſhould deliver to every new governor, or his lieuteuant, a paper replete with ſo many falſhoods as that which contains an abſtract of the privileges of the iſland.

At the concluſion of the third article, after enumerating the judicial rights of the court, it is ſaid, "the benefit of appeals and doleances always to be reſerved and when to be admitted." This is a direct con-

contradiction to almoſt the only commendable order reſpecting the rights of the people which Elizabeth granted, and which is inſerted in the preceding pages. That atom, however, is too much to be allowed the ill-fated iſlanders, according to the unmerciful ſpirit of that court. And with a view to preclude the intervention of the governors in ſuch refuſals, theſe miniſters of legal truth have delivered a moſt egregious falſhood.

In the fourth article they declare the jurats are choſen for life, and relate not a ſyllable of the legality of their being diſmiſſed, on miſdemeanours in their office, as infamous and perjured. If half the truth be a whole lye, what veracity is to be aſcribed to ſuch men?

In recounting the rights and limitations of the governor in convening the aſſembly, and giving his negative, they omit, "that ſuch acts as are made in their aſſembly are but proviſional ordinances, and have no power or property of laws, until they be confirmed by the king." This concealment was manifeſtly intended to preclude the knowledge of the invalidity of their ordinances, unratified by the royal aſſent; to delude the governor with their poſſeſſing a power which they have not, and to form without controul ſuch laws, as may moſt readily carry their arbitrary intentions into execution.

The miſrepreſentation and concealment of theſe circumſtances are evictive of ſuch characteriſtics, as are flagitious in the conduct of civil magiſtrates. They manifeſtly intend to aſſume more power, than the conſtitution and the laws will afford them, and to ſecrete and deny a ſuperior officer that knowledge and thoſe rights, of which he ought to be informed; and to exert for the public welfare of the iſle. And in both theſe inſtances they

they violate the oaths which they voluntarily take on their admiſſion into office.

It is too true alſo, that ſince the place of governor has been converted to a *ſinecure*, the lieutenants who have been commiſſioned to that charge, have been for the moſt part men advanced in years, unknowing in the language and the laws of the country; credulous and eaſy, or diſdaining the inſults of the bailly and his jurats, deſiring to be recalled from ſo humiliating a ſervice. Of theſe colonel John Campbel, commander in chief in the late war, is deſervedly to be excepted, of whoſe conduct I ſhall ſpeak in a ſubſequent part of this narrative.

CHAP.

CHAP. X.

Of the royal court of Jerſey.

THIS court was inſtituted, as it hath been already obſerved by king John, in conſequence of a charter granted to the iſlanders of Jerſey, and antecedent to the exiſtence of Magna Charta.

It conſiſts of a bailly, or his lieutenant, and of twelve jurats. To them the province of juriſdiction is aſſigned: and all ſuits between the inhabitants muſt be heard and decided by that tribunal, before an appeal can be made to the king and council. On their admiſſion into office, the jurats are all ſworn to the following effect. That they recogniſe his majeſty as ſupreme governor, and renounce all foreign ſuperiorities.---That they will faithfully diſcharge the duties of their office.---Maintain the rights of the king, and of his ſubjects.---Suſtain the honour and glory of God, and of his pure and ſacred word.---Adminiſter good and ſpeedy juſtice, equally to the rich and poor, without exception of perſons, according to the laws, cuſtoms, and uſages of Jerſey, as they are confirmed in their privileges, granted from the king.---That they will ſupport their liberties and franchiſes, and oppoſe whoever may attempt to invade them.---That they will

conſtantly aſſiſt at the courts when they are required, and they have no lawful cauſe of excuſe; and in that caſe will delegate other jurats in their places, to give advice, opinion, and counſel, according to the purity of the conſciences (of thoſe who depute them.)---That they will honour the court, and make it to be reſpected.---Guard and preſerve the rights of widows, orphans, ſtrangers, and all others who are incapable of defending themſelves, and diſpoſe and conform themſelves to the better and more wholſome advice of the bailly and the jurats. And all this they promiſe on their conſciences.

The oath of the bailly and of his lieutenant, are too ſimilar to the proceeding, to require a diſtinct regard, *except that he depoſes he will be faithful or loyal to the governor, or his lieutenant, as well as to his ſovereign; and that in all contentions he will be determined by the moſt ſound opinion of the jurats, according as the cauſe requires.

In order to ſhew the abſurdity and contradictions contained in theſe oaths, it is neceſſary to explain the diſtinct duties of the bailly and the jurats. Without the bailly, or his lieutenant, there can be no court. He is the preſident, but not a judge, except it be in caſes where the jurats are equally divided in opinion, and then his voice determines the ſuit.

When

* This abſtract of the bailly's oath is taken from that which was made by John Dumareſque, when he was appointed bailly, by letter from ſir Hugh Pawlet to the jurats, and to George his ſon, then lieutenant-governor, in the year 1566. As I have ſeen no other, I know not whether there be any difference in the preſent from that now cited. The words, " according as the cauſe requires," are inſerted from Mr. Le Geyt's manuſcript, which mentions no other part of the oath.

When the advocates have finiſhed their pleadings, the lieutenant-bailly has no right to ſum up and deliver what has been atteſted and argued, like the judges in England; nor to explain the laws or cuſtoms of the iſle, in any caſe; that being the buſineſs of the advocates. During the trial he is not to manifeſt the leaſt inclination to one party, more than another; neither to interrogate, remark, countenance, or diſcountenance the witneſſes which are brought before them. Nor to give his opinion before he hath aſked thoſe of the jurats. Theſe magiſtrates alone deliver their ſentiments on the trials which are brought before them; and a majority determines the ſuit. When that is done, the bailly ſums up their different opinions, and pronounces that of the majority, which is the ſentence, or verdict of the court.

The bailly, or his lieutenant, is the keeper of the inſular ſeal, given them by Edward the firſt: it is encloſed in a bag, ſealed with the ſeals of him, and two of the jurats, and it can now be opened in their preſence, tho' anciently ſeven were required for that purpoſe.

From the jurats oath it is clear, the perſon who is occaſionally deputed to diſcharge the duty of an abſentee, is not to give his own advice, opinion, and counſel, but thoſe of the jurat, who delegates him. Thus the man who hears the cauſe, is not to judge of it, but the other who is not preſent at the trial; and the former is to renounce his own opinion, and to deliver that of a man, who legally cannot have heard, nor known any thing of the ſubject in litigation. But this is not the ultimate of that abſurdity. The deputed jurat, on ſuch occaſions, takes a like oath with the eſtabliſhed; and ſwears that he will give his

own advice and counſel, although he hath accepted the charge under the terms of deputation, that he ſhall follow the advice and opinion of him by whom he is delegated. In order to comply with the obligation of the eſtabliſhed jurat, the other ought to be acquainted with his opinion, before he goes to the court. But that would be a judgment before a trial, which is not only illegal but unjuſt; and notwithſtanding this circumſtance, unleſs he be informed in that manner, how can he deliver the ſentiments of another man? Such then is his ſituation; if he neglects the advice of his principal, and opines according to his own conſcience, he forfeits his honour; and violates the terms of his deputation. If he prefers the conſcience of the other to his own, he is perjured.

Such being the circumſtances of things between the jurat and his deputy, let us obſerve how it ſtands between the bailly and the jurats. The latter ſwear they will follow the moſt ſound advice of the bailly and their brethren on the bench. But the bailly does not give his opinion but in the caſe of an equality of votes, and then, after he has heard thoſe of all the jurats. By what contrivance can theſe magiſtrates follow a thing which does not go before them? In their manner of delivering their opinions, they have no previous conſultations; but aſſent, or diſſent, one after the other, as they are aſked ſucceſſively by the bailly. How then can the firſt jurat adapt and conform his conſcience to the better and more wholſome advice of the bailly and the jurats, ſince he cannot be informed of that of the bailly, and muſt deliver his own opinion before he can have heard theirs: or by what penetration can any of them become a proper judge of what advice is the beſt,

beſt, before that of the whole number be delivered?

The bailly may indeed comply with the obligation of his oath, ſince he never pronounces his ſentiments but on an equal diviſion of the bench. For though he ſwears to follow the moſt ſound opinion of the jurats, as cuſtom hath given that attribute to a majority, he pronounces the verdict accordingly; and by the laſt particular he ſeems to be inveſted with a power of ſuſpending the verdict or ſentence, if not to give it, in oppoſition to all, or to embrace the opinion of the minority, "if the caſe requires it" And if this ſingular power be lawful, he may determine againſt the judges, and make his own opinion the law, which does in reality aboliſh the judicial powers of the bench, and annihilate the reaſons for their being inſtituted. An abſurdity unexampled but in realms the moſt arbitrary, where the will of the tyrant ſuperſedes the judgment of the laws, and the rights of juſtice. But it is impracticable for a jurat to be conſiſtent with what he hath ſo ſolemnly depoſed. He is, in fact, ſworn to perform an impoſſibility. Yet ſuch is the ſtrict attention of the court to the laws and cuſtoms in this point of ſacred obligation, that every jurat is obliged to take this oath three times in the year, through fear he ſhould forget that he is to execute an impoſſible duty. But as on thoſe days they are entertained at the governor's expence, and, in their terms, ſaid to dine with the king, they rarely fail of taking both the oath and the dinner.

This is palpably a remain of the ancient mode of trying cauſes in Normandy, which happily to this day is preſerved in England. The oath is manifeſtly formed out of that which the jurymen depoſed in that province, as it exiſted before the

conſtitutions of king John. In thoſe days the bailly ſummed up the evidence, and delivered his opinion of the laws to the jury; and the jurors apart from the court, and by themſelves, conſulted and debated on the merits of every cauſe they heard. In ſuch ſituations the opinion of the judge and that of every juryman, was known before the firſt juryman either aſſented or diſſented: and the oath was not replete with abſurd and impoſſible obligations, as it is at preſent. By the ordinances of James the firſt, and by the more ancient laws and cuſtoms of Jerſey neither the bailly, his lieutenant, nor a jurat, can ſit in judgment on any cauſe which is their own, or in which they are intereſted or concerned. In the place of the former a judge delegate is appointed, who is in general the ſenior jurat. The ſuitors alſo have a right to challenge or recuſe, the bailly or any jurat, and even witneſſes for thoſe reaſons already mentioned, in ſpeaking of the Norman conſtitution.

That a magiſtrate ſhould ſwear to be faithful and loyal to a governor, or his lieutenant, who repreſents his ſovereign in the legiſlative aſſembly, and yet take precedency of him in that very convention, ſeems to be irreconcileable with thoſe rules of ſubordination, which are obſerved in all other places: and the order of king James, which eſtabliſhed that pre-eminence was certainly an error. This precedence, however, the bailly is aſſiduous in obſerving: but he frequently forgets that impartiality, which he is ſworn to preſerve on the bench; and by aſking queſtions of the evidence, and by indirect inſinuations and inferences on what has been ſaid, and ſometimes by a full and previous pronunciation, he indicates his opinion, and they comply. And it is really diverting

ing

ing on ſuch occaſions to behold them ridiculouſly nodding aſſent one after another, like geeſe following a gander into a gateway, and like them they ſeem to be apprehenſive of being hurt by ſomething above, if they ſhould walk uprightly in the ways they tread.

The impoſſibility of being able to comply with the oath they take in the inſtance of conforming to the moſt wholſome opinion of the bench, is an ample apology for the inobſervation of it: but it affords no pretext for the making that ſacred depoſition; nor for the breach of it in not attending themſelves, and in no longer delegating others in their room, when a legal excuſe prevents their own attendance. And what defence can be offered for the negligence of the bailly, who being ſworn to obſerve the laws, omits to fine them on ſuch occaſions of illegal abſence, without delegates? But ſuch obedient men are not to be diſpleaſed by an exertion of the law, by the man who ſtands in need of, and applies their magiſterial authority to countenance thoſe actions which the laws condemn, and in which he virtually pronounces, "ſuch is our will."

Notwithſtanding the conſtitutions of king John, and many ſucceeding grants have aſcertained that the bench ſhall be the abſolute judges in all cauſes, the impropriety of that eſtabliſhment hath induced an alteration in ſome few inſtances. In acts of homicide the accuſed are tried in a very different manner, and may be, if they pleaſe, by different men.

On information of an homicide, of wounds, or other injuries committed on a ſubject, the perſon ſuſpected of the deed, or known to have done it, is taken into cuſtody. The conſtable and his twelve ſermentes, or ſworn aſſiſtants, have a view

of the dead, or injured body. They hear the witneſſes on both ſides, and have a right to reject the evidence of thoſe, whoſe impartiality may be juſtly ſuſpected. If by their opinion the accuſed be acquitted, he can be brought to no farther trial. If they ſee cauſe to think him guilty, he is brought before the court, and at that time he hath a right to challenge, and recuſe the whole bench of jurats, and to demand a jury of twenty-four perſons, who are to try him. Of theſe, if five only are of an opinion that he is not guilty, he is acquitted; and though found guilty in caſes which do not amount to death, they refer the ſentence to the bench*. This is certainly a renovation of the Norman law, already deſcribed, with this difference, that anciently four were ſufficient to ſave the priſoner from the hands of the executioner.

The laws of Jerſey make no diſtinctions in caſes of homicide. They admit no plea of ſelf-defence, caſualty, or manſlaughter. And this ſeems to be the Gothic remains of the feudal law, when perſons ſlain by any means whatever, were conſidered only as ſubjects loſt, and their lives being valued at certain prices, by expreſs eſtimations, they were alike to be compenſated by the ſame ſum, in whatever manner they were put to death. In Jerſey they have preſerved the ſame idea, both reſpecting the manner of the death, and of the puniſhment. For, altho' the method of pecuniary compenſation hath been long aboliſhed, the indiſtinctions of homicide remain the ſame, and the inflictions on offenders have not yet been regulated according to the circumſtances of caſualty, ſelf-defence, or man-

* Mſs. Le Geyt.

manſlaughter. And what ſeems extremely defective in the law, in ſuch caſes the governor has no authority to ſuſpend the execution of a convict, untill the will of the king be known; nor the criminal a right to appeal from the inſular tribunal, to the mercy of his majeſty in council.

Of later years it has been indeed ordered by the king and council, that in all caſes wherein there do not appear a prepenſe and deliberate intention of homicide, the court ſhall not proceed to ſentence, till the fact be laid before his majeſty, and his determination be received.

This order, though humanely intended, is rather ſpecious than beneficial. In the bailly it reſts to repreſent the ſeveral caſes of ſuch events, or to omit them. He it is who decides of the circumſtances, whether they be of malice prepenſe, or otherwiſe. There is no penalty annexed to his omiſſion of tranſmitting them to the throne; nor are all caſes indiſcriminately to be tranſmitted. On this account there exiſts no little danger, that on ſome occaſions a ſiniſter influence may prevail in the repreſentation of the circumſtances, and on others, that no account may be ſent to the council. By theſe means the moſt criminal may receive a pardon, through a partial, fallacious, and favourable narration of the facts, by which thoſe who deſerve to die, may receive the grace of mercy; and thoſe who are the leaſt culpable, be ſuffered to undergo their ſentences, through a diſinclination to preſent an opportunity of their receiving pardon.

This ſeems to place a confidence too great in the hands of the bailly and his lieutenant, uncorrected as it is by any motives which are penal and reſtrictive. For there is too much reaſon to ſuſpect that the impulſe of paſſion and ſelf-intereſt may

on

on ſome occaſions find a too eaſy acceſs to the human mind, and influence the judge to avert the infliction of the law, where it ought to be obſerved; and to ſuffer its procedure, where it ought to be ſuſpended. For ſuch is human frailty, that the heart too frequently ſuggeſts thoſe ſenſations, which ſuperſede the rectitude of judgment, and the dictates of the legiſlature. And if ſuch be the ſtate of it, is not this power in a lieutenant-bailly, under the circumſtances of laws ſo indiſcriminating, too great to be entruſted with ſuch a being?

On other occaſions, ſomething analogous to our juries are ſtill in uſe. If a widow lops the trees on her dower, in ſuch a manner that the heir complains of it to the court, the viſcount takes with him a certain number of men, who are ſworn on the occaſion, and ſuppoſed to underſtand the ſubject: theſe take a view of the object of complaint, and their reſolution is definitive.

In like manner, when encroachments are made on the land of another perſon, as in building a houſe, or otherwiſe; each party has the privilege of naming ſix perſons, or more; and theſe, accompanying the bailly and jurats, take a view of the object, hear witneſſes, and decide the cauſe. Such has been the prevalence of ancient cuſtom, and of a ſuperior mode of enquiry and adjudging, that in theſe few inſtances of civil contentions, ſomething analogous to the ancient modes of Norman judicature hath been revived.

Theſe renovations ſufficiently expreſs the deficiencies of the Jerſey method of judicial procedure, and indicate the neceſſity of a reformation, as it will be evinced alſo in a multiplicity of inſtances in the ſucceeding pages.

In

In all the grants, patents, and orders of king and council, and the oaths which are taken by the bailly and jurats, there appears to be no legiſlative power imparted to the court. And ſince the inſtituting of the ſtates, it is a rank abſurdity to imagine that ſuch a power can be exerted by that juriſdictive body. Notwithſtanding theſe negative and poſitive circumſtances, the lieutenant-bailly and his jurats aſſume that power, make acts and ordinances which are not even within the limits of that authority, which the ſtates are empowered to exert. They invade the rights and properties of the inhabitants, and exempt themſelves from thoſe dues, ſervices, and obligations, which the other ſubjects are compelled to obſerve. This is a hardineſs of proceeding, and a violence committed on the conſtitution, which can find no example. And yet in this unlawful procedure they have been culpably indulged, either through the ſupineneſs or ignorance of the governors and their lieutenants.

The abſurdity of this union of inconſiſtent powers hath been already remarked. The great cauſes of this atrocious aſſumption ariſe from the following circumſtances. In ſuch ordinances the governor is not preſent to obſerve the impropriety and oppreſſions of the acts they paſs. His conſent is not neceſſary, and his negative can find no admittance. They can hold their courts without his will or attendance, which cannot be done reſpecting the conventions of the ſtates. For this reaſon it becomes the indiſpenſible duty of the governor to interdict that uſurpation of legiſlative power. In conſequence of this inſolence and infraction of the conſtitution, infinite are the acts which they have made, ſubverſive of the ancient laws, to anſwer the private purpoſes of preference, averſion, and ſelf-intereſt.

By

By ſuch laws they impriſon whom they pleaſe; where they muſt remain as the ſubjects have no writ of right like that of the habeas corpus in England. For I apprehend, that although it be ſaid in that ſtatute it extends into the iſle of Jerſey, it reſpects only the inhabitants of this kingdom, who may be occaſionally impriſoned in that iſle; and not to thoſe who are natives, and reſident therein. Whatever the truth of that circumſtance may be, the court allow no ſuch right, and conſtantly make the powers, of giving bail, to depend upon themſelves.

*By their own acts of court they have exempted themſelves from carrying their corn rents to the king, if not from paying them. The terms are *froment de carriage*, and to aſſiſt in making and bringing to the proper places the hay which grows on the king's meadows, to which ſervices they are obliged by their tenures. They exempt themſelves from the ſubſtituting of provoſts, and from the payment of them, and the ſerjeants for carrying extraordinary ſummons in their own cauſes, to any part of the iſland; and in all kinds of pleas. They have granted to themſelves the privilege to bring on cauſes, for debts due to them, on every Saturday, either in their own names, or as guardians. And as but one default is allowed in ſuch proceſſes, the ſecond Saturday they obtain an order for compelling the debtor to diſcharge the obligation. Whereas all other ſubjects have the privilege but of one day in the year to commence ſuch actions: that day twelvemonth the trial is evaded by default: and by this intervention two years

* Mſs. Le Geyt, in 1577, 1579, 1586, 1596, 1603, 1616, 1624, 1634, and a multiplicity ſince that time.

years muſt elapſe before any other creditor can obtain his money. In conſequence of this partial and unjuſt act, a jurat who is indebted to another indifferent perſon, cannot be obliged to pay him in leſs than two years, although the ſame magiſtrate can acquire what may be due to him, from the ſame man, at the end of two weeks. Such is their idea of diſtributive juſtice.

They have exempted themſelves from contributing their ſervice to the king's works, in the caſtles and other places; and when they made laws, prohibiting the killing of any game, but between the beginning of October, and the laſt of January; and from that of the red-legged partridges through the whole year. They conſtituted themſelves lords paramount of the iſle; aſſumed the right of killing game at all ſeaſons; reſerved the partridges to themſelves; and precluded thoſe who are qualified by their eſtates and tenures to the rights which they have interdicted, and to which many of themſelves are not entitled, but by the arrogance and illegality of their own ordinances. They have enacted alſo for themſelves the privileges of paſſing all cauſes and affairs in court, without paying the fees of the bailly and other officers, and not to be ſent back to the ſubaltern pleas of the fief courts. This ordinance of diſobligation to pay the expences of a law-ſuit, is admirably contrived to ſuppreſs the litigiouſneſs of a Norman temper, and to promote the ſpirit of concord and peace, which ought to be exemplary in a judge.

Such are the exemptions which this hardy troop of juriſdictive veterans have preſumed to enact, in defiance of the governors, the ſtates, the conſtitution of the iſle, and the orders of their ſove-

reign

reign in council, an happy iſſue of including within the ſame body of men the irreconcileable powers of making and of diſpenſing the laws they enact.

*Beſides theſe exemptive orders, which they have kindly created for themſelves, they are paid for ſubſcribing their names to various inſtruments; for aſſiſting when cauſes are reheard, which promotes the inclination of deferring them. They are entertained on the firſt days of opening the court for the capital pleas of heritage; when they meet to lay fines on offenders, as an encouragement to be generous in their oppreſſions. When the †extent is examined. They are fed alſo, when they make the laſt interrogatories of criminals in priſon; when they accompany the arbitrators on the views before mentioned; the day the court opens for public or private búſineſs; and on inſpections of high roads. And laſtly, they conſtitute themſelves judges of their own privileges, which amounts to little leſs than an abſolute exemption from almoſt all the duties of a ſubject. Happy iſle, where the magiſtrates can make what laws they pleaſe, execute what they like, and free themſelves from thoſe obligations to which the other ſubjects are enjoined. Have not the men of Jerſey reaſon to imagine that this ſpot is one of the fortunate iſlands? But pleaſantry apart, what are ſuch magiſtrates leſs than tyrants, or thoſe who live beneath their powers more than ſlaves? And yet, ſuch is the dominion which they have erected. And I ſhall adduce a moſt flagrant inſtance of their diſregard to truth, to which they have ſubſcribed

* Mſs. Le Geyt.

† A kind of doomſday-book, reſpecting the royal lands, rents, rights, dues, and ſervices.

ſcribed in an anſwer to a petition of doleance, and preſumed to tell their king and his council, that they have neither advantage, emolument, nor reward, for the great ſervices which they perform for their country.

After all this catalogue of their egregious uſurpations, it cannot be denied that this degree of audaciouſneſs in them is exceeded by that of the timidity and acquieſcence of the governors, the ſtates, and the inhabitants. But ſuch hath been the too general conſequence of things, that thoſe who are in power have erected a ſyſtem of deſpotiſm on the mere foundation of deſpiſing every virtuous, human, and legiſlative obligation; whilſt nations with juſtice, reaſon, the claims of humanity, the means to oppoſe, and the right to exert them, have ignominiouſly yielded before the darings of ſuch men. In conſequence of this puſillanimity and ſupineneſs, ſuch various tyrannies have been eſtabliſhed, and the people of the earth, in different forms of government, have been abſolutely enſlaved.

To this royal court of Jerſey, there belong the following officers of greateſt conſideration: the viſcount, attorney, and ſollicitor-general, who are appointed by patent from the king. They have alſo official ſeats in the ſtates, without the right of debate or voting. The two latter are probably to give their opinions on the buſineſs in agitation, when they are aſked, like the judges in the houſe of lords in England, and for the tranſacting of ſome other matters. The duties of the viſcount are too ſimilar to that of Normandy already deſcribed, to require another relation of them. He has indeed in Jerſey the care of regiſtering the prices of wheat on every market day through the year, and of letting the ſhambles. But his days of greateſt im-

import are thoſe in which he ſurveys the high roads of his ſovereign; and then indeed his pomp and magnificence are equal to the dignity of the occaſion.

Every pariſh is annually to be inſpected, and each of them to engage the cogitation of a day. On this feſtival, for they are fed for their trouble, the jurats, the conſtables, centeniers, and ſermentes, attend the viſcount. He mounts his viſcountal horſe, with his viſcountal ſtaff of office, perpendicularly erected on the viſcountal pummel of his viſcountal ſaddle, and thus ſuperbly advances in queſt of adventures on the public road.

Whatever branches of the trees have the miſfortune to affront, by their touch, the dignity of his viſcountal ſtaff in the proceſſion, they are ſentenced to the ax, and the roads to an amende, wherever they are defective in duty.

In this review the viſcount and his attendants are the judges of the paths and tracks below, and the horſe decides of the offending branches which are above, and the objects of their judgment are inverted. For the boughs incommode not the horſe, nor the roads the rider. However, though theſe powers of judgment are not juſtly diſtributed, they are equally divided betwen man and beaſt, in which they are alike concerned: and this ſeems to be the juſteſt diſtribution of judgment that is practiſed in the iſland.

This mode of examination is, peradventure, to this day undiſcovered among the moſt civilized nations in the univerſe. Yet ſuch is the nature of this enquiry, that although the viſcountal ſtaff, and the viſcountal ſaddle may be invariably the ſame, yet the viſcountal horſe hath no conſtitutional ſtandard. This is certainly an egregious omiſſion in the laws of that iſland. For when this officer is mounted on a Jerſey gelding, of twelve hands high, many a branch

a branch eſcapes the ax and fire of the law, which are doomed to that perdition, when he is mounted on an Engliſh ſteed of ſixteen hands high.

But the jurats and the other officers ſolemnly attend to moderate the fines, according to the different judgments of the reſpective horſes: and theſe fines muſt not exceed fifteen *ſous*, or eight pence Engliſh. On theſe national occaſions alſo, the king is ſuppoſed to entertain the company, the expence being diſcharged by his receiver. Yet ſuch is the reſult of this union of judicial talents between man and beaſt, this parade and feaſting, that no country can produce more execrable roads, nor a people more pertinacious of keeping them in that abominable condition.

The attorney and ſollicitor-general ought to be ſelected for their ſuperior intellects, and juriſprudential erudition; to be intimately converſant and ſkilled in the ancient laws of Normandy, as they are delineated in the grand cuſtumier, and by Rouillé and Terriên, in the municipal cuſtoms, and eſtabliſhed precedents of former judgments; in the grants, letters, and orders of the kings of England; in the knowledge of the Latin and Engliſh languages, as theſe grants, letters, and orders of the council have been ſometimes communicated in one language, and ſometimes in the other.

Theſe qualifications are indiſpenſibly requiſite to conſtitute ſuch officers, equal to the importance of their duty. It is not in Jerſey, as in England, where the judges explain the law to the jury, and are eſteemed as advocates for the accuſed. In Jerſey the bailly is not entitled to that privilege. It is from the attorney and ſollicitor-general, in all criminal caſes, that they are to receive the in-

formation of the laws. Theſe officers draw concluſions from the whole affair, and declare what they think ſhould be the opinion of the court. The jurats may indeed deliberate, and debate on the ſubject of what they have been offered, but they muſt either accept, or reject the concluſions entirely. From theſe circumſtances it is expedient that not only the knowledge ſhould be eminent, but the diſpoſitions of theſe officers ought to be humane, their equanimity conſpicuous, and themſelves as little intereſted in lucrative concerns as poſſible. *On this latter account, and becauſe their official employments will engage their whole time and ſtudy, they are forbidden by immemorial uſage, to hold any other poſt whatever.

When it is conſidered that the iſlanders of Jerſey are ſubjects of the ſame ſovereign; that their conſtitution was originally the ſame with this of England, that in all their royal grants they are called a free people, and that by their unſhaken loyalty they deſerve to enjoy thoſe liberties, which are the rights of Engliſhmen, the power of an attorney-general, as it is exerted in that iſland, muſt appear incredible.

In this kingdom it is not an indefenſible complaint, that the attorney-general, on inſtructions from the miniſtry, can file a bill of information againſt any ſubject officially, and without permiſſion of the judges. He may indeed proceed to trial, but without evidence he muſt be eternally foiled in every cauſe of that nature, and very frequently with it. The accuſed is not obliged to anſwer any queſtions which may tend to injure himſelf, and violate the firſt law of nature, which is that of ſelf-preſervation. And we have ſeen of late, that great damages have been given for

* Mſs. Le Geyt.

for an illegal commitment to priſon by ſecretaries of ſtate, and thoſe who acted under them.

*But in Jerſey the attorney-general may, on his own ſuggeſtion, unſupported or excited by a previous information of offence, order his fellow-ſubjects to be taken into cuſtody as criminals, impriſoned, and brought before the court. The priſoner is obliged to anſwer fully to all the queſtions which he may be aſked; and to relate the whole circumſtances of the affair without reſerve, however it may affect life, liberty or property. On this occaſion, though his anſwers ſhould prove unequal to the juſtifying of a ſentence of guiltineſs, and not a witneſs can be brought to prove the leaſt ſyllable of that with which he is charged, they may refuſe to acquit or to condemn him. They may either on their own preſumption pronounce him guilty, or remit him to priſon, without delivering any ſentence at all, there to remain a year and a day, to be fed with nothing but bread and water, all which is rigorouſly to be executed. This the jurats denominate a formality of the law, which the priſoner hath choſen to ſuffer, through his contumaciouſneſs in refuſing to afford them the means to find him guilty; or more probably becauſe his caſe includes no degrees of culpability, on which a condemnation can be founded. After all they may ſentence him to corporal puniſhment, amende, or pecuniary penalty. In all ſuch caſes no action of falſe impriſonment, nor for damages ſuſtained, can be brought againſt this attorney-general, the perſons who commit, who conduct him to jail, or who confine him in it. And notwithſtanding this exceſs of hardſhip, the Norman

* Mſs. Le Geyt.

laws of Jerſey expreſsly declare, that perſons accuſed ſhall not be found guilty, but on the cleareſt evidence of witneſſes, and by their own confeſſion. But for this arbitrary procedure, the court alone hath made its own ordinances; and thus theſe magiſtrates have erected a power, which under the deluſive appearance of being legal, exceeds the natural rights which ought to be poſſeſſed even by eſtabliſhed legiſlatures.

In all the patents, orders, and letters from the king and council, the name of the ſollicitor-general has not fallen under my inſpection, before the reign of Elizabeth; and it was in that of James when he firſt became the object of royal appointment, and endowed with more conſiderable authority. By whomſoever that office may have been created, or improved, it was certainly a neceſſary and a uſeful department. The attorney-general carries on all criminal proſecutions againſt the ſubjects, and the court of Jerſey will not permit that men accuſed of ſuch offences, ſhall be defended by an advocate. Yet if it be neceſſary that the ſubjects of a ſtate ſhould be preſerved from the violence and invaſion of thieves, robbers, and aſſaſſins, and the public peace and private property ſecured; is it not equally the duty of a ſovereign, and the right of the individuals, that even a criminal ſhould not be doomed to puniſhment beyond the demerits of his actions, and that the life and liberty of every innocent man ſhould be protected and preſerved? For a ſubject loſt by the misjudgment or malice of a tribunal, is as much an injury to the commonwealth, as one who is put to death by an aſſaſſin.

As the laws of Jerſey permit not the bailly to act as advocate for the priſoner; or to give his opinion before the jurats have opined and determined,

mined; the ſollicitor-general ſeems to have been intended to ſupply that dangerous deficiency, that the ſiniſter impreſſions of the attorney, might be corrected by the opinion which he may give and to prevent the abuſes of malevolence, or of favour; that the ſame perſon might not be at once both the proſecutor and the deliverer of the law. They are obliged to conſult together on all occaſions of moment, before a proſecution is begun, and to declare their opinions on every cauſe in court, at the times of trial, ſo that the jurats may hear the arguments on both ſides, if they differ; and thence derive the means of being more perfectly inſtructed in the reality of thoſe circumſtances, and the ordination of the law; and reſolve according as the truth may reſpectively appear.

Should this poſt of ſollicitor-general, ſo neceſſary to the ſupport of juſtice, and ſo humanely exalted into that degree to defend the deſerted, protect the innocent, and explain the real circumſtances of criminal proſecutions, be aboliſhed, what then would be the power of the attorney-general, and what the deplorable ſituation of the iſlanders? with no advocate to develope the truth of thoſe actions for which they are arraigned; to offer one palliative expreſſion in commiſeration of the guilty; nor one argument of juſtice to preſerve the innocent; what then muſt be their fate? And ſhould it ſo happen, that this proſecutor of the accuſed, this expounder of the law, the lieutenant-bailly, and part of the jurats, ſhould have farmed the revenues from the governor, fix and receive the fines which thoſe men are ſentenced to pay, whom they find guilty?—I need not aſk the queſtion; the anſwer is foreſeen in the expreſſive

horror of every countenance, not yet rendered immoveable by the exerciſe of ſuch villainies.

*Either of theſe officers may be diſmiſſed from his poſt, or recuſed in all cauſes, wherein their intereſts or ſenſations are ſignally connected, either with the acquittal or condemnation of the priſoner; and they may be diſmiſſed from office for miſdemeanours, and for oppreſſive, or illegal proſecutions.

†Every court of law muſt neceſſarily include a number of advocates. In Jerſey they are limitted to ſix, beſides the attorney and ſollicitor-general. Theſe ſix are in the nomination of the bailly, or his lieutenant. They are ſworn at their admiſſion, and three times every year, that they will undertake no cauſe, but ſuch as they ſhall believe to be juſt and upright; that they will afford a faithful patronage to their clients; and that they will protract no ſuit by frivolous exceptions, and litigious cavils. And if any among them ſhall act in contradiction to this order, he ſhall be puniſhed according to the determination of the bailly and jurats.

From this ſtate of the advocates being appointed by the bailly, or his lieutenant, and to be diſcharged by the court for miſdemeanour, it is evident that no man will be called to the bar, of whoſe ſentiments he is not aſſured, and according to the obedience which he promiſes to obſerve; and ſhould they relax in their ſubſerviency to their maker, he has at all times an intereſt in the court too great to be diſappointed in finding cauſes of culpability, and in diſmiſſing them. By theſe reſtrictive powers the tongues of theſe barriſters are abſo-

* Mſs. Le Geyt.

† Mſs. Le Geyt.

abſolutely in the hands of the lieutenant-bailly, their conſciences at his diſpoſal, and the iſſues of all cauſes at his will. The ſubſequent ſheets of this production ſhall evince that this opinion is not founded on hypothetically premiſes.

*The conſtables, like the jurats, are inveſted with the double power of making and of executing the laws. In all parochial meetings of their conſtituents, they take place of a jurat; they carry into execution the rules and orders of the court, which are on ſome occaſions verbally given, in others by warrant. And they have official powers alſo, of conſiderable extent and operation.

Beſides theſe, there are elected in every pariſh, by the ſame perſons, and in the ſame manner by which the jurats are choſen, two officers, denominated centeniers. They were originally diſtinguiſhed by that name for being prefects over a hundred families, like the conſtables of the hundreds in England. Theſe are inveſted with both powers of the ſtate alſo; for, on occaſions wherein the conſtable cannot attend, they are repreſentatives of the pariſh, and have ſeats in the aſſembly of the ſtates; not by delegation from the conſtable, but by their own inherent right; and they diſcharge the duties of a conſtable alſo, and aſſiſt him in the execution of thoſe orders, which are iſſued from the court.

Every pariſh is divided into vintains, or double tythings; and over each of theſe diſtricts there preſides a vintainer, who is obliged to aſſiſt the two officers juſt mentioned. To every pariſh there belongs a procureur, or agent, who is to con-

* Mſs. Le Geyt.

duct thoſe ſuits in law, in which the pariſh may be engaged.

Beſides theſe there are twelve parochial ſermentes, who are to aid the conſtable or centenier, wherever it is required; and to form an inqueſt on the bodies of thoſe who are wounded, or die by violent means; as it hath been already related. All theſe are choſen by the parochial electors. There ſtill remain ſome other officers of the court, ſuch as the provoſts, who carry writs and other orders of that court, in civil cauſes, to thoſe to whom they are directed. But theſe officers are not parochial, but dependant on the circumſtance of a royal fief in the pariſh. If there be none, there is no provoſt, and the provoſt of that adjoining, executes the duty in the other. This office is annually by rotation, and being onerous and diſagreeable to the perſon who is to diſcharge it, is conſtantly tranſacted by deputation, and by him who will execute it on the loweſt terms.

In civil cauſes relative to moveable effects, which amount not to more than twenty pounds ſterling; or real eſtate, which amounts not to more than the annual rent of five livres tournois, there lies no appeal, in all others that privilege exiſts. *And to that intent the court is obliged to regiſter every cauſe, and to give a copy of the record within eight days to the party who claims it: and this is not an act diſcretional in the court, but of right in the claimant. And by a refuſal of ſuch a demand, the perſons then on the bench are ſubjected to the penalty expreſſed in the ordinanees

* Conſtitut. John, Edward 2d. Elizabeth, and many ſince that time.

nances of Henry the ſeventh, to be diſmiſſed as infamous and perjured, for breach of oath, and mal-adminiſtration of juſtice.

But ſhould this royal court contemn the orders of their ſovereigns, and the dictates of thoſe charters by which it exiſts, and placing themſelves lords paramount over the king and their conſtitution, interdict the proceſs and iſſue of any cauſe from being regiſtered. In ſuch inſtances as no copy can be given, the party, who has failed in the ſuit, is then reſcinded from the means of appealing to the council, and although he be not contented with the deciſion, he muſt have remained in obedience to it, without ſome ſubſtitute to this impracticability of a regular application.

This injuſtice of inhibiting the record of the litigation, naturally created a new method of attempting to avert the evils of a power, ſo unjuſtly exerciſed by the court; ſo derogatory of the dignity of the king; the eſtabliſhed laws of the iſland; and the rights of the people.

Thoſe, therefore, who were refuſed the means of appealing, applied to the council by petition of doleance, which ſeems to correſpond with the ancient writ of *audita querela*. In ſuch petitions they complained of the injuſtice of the court, in refuſing the copy of the cauſe; and requeſted a hearing before his majeſty and that board. This method was fraught with circumſtances, which were at once both diſagreeable to the council, and to the royal court. The former were obliged to hear thoſe cauſes, which on interdicted appeals could not come before them. And this encreaſed their trouble of attendance at the board. And the latter were expoſed as an inſolent magiſtracy, in daring to diſregard the obligations of

the

the conſtitution; and as corrupted judges, in preſuming to decide againſt the laws.

The reign of ſenſuality, and of Charles the ſecond, pleaſure was the only royal and miniſterial occupation. The nation's welfare, and the peoples rights, were poſtponed to a joke, a horſe-race, or a whore. Theſe circumſtances offered to the court of Jerſey the ſuggeſtions of being freed from this expoſure of their iniquities, by petitions of doleance. They built their hopes of ſucceſs on that loyalty and protection which the king had received from all the inhabitants, and they applied for that boon to be granted to the court, which muſt infallibly have proved the perdition of the people; and which conſiſted only in precluding all power of appealing to the council; which in fact was adequate to a refuſal of juſtice.

This prince was certainly the leaſt to be eſteemed of thoſe Stuarts, who have reigned in England; and him only, on the account of his profligacy and irreligion, the whigs, the democratics, and the diſſenters, have mentioned with ſome palliation of his vices, and negative approbation by compariſons with the others.

Charles refuſed, wholly, to comply with this aplication, notwithſtanding he conſented to the execution of men, whom he muſt be convinced were innocent of thoſe crimes, of which they were accuſed; not only on ſuch evidence which no honeſt tribunal ought to have credited; but in oppoſition to ſuch as ought not to have been diſbelieved by the moſt abandoned. This flagitious act of royalty was nevertheleſs exceeded by the pardon and the penſion which was given, in a ſucceeding reign, to Titus Oates, on whoſe convicted perjury ſuch guiltleſs numbers had been put to death.

Though

Though the court of Jerſey miſcarried in the principal intention of the preceding application, they ſo far prevailed, that by order of king and council it was declared, " that doleances being of an odious nature, as intended principally againſt the judges, whoſe honour is to be maintained, for the ſake of juſtice, in caſe the complainant ſhall not make good his doleance, his majeſty, by the advice of his council, will lay ſuch a fine upon the party failing, as the caſe will require."

It is impoſſible to decide whether the injuſtice of this order, or the abſurdity of the arguments which are given for its inſtitution, be the moſt egregiouſly conſpicuous.

No doleance could have taken place but when the bailly and jurats choſe to deny the right of appeal to the claimants. And yet the honour of theſe magiſtrates is to be maintained for the ſake of juſtice, who have infracted the moſt eſſential part of that divine attribute, that of ſeeking it from above, when it was denied by thoſe of the inferior courts of judicature. However, the doleant was to be fined, as his majeſty and council ſhould think fit, if he failed in making good his cauſe before that council, which by the law was obliged to hear it: and the honour of thoſe magiſtrates was to be ſupported, who by denying him a copy of the record, and the right of appeal, had compelled him to that very doleance; had violated their oaths and the laws of their country; and who ſhould on that account, by law, have been diſmiſſed with infamy from office. What a flagrant inverſion of common juſtice, common ſenſe, and common honeſty, does this order

---

* Articles and ordinances, 1671. Art. 15.

order contain? And yet it hath been conſidered as ſufficiently argumentative and equitable, on which to ſupport the conduct of many ſucceeding councils, and to ſanctify the iniquities of the court of Jerſey.

There is ſomething in the nature of wrong, which lies ſo uneaſy on the minds of thoſe who are conſciouſly culpable, that fearing the diſcovery, and willing to obviate a condemnation of their behaviour, they almoſt univerſally attempt to defend their miſdeeds by arguments, that demonſtrate the iniquity of them. By this miſtake, thoſe errors are diſcovered by the diſcerning, and revealed to the multitude, who would never have diſtinguiſhed them by their own examinations, and they are pronounced to be criminal by the very arguments, by which they expected to be juſtified. By this method, like the rattle ſnake, they happily diſcover themſelves by the ſounds which they make, and the miſchief may be avoided.

But in fact, the preſent expence of an appeal, or doleance, exceeds the value of ſo many things which come within the limits of that right, that it well nigh amounts to an interdict; and the audaciouſneſs of the court in pronouncing inequitable judgments, is enormouſly encreaſed by the inability of the injured to ſeek for juſtice from their ſovereign.

On this account, when the expence can be borne by the appellant, the lieutenant-bailly ſometimes refuſes the regiſtering of the cauſe, and even the orders of his ſovereign, either with a view to delay an application to the throne; or to communicate that idea of odiouſneſs, which is annexed to doleances, in order to pre-occupy the members of the council with the perverſeneſs of the appellant, and to cover their iniquities.

No oath can be adminiſtered in Jerſey by a ſingle magiſtrate, except in ſome particular inſtances, reſpecting imports and exports of merchandiſe; and the preſent lieutenant-bailly, for reaſons which will be ſhewn, when I ſpeak of his conduct, has obtained an ordinance by the jurats only, that none ſhall be taken but by him, and two jurats. By that act he is the maſter both of taking and refuſing every oath which may be intended to be made. For he can at all times find two jurats to be preſent, and the whole twelve cannot adminiſter an oath without him: and his refuſal is attended with no expreſs penalty. Nor is there any remedy to be found but by application to king and council, the expence and delay of which is tantamount to an interdict. Such being the power of the bailly in every caſe, he may exert the effects of predilection or diſlike, and hold even the jurats in awe by means of this power.

Theſe are the moſt material officers of the royal court of Jerſey. The inferior are of too little conſideration to be mentioned in this work, as they are only agents to execute the orders of the juriſdictive authority.

Notwithſtanding the judges are the ſame in all their tribunitial meetings, the royal court is diſtinguiſhed by ſeveral appellations. The court of heritage is the moſt auguſt, ceremonious, and ſolemn. It is opened with ſuch magnificence that it would be an injuſtice not to attempt a deſcription of it, however unequal it may prove to the dignity of the ſubject. On the days on which the terms are opened, the governor and bailly, or their lieutenants, attended by the jurats, the magiſterial and juriſdictive ſuite, proceed with great pomp and formality to the ſtatehouſe, which is called

called the Cohue. According to Mr. Falle, who has written a hiſtory of this iſland, this word, in the old Norman language, ſignifies a chaos, and is derived from thence. And from what hath already been, and will be hereafter, related, concerning the manner in which juſtice hath been diſpenſed therein for theſe laſt twenty years, no name can be more adequately applied on the account of thoſe dark and miſ-ſhapen matters which it has contained.

On theſe occaſions the royal mace, preſented by Charles the ſecond, which is mentioned as one of their great privileges in the abſtract given to the governors, is carried before them. A pretorian band accompanies and guards their ſacred perſons. And as the minds of men are deeply ſtriken with reſpect at the magnificence, ſolemnity, and propriety of magiſterial garments, that circumſtance is judiciouſly obſerved on theſe conſequential occaſions. The bailly, and the other twelve magiſtrates, are ſuperbly adorned with cloaks of ſcarlet hue, appearing at half leg moſt gracefully below; the dignity of which is heightened by a pair of dirty boots. This diſpoſition affects that contraſt ſo much admired by connoiſſeurs in dreſs and painting. And it moſt happily exalts the dignity of the Tyrian die, for time hath made the remnant purple.

On this grand occaſion all the jurats are to attend, nothing but being abſent from the iſland, or ſickneſs can palliate their non-attendance; and unleſs ſeven are preſent, they cannot make a court. This parade is thrice repeated in the year, and as the governor entertains the jurats, and the gentlemen who hold immediately from the king, their diligence in attending to their duty on this day, is as remarkable as their remiſſneſs on moſt other occa-

occaſions of judicial buſineſs. This court is continued two days in the week during term time, and the cognizance of all hereditary concerns forms the particular province of their judicial capacities.

The ſecond diſtinction is the *cour de cattel*, deſtined to the deciſion of all conteſts relative to chattels, moveables, and ſimilar effects. It has been already ſhewn, that by repeated ordinances of king and council, that not leſs than ſeven jurats were to try any cauſe; and that on theſe occaſions they could not be determined unleſs they were unanimous. But this injunction, ſo neceſſary to be obſerved, and ſo inſeparable from the idea of a majority of twelve jurats, is totally diſregarded; and none are delegated in their places. After the day of opening the court, three jurats make a court, and try cauſes with this particular condition, that ſuch cauſes may be reheard, if the party who has loſt his ſuit, will be at the expence of it, and pay the magiſtrates and others for attending; and then it muſt be heard by ſeven jurats at leaſt. But no cauſe which hath been heard by five of the bench, can be reheard in Jerſey.

Such is the practice which hath been obtained, in oppoſition to their primæval conſtitutions, and thoſe ordinances of the kings, which have been antecedently related. Nor are they authoriſed by any orders which I have ſeen to depart from thoſe injunctions. By this alteration, when three jurats only are preſent, the cauſes are determined by a ſixth part of the bench; when five, by a fourth part; and when ſeven, by the third, for ſuch are the majority in theſe reſpective numbers. So that a ſmall minority of the whole, at all times, exerciſes

ciſes that power, which only appertains to the majority of twelve, and which alone can legally decide the litigations of the ſubjects.

To theſe there are two ſubſidiary courts, denominated *le cour de billet*, or extraordinary; and *le cour de ſamedy*. In theſe courts ſuch cauſes are tried as could not be brought on and determined in the *cour de cattel*.

By what logic theſe jurats can reconcile their abſence, and neglect of delegation with their oaths, I am altogether ignorant; unleſs peradventure, being convinced by conſcience, and induced by lazineſs, they imagine themſelves bound to follow the advice of the lieutenant-bailly; and therefore that he and three jurats are as effectual as three thouſand. Perhaps, alſo, ſome of them may decline attendance, becauſe they have not the reſolution to withhold the proſtitution of their conſciences to his opinion, which the preſent magiſtrate always declares before thoſe of the jurats are aſked. I mean in ſuch caſes which he has a previous inclination to determine as he pleaſes. In fact, like a drift of packhorſes, or rather of mules, being compounded of two ſpecies, the legiſlative and judicial, they implicitly follow the gingling of the bells, wherever the lieutenant-leader inclines to lead them.

There are two other reaſons which may operate to produce the abſence of the jurats, on the days in which the courts are held. One, that on the rehearing of cauſes, they are paid for their attendance. The other, that after a ſecond trial they have this to plead in defence of themſelves, when appeals are made to king and council, that the cauſe hath had a rehearing, when that hath happened; or that it might have been reheard, when it was only

only once tried. Thus the double hearing ſeems to preclude the reaſon of an appeal, and the ſingle the impropriety of its being made.

Such is the policy of the lieutenant-bailly and the jurats. The inhabitants are perfectly acquainted with theſe machinations, but hitherto they have been defeated in all their applications for relief, and without it be obtained at preſent, they are perſuaded that there will remain no other alternative than that of deſerting the iſland, and their patrimonies, or of ſubmiſſively reſigning themſelves to be enſlaved, and gnaw their chains in ſilence: for the ordinances of Elizabeth have forbidden them to murmur againſt their enthrallers. Actuated with that authority, and with revenge, becauſe the iſlanders have dared to petition for redreſs, the latter are convinced the preſent magiſtrates will relentleſsly hold them in afflictive ſubmiſſion.

Such is the royal court of Jerſey; and in this manner a conſtitution extremely defective in its original formation, hath been rendered the moſt deſpotic upon earth, by the iniquitous uſurpations of the lieutenant-bailly and the jurats: and a monſter hath been produced, the moſt miſ-ſhapen and voracious, of all that can poſſibly be engendered; the power of making, combined with that of executing the laws.

Many are the occaſions on which juſticiers and commiſſioners, under the great ſeal, have been ſent to examine the complaints; and to redreſs the grievances of the iſlanders. But inſtead of men acquainted with the Norman laws, civilians have been ſelected; who of all juriſprudential ſtudents, are the leaſt adapted to reform, and to improve a conſtitution, founded on feudal principles. In conſequence of this miſtake, they have never re-

ceded to the ſource of theſe diſorders, and all their alterations and ordinances have proved to be but temporary expedients. They have indeed retarded the rapidity of oppreſſion for a ſhort time. But the current hath ſoon reſumed its ancient ſtrength, and its powers have been encreaſed; till bearing down all thoſe oppoſitions which were formed, it hath ſpread its devaſtation with more pernicious influence than before.

Beſides the officers belonging to the judicial court, there are others alſo, whom I ſhall mention in this place, the firſt of whom hath a ſeat therein, though no official buſineſs.

The receiver of the king's revenues, which ariſe from the tythes, wheat rents, fines impoſed by the court, and other dues and ſervices, is an office of great importance. And as from the exactions and diſregard of the laws, the inhabitants were grievouſly oppreſſed, in the reign of king John, by this officer; that evil was attempted to be removed by an article, imparting to the people the right of electing him. And this privilege was confirmed by Edward the third, in the fifth of his reign, expreſsly declaring, that the king ſhall not collect his amerciaments, rents, and ſervices, but by a receiver, elected to that purpoſe by the inhabitants.

But this right hath been long loſt to the iſlanders and as all the royal incomes are given to the governor, he has for a long time appointed the receiver. This officer indeed, as it hath been already related, is expreſsly prohibited from illegal exactions on the inhabitants, and the court is to have cognizance of his actions, and a ſpecial care that he tranſgreſs not the bounds of law in the execution of his office.

To the preceding poſt there muſt be added alſo, thoſe of commiſſary, barrack-maſter, ſtore-keeper, paymaſter of the works, furbiſher of the arms; and in times of war, an agent for ſick and wounded, and for priſoners. Theſe are all the officers which I ſhall mention.

CHAP. XI.

Of the laws and cuſtoms of Jerſey.

I. THE laws of Jerſey, and by which they ought to be governed, are thoſe of Normandy, together with the cuſtoms of that province, as they are to be found in the grand cuſtumier, and in Rouillé and Terrièn, his commentator.

II. Conſtitutions, patents, grants, ordinances, and orders of the king and council.

III. Municipal laws and local uſages.

IV. Precedents of former judgments, recorded in the rolls of the court, and found to have been beneficial by long practice, and beyond the memory of man. Theſe laſt, however, are not laws, wanting the royal aſſent, which is eſſential to the inſtitution of a law made in that iſland.

Such are the rules which the court of Jerſey are ſworn to obſerve; but ſince the juriſdictive power hath uſurped the legiſlative, the will of the court hath become the law of the iſland, and the deciſion of a cauſe is the law by which it is determined. Innumerable are the inſtances of this pernicious kind, which have been afforded within theſe laſt twenty years: not only unſupported by the laws or cuſtoms of the iſle, but in contradiction to the ſpirit and expreſs letter of

thoſe which have been immemorially eſtabliſhed. Such as were made for the ſake of carrying into execution the moſt ſiniſter and culpable of all deſigns, as intereſt, partiality, affection, or revenge, were predominant. Of theſe a multiplicity of examples may be exhibited, that are as diſcordant from juſtice, and from one another, as truth from falſhood. From theſe the lieutenant-bailly, and the court, may cull ſuch precedents, as are fitted to every purpoſe but that of equity. On ſuch authority they may acquit one man, and condemn another for the ſame offence: and determine all law-ſuits on which ſide they pleaſe. The moſt unjuſt will find precedents for their being decided in their favour; and the moſt equitable ſuch as will found a precedental deciſion for their being determined againſt them. And when there are no ſuch exiſting, the court, knowing the cauſes which are to come before them, antecedently make the very law, by which they are determined to act.

Such is the power which this tribunal exerts. Such is the ſituation of the unhappy iſlanders: and relief from theſe oppreſſions juſtly forms great objects of their petition to their ſovereign.

The iſland of Jerſey conſiſts of fiefs, or ſmall manors. A few of them are held in capite, or hautbert, immediately from the king. Others are by franktenancy, or were anciently held from meſne lords, who probably, before the ſeparation of the iſle, reſided on the continental part of that province. When that ſeparation took place, it ſeems not unlikely that thoſe greater lords were obliged to relinquiſh their inſular poſſeſſions, ſince they were not permitted to hold both of them. Of theſe the only family who renounced much larger eſtates

in the province, than they poſſeſſed in the iſland, was that of De Carteret. Thoſe of the iſland who held from theſe lords, therefore retained their property in theſe eſtates, and have ſince that time acknowledged no intermediate tenure, homage, or fealty, ſuit, or ſervice.

Many are the lords of ſuch fiefs, who have not an acre of land belonging to them; and their rights conſiſt of honours, of feudal courts, ſmall dues and ſervices; and the ſoil is poſſeſſed by others, who are tenants in roturiere, or ſoccage.

There are very few rents in this iſland, which are ſtipulated to be paid in coin. Wheat is, in fact, the ſterling of Jerſey. On this account the eſtates are not eſtimated at ſo many pounds a year, but at ſo many quarters of wheat: and a quarter conſiſts of eight cabotels, or four Engliſh buſhels.

The rents in England being always diſcharged in money, the income is permanently the ſame. But in Jerſey it is in eternal fluctuation. Whatever be the price of wheat, the landlord receives the ſame ſum of money in this kingdom. But in Jerſey he ſometimes receives the double value of the preceding year, and ſometimes the half of it; and the rents are eternally varying with the prices of corn.

This is not only an abſurd, but an inequitable mode of payment. A tenant holds an eſtate for fifty quarters of wheat; the eſtate produces in a year of ſcarcity no more than that quantity. The proprietor receives the whole. The ſcarcity enhances the value to the double of the uſual price. He has two rents in one year, and the tenant hath nothing left for his toil and expences, wherewith to ſupport himſelf and family. It ſometimes happens

happens alſo, that in years of great abundance, when the landlord is paid the full number of quarters, he receives not half the annual value of his land.

This of all manner of payment is the moſt defective. The land being always the ſame, the price ſhould be likewiſe invariable, becauſe in years of dearth, the tenant hath the means of compenſating the want of plenty, by the encreaſe of value. Whereas in Jerſey, on ſuch events, he may have nothing wherewith to pay, nor to ſupport his family, and the proprietor is for ever uncertain of his revenue.

Beſides the lands which are rented at ſo many quarters, there are wheat rents innumerable, which are already ſold, and conſtantly ſelling between the inhabitants. The eſtates are ſpecifically bound to pay them, without either ſale or mortgage of the ſoil. Thus as a lord may enjoy a fief without revenue, ſo thoſe who are proprietors of corn rents, may receive their whole incomes from land, without being entitled to an acre of the ſoil. Theſe corn rents are transferable, like bank ſtock: and it is the daily practice of thoſe who want either to buy or ſell, to deal in them as they do in the funds in Change-Alley, and the transfer is regiſtered in a proper office.

Not only lands but houſes are engaged in this manner to pay corn rents, ſo that were all the rents of the iſland abſolutely to be paid in wheat, the ſurface cannot produce a quantity ſufficient to that end. This impoſſibility neceſſarily produced an alternative. Thoſe, therefore, who are obliged to pay ſuch rents, may diſcharge them either in grain or money. And in order to aſcertain the ſums which are to be paid for each quarter, the viſcount takes an account of the prices of wheat, on every market day through the year,

and on the firſt Saturday after the eleventh of Auguſt, the court ſhould fix the value of the cabotel for that year, according to the medium of all the prices.

Such being the commutation of wheat for money, there is conſtantly exerted an endeavour, by thoſe who are to receive, to augment the price of corn; and by thoſe who are to pay, to diminiſh it. But as in all countries power is in the hands of property, the opulent prevail, and the leſs rich and indigent are oppreſſed. And as the corn rents of the king fall into the hands of the receiver, who was one of the farmers of the king's revenues; and theſe wheat rents conſtitute a great part of the growth of the iſland; it lies in his option to advance the price as he pleaſes; and he has for a length of years not once permitted a grain of human kindneſs, or compaſſion for the poor, or one idea of juſtice, to be mingled with any act, in which his intereſt can be encreaſed by exactions.

In this iſland no eſtate can be ſold for a ſpecific ſum of money, but in the manner of fee-farm, for ſo many quarters of wheat to be annually paid inſtead of money. But the perſon who purchaſes an eſtate in this manner, may transfer to him from whom he bought it, thoſe corn rents which he already poſſeſſes; and ſuch as he can buy in any part of the iſle: and however remote they may be from each other, the ſeller is obliged to take them in payment; and to remit an equal number from the eſtate he ſold. This privilege the buyer enjoys for forty years; after the expiration of which they become rent foneière, and cannot be commuted for corn rents on other lands, without the conſent of the former proprietor. *And ſhould any perſon ſell that eſtate, before he hath paid off the

* Jerſey petit. Art. 20.

the firſt ſtipulation of quarters, he is obliged to guarantee the payment of them to the proprietor of whom he bought it; if the ſecond purchaſer ſhould not be enabled to diſcharge it, and ſo on thro' all transfers, all are equally bound for ever. There may indeed be made a private contract between two parties, to purchaſe theſe quarters at a ſtipulated price in money. But this would be illegal in the original agreement. On all ſales of lands any of the relations of him who ſold it, may within a year and a day enter their caveat, and may thereafter claim the right of pre-emption, or *retraite linagere*, and be inveſted with the property, on paying the ſame ſum of money.

The partable nature of lands in roturiere, left as it is, unreformed in the mode, hath proved to be extremely prejudicial to the iſlanders in one reſpect, though it hath been advantageous in another. If a man hold an eſtate of that kind, on his death a diviſion is made of it by the youngeſt, and every child participates in the diviſion, but not with equal right; for ſhould the number of daughters be ever ſo great, they have but one third among them. The eldeſt ſon, in right of preciput or primogeniture, takes the houſe and a certain quantity of the land, becauſe on him it lies to pay the corn rents which may be due to the crown, and to diſcharge ſome other dues and ſervices. After this he takes what field he pleaſes, the ſecond ſon the next, and ſo on in rotation, till the whole be ſeverally aſcertained; and each of theſe diviſions continues diviſable among the ſucceeding generations again to be ſubdivided.

This method hath produced this ill conſequence. Each of them being willing to ſettle on their little patrimonies, they have built houſes thereon; made lanes to go to and from them; and ſubdi-

vided

vided the fields into leſs, for conveniency; and this they have done with hedges of twelve feet thick at the baſe.

By theſe means, within this century and half, ſince the iſland hath been begun to be encloſed, a fourth part of it, at leaſt, is rendered unproductive of corn or paſture, by highways and hedges. And in conſequence of this cauſe, the annual produce of their corn is much diminiſhed, and the people not unfrequently ſuffer on that account. But at the ſame time it encourages matrimony, as they have at all times ſome permanent means of ſuſtenance and place of abode: and the population of this little inſular ſpot is much augmented.

Fiefs alſo are partable. If more than one are held by the father, the eldeſt ſon takes which he likes beſt; and a fief coming by the mother, is his alſo by inheritance. A ſingle fief is divided among coheireſſes. To theſe fiefs, and to eſtates in roturiere, may be annexed a right of primogeniture, at the will of the father, as it hath been already related in ſpeaking of the ordinances of James the firſt. But ſuch ſettlements ſeldom take place. From the reſult, therefore, of this partition of lands, it inevitably follows, that whoever hath a numerous progeny, muſt thereby either leſſen their importance, if he does not impoveriſh his family.

Hence it appears, that in conſequence of this gavelkind, there can be nothing ſtable in the nature of their poſſeſſions; and there is ſcarce an eſtate in the iſland, except the fief hautbert of St. Ouen, in the poſſeſſion of the earl of Granville which has not paſſed thro' a variety of proprietors. On this account, as the vanity of man will conſtantly ſeize on every object which may ſuſtain the idea of his own importance, antiquity of families, and the nature of tenures are held in great eſtimation. The former re-

remains with the offspring; the latter is imparted by the poſſeſſion of the eſtate. The firſt are eſteemed for being of ſuch a name, or race; and he who by marriage, or by purchaſe, becomes poſſeſſed of a fief, is called the ſeigneur of Roſelle, or any other name, although a fief hautbert ſhould never before that day have been in the poſſeſſion of one of his anceſtors. Theſe fiefs hautbert give precedence to thoſe who are in the poſſeſſion of them. This precedency is ſettled by orders of king and council. It is eſteemed a ſignal honour. It enhances the value of the eſtate, according as it ſtands in the liſt of precedencies.

From the prevalence of this family and feudal diſtinction, all thoſe perſons who are called by their names in court, are diſcriminated in the ſubſequent manner, as Charles Lempriere, eſq; Peter de Gruchy, gentleman; Maitre John Lycet, and Thomas Charue. To the firſt and ſecond the term monſieur is prefixed in converſation, maitre to the third, and Thomas has nothing to precede its ſimplicity.

The men of Jerſey are extremely fond of ſounding titles. For example, that which the preſent lieutenant-bailly prefixes to official papers is, Charles Lempriere, ecuyer, ſeigneur de Roſelle, de Dillament, de Savalle, &c. &c. &c. &c. &c. &c. &c. &c. &c. &c. &c. lieutenant de tres honorable Robert comte de Granville, viſcount Carteret, lord Carteret, baron de Hawnes, ſeigneur de St. Ouen, & bailly de l'iſle de Jerſey.

I imagine that the ten &c.'s are intended to expreſs his being ſeigneur of that number of the jurats, for one of the twelve is a De Carteret, and not to be corrupted, another abſent and not yet contaminated. The demeſne lands appertaining to theſe fiefs and ten &c.'s, may not improbably ac-

amount to the annual income of a hundred pounds a year, ſterling. But I mean not by this explanation to ſuggeſt an idea that this ſeigneur of &c's is not a man of fortune; the means ſhall ſpeedily be ſhewn to the ſatisfaction of the whole world; himſelf, his brother, and family excepted; that he has enjoyed and exerted thoſe powers, which have not failed to enrich him.

Among the ſingularity of cuſtoms which are contained in this iſland, that of an inſolvency is not the leaſt remarkable. When a man is ſo far indebted, that he is no longer able to diſcharge his incumbrances, ſhould he be arreſted, and confined in priſon, he has the privilege of renouncing his right to his eſtate and effects; and to ſurrender them to his creditors. Of this the court takes cognizance: he is immediately diſcharged from his confinement: and the magiſtracy forms what is called a decree.

All creditors are then ordered by proclamation to bring in a liſt of their debts, on the penalty of being excluded from the right of being paid. Theſe are entered on a roll, kept open for that intent. The whole number of the creditors being thus known by the court, they invariably begin with the laſt who gave the inſolvent credit, and aſk him if he will take the whole eſtate, and diſcharge all the demands. If he acquieſces with this propoſition, he is obliged to anſwer theſe incumbrances, and whatever remains belongs to him. If he declines the offer, he is excluded from all claim on theſe effects, and the ſame queſtion is propoſed to the next creditor in aſcent. In this manner it is continued, untill ſome one accepts it on the terms juſt mentioned; and then that acceptant is declared to have made himſelf poſſeſſor, or tenant.

It

It is difficult to ſuggeſt what could have been the inducement to a cuſtom ſo totally irreconcileable with the principles of common honeſty and diſtributive juſtice; and why the laſt, and other aſcending creditors, ſhould be reſcinded from thoſe debts, which are equally juſt with theſe of his firſt: or by what arguments a priority of credit precludes the ſubſequent from an equal right to the effects of him who is indebted. Yet ſuch is the cuſtom, and it hath long exiſted, to the diſgrace of juſtice and the inſular underſtanding.

Bonds in this iſle are equally obligatory with mortages in England, and extend into lands as well as moveables.

The coin of France is the currency of Jerſey, and very little of that of England, Spain, or other country, is to be met with. This proves to a demonſtration, that the ballance of trade between Jerſey and France, is in favour of the former. A guinea in Jerſey is not of equal value with a louis d'or; and where a country is in trade with two others, and coins no money in itſelf, whichever is current of the other two, demonſtrates on what ſide the ballance lies, reſpecting that place and the two others.

Of this currency of Jerſey there are two denominations, though the coin be the ſame. Four liards make a French ſous; and ſix a ſous of Jerſey. The former is that by which all things are bought and ſold; the latter is called money of order, being ſo eſtabliſhed by king and council, on an application from the iſle; and is ſaid to have been requeſted to prevent the exportation of the coin during the frequent alterations in money which were made by the duke of Orleans, when regent of France.

By

By this order as ſix liards were now to make a ſous, which by the currency conſiſted of four only, the nominal of the ſous remained the ſame, and the value was encreaſed by one half. This, however, made no difference in the eſtimation of things; for whatever was to be bought by four liards before, remained of the ſame purchaſe. But as bonds which ſpecified a hundred crowns, or any other ſum, before this alteration, might lay the foundation of an unjuſt demand, according to the money of order; and the debtor by thoſe means be obliged to pay according to the new denomination, who had borrowed on the old; and thus, by adding two to four, pay one half more than he was really indebted; it was on that account declared in the ſame order, that every man to whom any ſums of money might be owing, ſhould either receive the money according to the old currency; or reduce the ſum one third, according to the new value; provided alſo that this money was offered to be paid or application made to change the bond within ſix months.

Whatever the original intention of that alteration may have been, it was applicable to very iniquitous purpoſes; and inſtances of this ſhall be adduced, in which thoſe have egregiouſly tranſgreſſed the laws, whoſe more immediate care it was moſt religiouſly to have preſerved them.

The perſons of property, beſides their feudal obligations, are by law to find arms for the defence of the iſland; and every man, both rich and poor, between ſixteen and ſixty, to bear them in the protection of his country. The iſlanders conſiſt of five regiments, well and regularly trained, and habited in the uniform of England. They have been at all times a brave and free people, and will conſtantly remain in that ſpirit, provided their

ſouls

ſouls are no longer depreſſed by the imperious treatment of their magiſtrates. They are under the command of the governor or his lieutenant, but their puniſhment lies in the hands of the court for delinquency in military duties. In times of war the duty of the nightly watch is extremely burthenſome to the poor and labouring, who are ſubjected to that ſervice by rotation three times in a fortnight. And this, conſidering they have no pay, muſt reduce the means of getting bread to no ſmall degree of hardſhip.

CHAP.

CHAP. XII.

Of the commerce and privileges of Jerſey.

THE natural productions of this iſland are ſuch as will not permit an export, and theſe are chiefly the Jerſey cows, which are eſteemed in England for the excellency of their milk. So far are they from being enabled to export corn of any kind, that the iſland does not in the moſt abundant years, produce by one third what is ſufficient for the bread of the inhabitants, and that deficiency is generally ſupplied from this kingdom. The reaſon of this inſufficiency ariſes not from the ſterility of the land, nor the lazineſs of the people, for even the women aſſiſt in gathering in the harveſt, and when the men are abſent on their voyages to Newfoundland, they threſh the corn which they collected from the fields. The ſcarcity of this ſuſtenance ariſes from the number of the iſlanders exceeding that proportion of acres which is found in moſt countries where a ſufficiency is produced. And as ſince the firſt chapter of this work was printed, I have received a more perfect account both of the numerouſneſs of the inhabitants, and of the dimenſions of that inſular ſpot, I take this opportunity of correcting that error, and I ſhall confeſs my obligations, and thankfully correct every other, which may at any time be diſcovered

to

to me, for I have no object in view, but that of relating the truth; of obtaining juſtice; and promoting the means of communicating the common rights of Engliſhmen to theſe unhappy iſlanders.

I am now informed that the iſland contains twenty-five thouſand acres, and that the inhabitants are ſomething more than twenty-two thouſand. The iſle then, containing that quantity, affords ſomething more than the proportion of an acre to every individual; and on that account muſt be inadequate to the production of what they conſume. From this circumſtance alſo, it is experimentally evinced, that the populouſneſs of a place depends on encouragements to marry; and that ſuch union is the effects of poſſeſſing ſmall portions of the earth. This is conſtantly the caſe in Jerſey from the partability of their inheritances; a circumſtance which would equally reſult from the renovation of ſmall farms in England. For this iſland owes not its encreaſe to the acceſſion of ſtrangers. The reſult of this ſuperior proportion of inhabitants to the ſoil is ſuch as regularly follows in all ſuch caſes. The natural productions of the iſland are extremely dear; and the neceſſaries of life are cheaper in the more weſtern counties of England. Even fiſh on the ſouthern coaſt of Devonſhire is to be purchaſed at half the price of what it is in Jerſey: and nothing but the almoſt impoſſibility of ſelling their eſtates has kept the gentlemen of that country within that ſea-girt priſon.

In *England according to the calculations of Mr. King, adopted by Doctor Davenant, there are ſeven acres and one quarter to every indivi-

* Davenant, p. 51. Eſſay on the probable means of making a people gainers in the ballance of trade.

dual, and including Scotland it may not be unlikely that there are nine acres to every perſon in Great Britain. Hence it is evident that every Briton hath almoſt nine times the quantity of land to produce the neceſſaries of life than can be allotted to an inhabitant of Jerſey.

The only domeſtic trade which employs the people, is that of combing wool, and knitting ſtockings: and among the female race there are no idlers. They are allowed the annual import of four thouſand todds of wool from England, which is converted into about twenty thouſand dozen of ſtockings. Theſe, at a medium of twenty ſhillings a dozen, amount to twenty thouſand pounds. By much the greateſt quantity of them are ſent to England to be dreſſed and dyed, and are from thence exported to other nations.

Their foreign commerce conſiſts of the Newfoundland fiſhery, in which about forty-five ſhips are yearly employed; of a few veſſels in the logwood trade, and ſome others. The fiſh being ſold either in Spain, Portugal, or Italy, the returns are for the moſt part in bullion, or money: all the produce, both of the ſtockings, and the other commodities, ultimately ſettles in England. On this account the commercial employment of no part of Great-Britain is more beneficial to the kingdom, reſpect being had to the degrees of its extent.

As the inhabitants are by no means infatuated with French faſhions, their apparel of all kinds is bought in England. And the money which is produced by trade, is employed in the purchaſe of thoſe commodities which are exported from this kingdom. In times of war not leſs than two thouſand ſailors are furniſhed to man our fleets, whoſe behaviour as naval commanders, officers, and common ſeamen, is acknowledged to be meritorious.

To-

Tobacco is the chief commodity which the French purchaſe from the iſlanders, and that article and a few others ſupply them with the ſmall ſum of money which is neceſſary for the currency of the iſland.

The chief privilege of Jerſey is the right of applying to the parliament of Great Britain, on all emergencies which may require it. A right as ancient as the parliament itſelf, as it now exiſts. From the beginning of that legiſlative body to the time of James the firſt, at the firſt meeting of every parliament, both receivers and triers of petitions were elected among the lords, to accept and to conſider thoſe which were offered from the Engliſh territories in France and the iſles. And after the continental territories were loſt, the inſular preſerved that right, as long as that parliamentary mode exiſted. When this manner, relative to the reception of petitions, was altered, the ſame right nevertheleſs ſubſiſted, and ſubſiſts to this day. For the mode of applying, before that time, was the ſame both for the Engliſh, and the inhabitants of the iſlands. Even as far back as the thirteenth of Edward the third, it may be ſeen in Cotton's abridgement, that the parliament took cognizance of the affairs of Jerſey. It is there ſaid*, " Sir John Ferrers, captain of Jerſey, hath appointed to ſend thither a ſufficient deputy, to whom certain things are appointed for the defence of the ſame.—Commandment is given to the bailly to ſeize the goods of William Paine, a late jurat there, who revolted to the enemy, and to chuſe another."

Notwithſtanding this right of parliamentary cognizance, no law made in England extends its influence to Jerſey; unleſs the iſland be expreſsly

* Page 21.

mentioned therein; and then it muſt be tranſmitted to the magiſtrates, by order of king and council, to give it operation. Nor does any writ from the courts of law in Great Britain extend into that iſle, except that of the habeas corpus, which is in conſequence of its being ſpecifically mentioned in the ſtatute which bears that title.

In the time of Edward the fourth there was a privilege granted to this iſland, which was confirmed by all ſucceeding charters, to the end of the reign of Elizabeth, "that during hoſtilities, the merchants of all nations, as well thoſe who are in amity as in arms againſt us, ſhall freely, and without moleſtation, enter the ports of Jerſey with their ſhips, as well to tranſact commercial affairs, as to avoid the dangers of tempeſtuous weather; and there to remain in ſafety from all hoſtile attempts and invaſion of their property, not only in the ports, but in all parts of the ſurrounding ſea, from whence the iſland can be ſeen."

This privilege ſeems not to have proceeded ſolely from the grace of Edward the fourth; but from ſome convention between him and the king of France. For although the king of theſe dominions might inhibit his own ſubjects from attacking and taking the ſhips and merchandiſe of his enemies, yet his authority could not pronounce an interdict to thoſe of his enemy, and forbid them to take the ſhips belonging to the ſubjects of this crown. That this ſingular privilege has ariſen from a mutual agreement, ſeems more than probable; becauſe in the year 1523, a ſhip of Guernſey, taken as it is above circumſtanced, by a privateer of Morlais, was releaſed by order of the king of France, in compliance with this privilege. Of this kind there are various inſtances, and

others,

others, where the ſhips of France have been releaſed by the Engliſh. But this iſle is no longer a ſanctuary to the ſhips of our enemies. Her privateers are active; and the French commerce feels the effect of thoſe inſular armaments.

In all the royal charters and letters patent, the iſlanders are declared to be ſubject to no laws, but thoſe already related; and to no power but that of their ſovereign. That in all places ſubject to the crown of Great Britain, they ſhall have the rights, and be received and reſpected as Engliſhmen; and laſtly, that they ſhall be a free people. Such is the will of their ſovereigns: and it is remarkable, that, Elizabeth excepted, to the kings of this realm, they have been indebted for all their rights, liberties, and privileges, and to the democratic part of their conſtitution, for their enſlavement; that the deſpotiſm, malevolence, and oppreſſions of the latter, have been in almoſt a conſtant operation to deſtroy the beneficence of the former; by which iniquitous proceeding, they are now reduced to that ſtate of oppreſſion and thraldom, which ſeeks redreſs from the gracious hands of their ſovereign, and which I doubt not he will impart.

CHAP. XIII.

Of the importance of the iſland of Jerſey to Great-Britain.

THE iſland of Jerſey, though diſtant from this kingdom, is of no leſs utility in encreaſing the riches and ſupporting the military power of the crown, than if it was locally connected with this realm. By her privateers, in time of war, ſhe diſtreſſes the enemies, and with her men ſhe ſupplies the fleets and armies of Great-Britain. In this view it claims the attention of the miniſtry, and deſerves the protection of his majeſty. But there remains another, and more coercive, reaſon, why a more particular care is due to that iſle and to the iſland of Guernſey.

Their ſituations, reſpecting France and Great-Britain, render them the peculiar objects of Britiſh vigilance. For, although their advantage to this ſtate may not be ſo apparently manifeſt, whilſt they remain annexed to the crown; yet the fatal effects, which muſt follow a ſeparation, would ſpeedily pronounce the error of thinking them of little eſtimation.

On the coaſt of France, from Breſt to Dunkirk, there is no part which is acceſſible to large ſhips of war. For Havre de Grace will admit of none above forty guns. A harbour, therefore commodiouſly ſituated between the extremes of that diſtance, would prove the moſt eligible acquiſi-

tion

tion to the king of France. In each of the preceding iſlands ſuch a haven is with facility to be conſtructed, and at no great expence. Boulay bay, ſituated on the north ſide of Jerſey, is capable of being made a port for the reception of ſeventy-gun ſhips, at low water. And as it lies towards the coaſt of England, a fleet may ſail from thence with that wind which neceſſarily retains the navy of England within the harbours of Portſmouth and Plymouth. The channel is immediately open to inſpection; and all the commerce which paſſes between thoſe iſles and England, are the ready prey of the privateers, and ſhips of war. And I will venture to affirm, that theſe two iſlands, in the hands of France, would be of ten times the value to that kingdom, that Mahone and Gibraltar are to this of Great Britain. How far a port, ſo favourably ſituated, may be advantageous to this kingdom, I leave to the deciſion of thoſe, who are more intelligent in ſuch affairs than I am: but it requires no great diſcernment to diſcover, that Jerſey, in the hands of France, would prove an acquiſition of more importance than the iſle of Corſica; and ſince that iſland, and her liberties were conſidered, though fallaciouſly, as an object worthy the concern of Great Britain; ſince millions of money and thouſands of her ſubjects muſt have been ſquandered in its defence; it cannot certainly be undeſerving the vigilance of adminiſtration, to preſerve the allegiance of the iſlanders of Jerſey, by affording them that protection from the tyranic oppreſſions of her magiſtrates, which, by right, they claim, and by their actions merit. This event may be produced without bloodſhed or expence; and they petition but for liberty alone; the boon that is juſtly due to uncontaminated fealty. The minds of men

are incapable of bearing oppreſſion, beyond a certain degree; the preſent evil is conſtantly the moſt intollerable, and a train of diſappointments hurries mankind into an oppoſite extreme. To flee the inſtant ſufferings, they precipitate themſelves into any danger; as the deſperate commit ſuicide to avoid the anguiſh of life; and ſeek relief from that which was their former terror. When all the ſubjects of one monarch are uniformly ſubmitted to the ſame rigours, whatever be the government, that equality of ſuffering is in ſome degree a conſolation; becauſe none are more or leſs miſerable by compariſon; at leaſt, it proves productive of acquieſcence with their fate. But when it ſo happens that one part of thoſe, who are ſubject to the ſame prince, are enjoying the ſweets of liberty, and the other held in chains, the infamous diſparity aggravates the miſeries of the latter, and every riſque becomes preferable to their preſent ſtate. But ſuch is the embittered condition of Jerſey, they are conſidered as freemen by the king, and treated as ſlaves by his miniſters of juſtice; and their grievances are inexpreſſibly augmented by the manner in which they are inflicted. Such hath been the condition of the iſlanders of Jerſey, for theſe laſt twenty years. In the late reign they have frequently proved the impracticability of redreſs, by the inattention which was paid to their appeals. They found that the council of the king confirmed the iniquitous deciſions of the court of Jerſey; and that the inſolence of the chief magiſtrate encreaſed with every inſtance of miſrepreſentation and ſucceſsful villainy. *On this account the ſpirit of allegiance began to evaporate, and the ardour of ſacrificing themſelves for that

* Mſs. of a late commander in chief.

that country, which was now enſlaved, conſpicuouſly abated. The late war afforded the firſt inſtance of languor in defending their native land. They became indifferent to what king they were ſubjects; and were perſuaded, that no tyranny could exceed that of the Lemprieres, from whoſe torture and extortions they ſaw no deliverance. To be amuſed with ideas of freedom, beneath the weight of enſlavement appeared to be the moſt deluſive of all viſions; and to be told that they were the ſubjects of a moſt generous prince, whilſt they were worn to death by the harraſſments of the bailly's deputy, was to be fed with air, and whipped with thongs. And many a reſentful word eſcaped their lips, expreſſive of their ſentiments, and careleſſneſs of who became their maſter.

Colonel Campbel was then commander in chief, he knew and had frequently relieved their ſufferings, by humanely, interpoſing between the tyranny of the Lemprieres, and the oppreſſion which the people would otherwiſe have ſuffered; and had the eſtabliſhing of the peace, and the reforming of the conſtitution been committed to his care, in him underſtanding and integrity had been united. He was beloved by the people and deteſted by the magiſtrates for the ſame beneficence. The iſlanders believed in what he uttered, and on that account obeyed and performed their militaty duty. By his perſuaſions they were induced to think that freedom would be ſoon reſtored; and they are now convinced, that their preſent ſovereign has graciouſly deigned to liſten to their complaints, by the juſt compaſſion which he hath lately ſhewn them. The ancient ſpirit of loyalty is returned, and waits the auſpicious confirmation of their happineſs: but not without much trepidation, that the Lemprieres may yet find means to preclude

that

that conſummation. But ſhould a fallacious face be given to the preſent tranſactions, and thoſe who have been engaged in that affair be found deceitful, they ſtill are confident that a true ſtate of their diſtreſs will, at length, find paſſage to the royal ear; and that thoſe who have abuſed his benignity with ſpecious tales; and left the woes of Jerſey ſtill unremedied, will be treated with that indignity which they deſerve, and that liberty, at-length, will be reſtored to loyalty and allegiance.

The end of the firſt volume.

APPENDIX.

Number 1.

To the King's Moſt Excellent Majeſty.

The humble petition of your moſt faithful and moſt loyal ſubjects, the inhabitants of the town and pariſh of St. Helier, of the pariſhes of St. Ouen, St. Peter, Trinity, St. John, St. Laurens, Grouville and St. Mary, in the Iſland of Jerſey, (formerly part of the dutchy of Normandy) which has always remained under the true and lawful ſway of your ſacred majeſty, and your moſt illuſtrious predeceſſors, who in reward of the approved and diſtinguiſhed loyalty of the inhabitants, have not only allowed them the free enjoyment of their ancient laws and liberties, but have added other great and invaluable privileges, as appears by their different charters, *&c.* But as ever ſince the unnatural revolt of the greateſt part of the ſaid dutchy, your liege ſubjects of this iſland can in no wiſe participate or be ſubject to ſuch laws and ordinances as have been and are from time to time made for the Government of the province ſince the ſaid defection, many abuſes have therefore crept into their laws and privileges, from the length and corruption of the times and manners, which it is become neceſſary to reform and redreſs.

Your petitioners moſt humbly beſeech your majeſty to take this their petition into your royal conſideration, and that you would be pleaſed graciouſly to order, that the articles which it contains may for ever have the force of law, humbly conceiving this to be the ſureſt and moſt effectual method of re-eſtabliſhing, on a ſolid foundation, the public tranquility, and of reſtoring a mutual confidence between the magiſtrates and the people of this iſland.

Moſt humbly prayeth,

1. THAT as the produce of the iſland in the moſt plentiful harveſt is not ſufficient to afford ſubſiſtance for more than ſix or eight months to the inhabi-

tants, the exportation of corn, bread, flour, meal, peaſe and beans, be abſolutely prohibited.

2. That the free importation of all kind of victuals and proviſions be allowed, agreeable to our privileges as an indemnification, and a reward for the great expence, fatigue, and danger, to which in time of war the inhabitants are by their ſituation expoſed, that they may enjoy, by plenty and low prices, the ſweets of peace.

3. That the importation of cattle and hog-meat from France, be under ſuch reſtrictions as will ſeem proper, ſo that the farmer may not be diſcouraged from breeding, and that the poor may not be diſtreſſed.

4. That the exportation of cattle and every kind of proviſion be prohibited, except ſuch as are neceſſary for victualling ſhips, bound from this iſland to foreign parts, except alſo cows, which may be ſent to Great Britain, under ſuch reſtrictions as will ſeem meet.

5. That the ſupport and repair of the high-roads be effected by a general rate on the whole iſland, and regulated in ſuch manner, that the poor and the rich, without exemption of rank and office, may contribute to it according to their circumſtances.

6. That there ſhall be no other fine for boughs affecting the roads, but ſuch as is inflicted at the viſit of inſpection, according to ancient uſage.

7. That every one who owes tithes to the revenue, and to lords of manors, ſhall have the preference of ſuch tithes due by him, on paying the price for which they might let to others.

8. That when it is expedient to make or alter local laws or ordinances, to raiſe rates or ſubſidies, the conſtables ſhall decide nothing thereon until they have conſulted their conſtituents, as they are by oath bound to do.

9. That when any conſtable has ſerved three years there ſhall be a new election, as well as of his officers, and that the pariſh accounts ſhall be ſettled every year.

10. To obviate and remedy the many inconveniencies which may ariſe to the publick, and thoſe who are obliged to exerciſe the office of jurat, from the perpetuity of it, there be ſuch a duration preſcribed as will ſeem meet to your majeſty, on the expiration of which the jurat ſhall be diſcharged, and a new election enſue, wherein he may if he does not refuſe it, be re-elected by the

the people: that all elections be abſolutely free, and every civil and military officer ſtrictly forbidden to interfere, directly or indirectly.

11. That when the price of corn has, through the courſe of any year, exceeded a certain rate, the court may have power of reducing the rents to what will appear juſt and reaſonable, in order to relieve the poor, and thoſe overburthened with rents.

12. That your majeſty be graciouſly pleaſed to appoint an avocat du roi, with the ſame authority and power as of old, by which your petitioners hope to ſee the conſtitution reſtored, and the many hardſhips removed, under which they have laboured through the too abſolute power of the procureur du roi.

13. That the regulations for the market, and particularly thoſe contained in the act of the ſtates of the 11th November, 1709, be renewed, and put into due execution, to prevent monopolies, and that the market be duly provided with corn; and finally, that all abuſes on this article, and on all proviſions, be removed, and that the aſſize of bread, which has been for many years neglected, be again put in practice.

14. That no ſtrangers be permitted to ſettle in the iſland to the prejudice of any inhabitant, except refugees, for the ſake of the proteſtant religion, who are permitted and encouraged in all your majeſty's dominions.

15. That the revenue ariſing from the impoſts be applied to compleat the harbours of St. Helier's and St. Aubin's, and to build ſtores and warehouſes where it will be thought neceſſary for the good of trade, and to keep the harbour, ſtores, and warehouſes in due repair, all which being accompliſhed, that the reſidue may form a capital, the intereſt of which be appropriated to the uſe of the poor in the general hoſpital.

16. That the introduction of all goods, ware and merchandize, not prohibited by royal authority, be allowed; that every privilege whatſoever granted to the inhabitants of this iſland, as a reward for the conſummate loyalty they have at all times demonſtrated towards their auguſt ſovereigns, and for their military and other ſervices, be maintained and preſerved without any reduction or change, but ſuch as your majeſty has or may order.

 17. That

17. That in all criminal proceſs, one of the beſt lawyers be allowed the priſoner to aſſiſt him in his defence, agreeable to the maxim, that it is better for a hundred criminals to eſcape puniſhment, than for one innocent man to ſuffer; and that in all other cauſes whatſoever, after the plaintiff has fixed upon one lawyer, the defendant be allowed any other, in conformity to the law on that head.

18. That in future no ignominious fine (commonly called amende qualifiée) be inflicted, but for crimes and very high miſdemeanors, and that the ſum of all fines be fixed at the time when ſentence is paſſed, and in the preſence of the parties.

19. That the orders of the royal commiſſioners be reviſed, amended, and ſuch corrections made as may render them intelligible to every body, and prevent any undue and partial explanation thereof.

20. That after the expiration of forty years no junior be allowed to claim of his ſenior a new diviſion of eſtate, and that no guarantee ſhall extend beyond that term.

21. That as it appears to be the intention of the royal commiſſioners, the price of the rents due to your majeſty be duly taxed, and not left to the option of the receiver, your majeſty's income being by far more than ſufficient to diſcharge the ſum which the receiver pays the governor in chief, without ſetting the rents at the exorbitant price which they have borne for many years, and which has greatly contributed to raiſe the price of bread.

22. That all ordinances and deciſions of the ſtates be regiſtered and enrolled, and that no one be refuſed an act of what has been put to the opinion of the members of the royal court.

23. That no one dare to prevent the clerk or the regiſter from admitting any one to inſpect the books of record, on proper application, and on paying the fees according to the intention of the royal commiſſioners.

24. That in collateral ſucceſſions the lords of manors be obliged to name an arbitrator, and the tenants another, and that theſe two arbitrators ſo named, be allowed to call a third, and theſe three do decide the clear income of ſuch ſucceſſion, the value of which ſhall be paid to the lords of manors, which will prevent many great abuſes.

25. That there be a book of the land meaſurement of each pariſh made out at the pariſh expence, and lodged in the reſpective conſtable's poſſeſſion, that the royal, clerical, and common tythes may be clearly diſtinguiſhed.

26. That no member or officer of the court be appointed receiver, or become under-farmer of your royal revenue.

27. That no perſon, on any plea or conſideration whatſoever, be exempted from performing any ſervice due to your majeſty, or any lord of manor, as ſuch exemption falls very heavy on the poorer tenants.

We beſeech your majeſty to order the bailly, or his lieutenant, to attend once a week to paſs contracts, *&c.* (as the predeceſſor of the preſent lieutenant-bailly voluntarily did) that the people may not loſe their time in going to town for three or four ſucceſſive weeks, without being able to do their buſineſs.

That all laws and political ordinances be collected in a proper book, of which every conſtable ſhall have a copy drawn, which on his diſcharge ſhall be delivered to his ſucceſſor, that the people may not every inſtant be ſubject to fines, for unknowingly contravening old laws and ordinances, which are renewed every ſeſſion, in general terms, without any diſtinction, and that all local laws and ordinances be in future made by the ſtates alone.

And laſtly, as direct contradictions abound in the laws, practice, ordinances, and precedents, the multitude of which creates many doubts, differences, and troubles, it is highly expedient to have a code of laws: we humbly beſeech your majeſty to grant us in this reſpect the ſame favour as the late queen Elizabeth, of glorious memory, conferred on the inhabitants of the iſland of Guernſey.

That Almighty God may pour his choiceſt bleſſings on your ſacred majeſty, and on your auguſt family, and that your poſterity may fill the throne of theſe realms, until time ſhall be no more, is the fervent prayer of your ancient and ever loyal ſubjects of the iſland of Jerſey, who are every one ready, by imitating the example of their anceſtors, to ſacrifice their lives and fortunes in ſupport of a government, under which they have for many ages enjoyed the paternal protection of your royal predeceſſors; they humbly

implore you, Sire, to grant them the continuation of your's, and to be perſuaded that they are incapable of offending your Majeſty in word, thought, or deed.

And your petitioners, as in duty bound, will never ceaſe to pray, &c.

Number 2.

(C O P Y.)

In the matter of Nicholas Fiott of Jerſey.

JAMES FORRESTER, Eſq; late commander in chief of his Majeſty's iſland of Jerſey, maketh oath, that this deponent, ſoon after his arrival in Jerſey, in the year one thouſand and ſeven hundred and fifty-eight, having received repeated informations of many and great abuſes in the treatment of the priſoners of war, confined in the ſaid iſland, not only with regard to their proviſions, ſtraw, and other neceſſaries, but of moſt outragious mal-treatment of their perſons, committed by the perſons acting under Philip Lempriere, Eſq; attorney-general of the ſaid iſland, and agent for ſaid priſoners; and finding, that after remonſtrances made by this deponent, in relation thereto, to the family of the ſaid agent, who was then in England, that the ſame complaints ſtill ſubſiſted, and were renewed; this deponent deſired lieutenant-colonel Adey, major Napier, with ſeveral friends of the ſaid agent, and who had a perſonal regard for him, to accompany him, this deponent, to the French priſon, in order to diſcover with what reaſon ſuch grievous complaints were made; and upon this deponent's inſpection of the ſaid priſon, things appearing ſo contrary to the commands of chriſtianity, humanity, and the honour of the nation, that this deponent thought it incumbent upon him to have the ſame redreſſed, and had moſt ſolemn aſſurances from the mother of the ſaid attorney-general, and other of his friends, that they ſhould be ſo. —— Notwithſtanding which, the ſaid mal-treatment was ſo far from being amended that it was increaſed; whereupon this deponent went

went again with the lieutenant bailly, and three jurats, to the priſon, to make further enquiry into the ſaid matters; and finding the ſaid information fully proved, this deponent, the next day, when there was an aſſembly of the ſtates, applied thereto, and particularly to the ſaid lieutenant-bailly, and the three jurats, who had been with this deponent on the preceding day to the ſaid priſon, who were then preſent, and requeſted that the requiſite number of magiſtrates for paſſing affidavits, would be ſo good as to receive, upon oath, thoſe complaints which the priſoners had made the day before, in order to tranſmit the ſame to the commiſſioners of war; whereupon one of the agent deputies, objected to any queſtions being aſked the ſaid priſoners, by any perſon whomſoever, and inſiſted, that none of them ſhould be brought from priſon to declare what treatment they had met with, and that no perſons whatever ſhould be admitted to hear their complaints, as he declared, that he had particular and poſitive orders from the ſaid agent to act as he did, and that his treatment had, upon all occaſions, been exactly conformable to the peremptory orders of the ſaid agent.—Whereupon this deponent applied to Mr. Peter Mauger, then deputy attorney-general, for his opinion, whether ſuch an order could be lawfully given or obeyed, and called on him in his majeſty's name, to point out ſome method by which the allegations of the priſoners might be aſcertained; to which he anſwered, that it was his opinion, that the court could in no manner interfere in that affair, and, as attorney for the agent, which he then declared himſelf to be, he muſt object to any means whatſoever being uſed to hear or verify the ſaid complaints, and that he had received poſitive orders from the agent ſo to do.—Whereupon this deponent finding the jurats refuſed to intermeddle in the ſaid affair, declared, that he did not mean to bring the affair before the ſtates, or the court, but only deſired that ſome affidavits might be taken before the number of juratts requiſite by the laws of Jerſey; and entreated them to conſider, that he, as commander in chief, could not obtain from them ſuch affidavits as he apprehended every ſubject had a right to claim; and although one of the jarats interpoſed, and ſupported this deponent's requeſt, yet it had no effect on the lieutenant-bailly and the other jurats: and after this depo-

nent had ſtated the affair in various ways to ſhew the right he had to call for the aſſiſtance of the magiſtrates on this occaſion; and finding all his endeavours fruitleſs, he deſired that he might, at leaſt, have the affidavits of ſome gentlemen to teſtify, that he had been deprived of all means of getting thoſe of the priſoners; and even this met with ſuch demur, that this deponent thought it his duty to ſay, that ſuch proceedings would lay him under a neceſſity, of quitting and diſſolving the ſtates, and ſending his reaſons, for ſo doing, before his majeſty in counſil; whereupon they, at length, granted this laſt requeſt. And this deponent ſaith, he well knows Mr. Nicholas Fiott, merchant, in the ſaid iſland, and ever eſteemed him as a very worthy honeſt man, and who, during the time this deponent had the honour of commanding in the ſaid iſland, ever behaved well; and this deponent believes, the lieutenant-bailly, the attorney-general his brother, and many more of their family, had great reſentment againſt the ſaid Nicholas Fiott, for his diſintereſted, and humane conduct, in endeavouring the redreſs of the grievances the French priſoners at that time laboured under, which he thought himſelf obliged to do, not only from humanity, but from the office of centenier, which he then held, in the pariſh where the ſaid priſoners were kept; and this deponent ſaith, that he is at preſent in a very ill ſtate of health, and is ordered by his phyſician to go to Briſtol, as ſoon as poſſible, for the recovery thereof.

Signed *James Forreſter.*

Sworn this 4th day of April 1764,
at the public office before me, *T. Ffarris.*

Number 3.

I Clement Meſſervy, do hereby certify, that the 17th day of december 1757, I received a ſummons by means of one of the denunciators of the court of Jerſey, to appear before the ſaid court, in eight days, againſt the perſon acting as king's procureur in the ſaid iſland, for having preſumed to ſhip or engaged people to ſerve in the privateer, which I commanded (without having previouſly ac-

acquainted the chief magiſtrate therewith) and for having contrary to orders, exported proviſions of the produce of the iſland.

That immediately after I waited upon the lieutenant-bailly and told him, that if I had been guilty of any fault, it was unknowingly. That I begged he would call the court together at my own expence, becauſe the winds being fair, and the tides ſerving, I had formed the reſolution of intercepting a French Guardecôte of 8 guns, which protected the trade of Granville, and often gave chace to the ſmall privateers of this iſland. That he uſed to come out in the night, when the tide ſerved him, and that it was very eaſy the following nights, to cut him from the land and take him. The lieutenant-bailly anſwered, that if I would go myſelf, and acquaint from him, the gentlemen of the court, he would do it the Tueſday following. In conſequenec of which I went and acquainted thoſe gentlemen therewith, who all promiſed (except one) to be there. That the Tueſday they accordingly all came upon the parade; but the court did not ſit; and they all returned home without meeting; upon which I went to the perſon, acting as kings procureur, to ſhew him my commiſſion, (which directs all officers, civil and military to be aiding and aſſiſting) but he would not ſee nor look at it. Not knowing what to do, and being prevented from acting againſt the enemies of his majeſty. I went to the commander in chief and ſhewed him my commiſſion; he read it, and ſaid, he was ſurpriſed, and did not know the reaſon, why I was ſtopped, that I had always behaved well, and that I had done my duty towards him. From that day to the Saturday following, I did what was in my power, to find an advocate to plead my cauſe; but they all refuſed me, and would not take it in hand. The day being come, I went to court, and preſented my commiſſion which was refuſed, and when I attempted to ſpeak (for want of an advocate) I was ordered ſilence. Therefore they proceeded, and paſſed ſentence againſt me, without hearing what I had to ſay (intending to lay matters of fact before them, in the beſt manner I was able; the whole body of advocates, having abſolutely refuſed pleading for me, or giving me any advice) The ſentence was made in two ſeperate inſtances; in one, I was con

demned

demned in a fine of 200 livres, according to order, One half to go towards repairing the court-houſe, and the other half to the fortifications of the iſland. And in the other, I was condemned in 300 livres fine to be applied as above. So that I found myſelf, accuſed, condemned, and puniſhed, without having been allowed to open my mouth in my vindication; which fines have ſince been rigorouſly levied, in my abſence, and paid by my wife (to Mr. Charles Marret then denunciator) who was obliged to borrow the money of Mr. Blelade Janvrin, to pay the ſaid fines, to the great diſtreſs of myſelf and family. To the truth of the contents of this certificate I am ready to make oath. In witneſs whereof I have hereunto ſet my hand, this 21ſt. day of march 1770, in preſence of the notary and witneſſes hereunto ſubſcribed.

Signed *Clement Meſſervey*,
James Hemery, Not. Pub.

Teſtes *Cha. Le Maitre*,
John Hue.

Before me James Hemery, notary public, by royal authority, duly admitted and ſworn, dwelling in the iſland of Jerſey, peſonally appeared, Mr. Clement Meſſervey, who has ſigned, the certificate hereunto annexed, and further declared he was ready to make oath to the truth of it's contents, whenever required. In witneſs whereof I have hereunto ſet my hand this 21ſt day of march 1770.

Signed *Clement Meſſervey.*

In præmiſſorum § THE § *fidem*
James Hemery, § SEAL. § Not. Pub.

Number 4.

I Nicholas Mallet do hereby certify, that on the 29th. day of may 1762, the deputy viſcount came to me and deſired I would go and ſpeak to the lieutenant-bailly at his chamber, which I inſtantly did, and found there the

the jurats of the court, the deputy-governor, and the kings procureur; but no advocates. When, to my great ſurpriſe, I was there accuſed (of having ſaid diſreſpectful things of the governor) by Mr. John Le Gros, who I found there with thoſe gentlemen, and with whom I had had an altercation ſome days before, concerning letters brought by a flag of truce from France. Then the king's procureur told the ſaid Le Gros to read his charge againſt me, which he did, and accuſed me of having inſulted him, and, in his perſon, the authority of the governour; which I denied, and demanded to vindicate myſelf, by the ſeveral gentlemen preſent, when we had our altercation, being ſummoned to appear as witneſſes in my vindication, and demanded it ſeveral times; but no notice was taken of my juſt demands; and, without allowing me to produce a ſingle witneſs, I was ordered to goal. Finding myſelf in this dilemma, as I was to ſail the next day for Martinico, I demanded to be admitted to bail; upon which the kings procureur ſaid, that for an affair of ſuch a nature, he was of opinion no bail could be allowed me. Finding myſelf in this unexpected ſituation, I was a good deal confuſed; and one of the jurats coming paſt me, told me, I had better ſubmit to the mercy of the court, as by it I would preſerve my liberty and proceed on my voyage, which thinking he meant me well, I did; upon which, the king's procureur ſaid, we muſt now go to the court-houſe to paſs ſentence. I went along with them, and as ſoon as we came in, they again put the queſtion to me, if I ſubmitted myſelf to the mercy of the court. Thinking the jurat that adviſed me, was my friend, and as he had further told me, it would be attended with no other conſequence, than making an apology; I ſaid, that I ſubmitted. Upon which the procureur demanded that I ſhould be fined 200 livres, according to order, half for the king, and half towards building the court-houſe; and give ſecurity for my good behaviour, which, to my great ſurpriſe, was accordingly done; and by that means, I found myſelf accuſed, condemned, and puniſhed, without having been permitted to juſtify myſelf by calling many witneſſes, which I had, to produce in my vindication; beſides the plea of an unblemiſhed character. And have in conſequence (to the diſtreſs of myſelf and family) paid it to the

kings

king's receiver. To the truth of the contents of this certificate I am ready to make oath; as witneſs my hand this 19th day of march 1770.

Signed *Nicholas Mallet*, jun.

Witneſſes *Cha. Le Maitre*,
David Patriarche,

In præmiſſorum fidem
James Hemery, Not. Pub. §SEAL§

Number 5.

AUX plaids de la cour du fief ſeignurie du petit Roſelle 1754, 15, du Mars, ſur l' action qui eſt faite a Jean Le Riche fils vincent par Michael Lempriere Ecur; ſeigneur du fief et ſeigneurie du petite Roſelle pour ſoubir amende pour avoir charié partie de ſes labours des terres qu' il poſſede ſur le dit fief et ſeignurie, pour les ans 1749, 1750, 1751 ſans en avoir delivré le compart, et en outre recompenſer le dit ſeigneur ſuivant aux ordres, ſuivant les premiſes. Apres avoir intendu les parties en touts leur raiſons, et conſideré l' uſage du fief, et autres pieces qui ont eté produites par le dit ſeigneur, le dit Jean Le Riche eſt condamné a l' amende, et a recompenſer le dit ſeigneur ſuivant aux ordres. *ſant au dit Le Riche a montre titre d'affranchiſement.*

Signed *Thomas Le Meſtre*, Greffier.
de la cour du fief et ſeignurie du petit Roſelle.

Number 6.

At the ſtates of the iſland of Jerſey, held at Elizabeth Caſtle, 6th. October 1769.

THE ſtates this day aſſembled, to deliberate on the ſhocking ſituation of the public affairs, occaſioned by the riſing of the people, September 28th, and alſo upon the acts that the royal court was obliged to paſs, that day, in conſequence of the threats and violent proceedings of the people; and the danger to which the perſons of the governor, magiſtrates and officers of the court were expoſed; and upon the terrible conſequences that might follow ſuch irregularities, and the licentious behaviour that reigns at preſent in the iſland, the court not find-

finding itſelf in *a ſtate to continue to exerciſe its functions, have found that it was expedient to take the moſt efficacious and early meaſures to eſtabliſh the public tranquility and order, interrupted in this manner; to which end to addreſs the king in council, and for which purpoſe the lieutenant-bailly, John Le Hardy and Joſhua Pipon eſqrs; are named and requeſted by the ſtates, with Philip Lempriere, eſq; attorney-general, who has offered his good offices, and to attend them in England.

Number 7.

Copy of lord Weymouth's letter.

St. James's, Oct. 24, 1769.

SIR,

I Laid before the king your letter of the 9th, incloſing the acts extorted; and one from the lieutenant-governor of the ſame date. His majeſty expreſſed great concern at the riotous and outrageous proceedings of the mob, upon this occaſion; and gave orders to take the moſt ſpeedy and effectual methods of applying a proper remedy for evils of ſo dangerous a tendency by giving immediate protection to the magiſtrates of Jerſey, and reſtoring them to the quiet and ſecure diſcharge of the duties of their office, which theſe audacious rioters have obliged them to ſuſpend, by annulling thoſe acts, which are an inſult upon his royal authority. And, by a very ſtrict enquiry into the riſe and progreſs of thoſe violent attacks upon legal government, that the offenders may be brought to condign puniſhment. In order to attain theſe ſalutary ends, I am commanded to ſignify to you his majeſty's pleaſure, that you do forthwith repair to the iſland of Jerſey to reſume the functions of your office, under that military protection which his majeſty has thought proper to grant for that purpoſe, at your requeſt; and that of the

* *That aſſertion was then proved to be a falſehood; for the court had met on the Saturday ſubſequent to the riot, without diſturbance, and would have proceeded to buſineſs had not the lieutenant-bailly kept himſelf from attending it; for, as he was convinced he would have been unmoleſted, that event would have obviated the pretext of fear and of going to England.*

the lieutenant-governor, you will find, in conſequence of your joint application, five companies of the royals, ordered to embark at Portſmouth. This reinforcement will, under the command of lieutenant-governor Ball, be diſpoſed of in ſuch a mannner as you, conſulting with him, ſhall think moſt adviſeable, and be employed as you ſhall find neceſſary, for reſtoring proper reſpect to magiſtracy, and due obedience to the laws; and whereas the whole ſtate of this matter has been by me tranſmitted to the council-office to be laid before the king, that you may have his majeſty's order in council relative to the illegal acts which have been paſſed. You will take the proper methods of making ſuch declaration as his majeſty, with his privy-council ſhall make with regard to the annulling and eraſing thoſe acts; and you will then immediately proceed to an enquiry into the authors of thoſe diſturbances, and the grounds upon which they have dared to proceed to thoſe illegal extremities; declaring, at the ſame time, your readineſs to receive and tranſmit to me for his majeſty's information, all petitions and complaints, with regard to ſuppoſed grievances, which are properly and legally preſented; and his majeſty truſts that, by your activity in the diſcovery of the real offenders, and your humanity and attention to the deluded and ignorant, whoſe complaints are to be heard; if decently preſented, you will ſoon reſtore tranquility and good order, and find it unneceſſary to detain the detachment, which the lieutenant-governor will order back when you think the purpoſes for which they are ſent is obtained.

I muſt at the ſame time, in juſtice to the zeal which both you and the lieutenant-governor have ſhewn upon this occaſion, acquaint you that his majeſty is ſatisfied that you have both acted with attention to the real intereſt of the people and that you have ſhewn a readineſs to receive and tranſmit to me, for his majeſty's information, any repreſentation which they could produce in a proper manner with regard to the grievances or hardſhips of which they complain. I ſhall, therefore, conclude by recommending to you a continuation of the ſame conduct.

I am, &c.

WEYMOUTH.

Numb.

Number 8.

ACT 1770, *Refuſing Petitions.*

Aux Etats de l'iſle de Jerſey.

Monſieur le Lieutenant-Gouverneur preſent.

L'AN mille ſept cents ſeptante, le trente unieme jour du mois de Janvier, les etats s'etant aſſemblés le 17me jour de ce mois et ayant remis à deliberer à aujourdhui, ſur pluſieurs petitions qui furent offertes ledit jour par monſ. le lieutenanant-governeur à la requête de pluſieurs des habitants des paroiſſes de St. Ouen, St. Laurens, Grouville & la Trinité (ſur leurs allegations qui les connêtables des dites paroiſſes avoïent refuſé de les preſenter) par le connêtable de St. Hellier, pour ſa paroiſſe, par les recteurs de Ste. Marie & St. Pierre, pour pluſieurs de leurs dites paroiſſes, et par le connêtable de St. Jean pour pluſieurs de la dite paroiſſe. Et ſur le requêtes addreſſées aux etats & preſentées par les connêtables de St. Brelade, St. Sauveur, St. Clement, St. Martin, de la dite paroiſſe de Grouville & de la dite paroiſſe de Ste. Marie pour leurs dites paroiſſes; et ſur les raports des connêtables de St. Laurens, St. Ouen, la Trinité, St. Pierre, & St. Jean, de la maniere dont ils ont procedé en vertu de la direction donné par l'etat à tous les connêtables le 24me jour de Novembre dernier de conſulter leurs paroiſſiens, afin de faire rapport aux etats de leur diſpoſition, de requerir que l'etat s'addreſſe à ſa majeſté en conſeil de permettre (nonobſtant l'ordonnance des commiſſaires royaux) que la cour puiſſe faire un rabais du prix du marché lors qu'il excederoit durant le cours de l'année trente-deux ſols le cabot, quel rabais ne pourroit exceder trois ſols par cabot, & de declarer à leurs dits paroiſſiens, que s'ils avoïent quelque propoſition a faire pour l'avancement de l'intereſt public en general et le ſoulagement du peuple, les etats etoïent diſpoſés a prendre leurs requêtes en conſideration. Aujourdhui ayant paru aux etats, que les dites petitions preſentées par ledit Sieur Gouverneur par les dits recteurs de St. Pierre & de Ste. Marie, et par les dits connêtables de St. Hellier & St. Jean, pour ceux des habitants des dites paroiſſes de St. Ouen, St. Laurens, Grouville, la Trinité,

nité, & St. Jean qui les ont ſignées, les etats conſiderant que les dites petitions ne leurs ſont point addreſſées, ni ſoumiſes à leur conſideration mais immediatement a ſa majeſté, ont crû ne pouvoir les tranſmettre comme il eſt requis ſur les dos d'icelles, et a l'egard des autres requêtes addreſſées aux etats & des rapports ſudits, il a été ordonnée qu'elles demeureront logées au Greffe pour être priſes en conſideration.

Signed *Ph. De Carteret*, Greffier.

Number 9.

Copy of a part of a Standing Order of Council, 26th of March 1729.

HIS majeſty this day took the ſaid report into conſideration, and was pleaſed, with the advice of his privy-council, to approve thereof; and to order, as it is hereby ordered, that the ſentence paſſed, in the royal court of Jerſey, on the 20th of April 1727, be reverſed; and that the ſaid royal court do proceed to a new trial of this cauſe, and examine the witneſſes on both ſides, in court, *viva voce*; and do give liberty to each party to croſs-examine all ſuch witneſſes, and do reduce their evidence into writing, after they ſhall have been reſpectively examined, and that the ſaid court do, within three months time, proceed in a legal manner to hear and to determine the cauſe, and give judgment therein, according to law, and allow liberty to either party, who ſhall demand the ſame to appeal therefrom: and that whatſoever reſolutions the court ſhall come to, during the courſe of ſuch new trial, they do enter up by way of order, if deſired, or inſiſted upon by either party, ſo as to appear upon the acts of the ſaid court; and that this be a general ſtanding order to be obſerved, not only in this cauſe, but in all cauſes for the future; and the bailly and jurats of his majeſty's ſaid royal court of Jerſey, and all others whom it may concern, are to pay a ſtrict regard to his majeſty's pleaſure hereby ſignified, and not to preſume, in any caſe whatever, to deviate therefrom.

Numb.

Number 10.

(C O P Y.)

BE it known unto all people whom it may concern, the on the day of one thouſand ſeven hundred and ſixty-two, before me, Thomas James Gruchy, junior notary publick, by lawful authority admitted and ſworn, dwelling in the iſland of Jerſey, perſonally appeared Mr. Nicholas Fiott, of Jerſey, Merchant, and meſſieurs Edward Patriarche, Charles Payn, Elias de Quiterville, and Abraham Malzard of Jerſey, who did declare and ſay (before me ſaid notary) with the ſaid Nicholas Fiott, that on the ſixteenth day of January, one thouſand ſeven hundred and ſixty-two, he was at court, and went near the table of the clerk of the ſaid court, and ſaid that he heard that there was an act making for the ſale of the Charming Nancy privateer; to which Philip Lempriere, eſq; kings procureur, anſwered, yes; and that ſhe is to be ſold Friday next; to which he anſwered him, how can you demand a ſale of ſaid ſhip, which he had built himſelf? and who was it that put him in poſſeſſion of ſaid ſhip, and that he had never given him the poſſeſſion, and that he had no other poſſeſſion than that, that he had taken of himſelf; and ſaid to the court, why, gentlemen, ſhall it be by the caprice of Mr. Lempriere that he ſhould be put out of the ſhip; and alſo ſrid to the lieutenant-bailly that he ſhould not have thought, according to the converſation they had in the morning together, that he would have ſuffered ſuch a thing; to which he anſwered him, that he had declared, that there was one of the ſociety aſked him to write in Guernſey and England; but that the king's attorney inſiſted upon her being ſold Friday next. To which the ſaid Fiott anſwered, How, Gentlemen, is it that ſuch a ſhip as that is to be ſold in four or five days, ſuppoſing even he had power to do it, which he did not think was in his power to do; and finally, after having long argued on both ſides the court aſked him, whether he would conſent to the ſale, and that it ſhould be put off till the Monday following, inſtead of Friday. He anſwered no; that he would not conſent to it, and that it was not doing of him juſtice. But that, if they found it proper to allow

him fifteen days, that he would conſent. It was then aſked the kings attorney to conſent to it; but he anſwered no; and that being he would not conſent to the ſale for Monday, he inſiſted upon her being ſold a Friday; and the court agreed to it. Upon which he declared, that he did proteſt againſt ſuch an act, and demanded an appeal before his moſt excellent majeſty and council; and it was refuſed him: upon which he declared, that he would carry it by doleance, and aſked, that it ſhould be entered in the ſaid act; but the court refuſed him, upon which he took the above witneſſes. All which things were declared, as they are herein ſet forth, in the preſence of me ſaid notary; therefore, I have hereto ſubſcribed my name (together with the ſaid Fiott and witneſſes) and affixed my notarial ſeal, in the iſland of Jerſey (where no ſtamp paper is uſed) the day and year firſt above-written, being requeſted to teſtify and certify the premiſſes.

Signed *Ch. Payn.*
Abrah. Malzard.

Number 11.

(C O P Y.)

ON the third day of February, in the year of our lord one thouſand ſeven hundred and ſixty-two, before me, John Vibert, notary publick, by lawful authority duely admitted and ſworn, dwelling in the iſland of Jerſey, and in preſence of the witneſſes hereunder ſubſcribed, perſonally appeared meſſieurs John Le Gros, Edward Snowe, John Kerbey and Nicholas Le Queſne, all of the iſland of Jerſey, who did declare for truth, that on Friday the twenty ſecond day of January laſt paſt, being then at the town, called Saint Aubin, in this iſland, at the ſale of the ſhip, or veſſel, called the Charming Nancy privateer, late commanded by captain William Snow. Mr. Nicholas Fiott of this iſland, merchant, one of the owners of the ſaid veſſel, as repreſenting one ſixth part thereof, not willing and oppoſing to ſell his intereſt in her, came at the ſale and oppoſed himſelf to the ſelling his ſaid intereſt in the ſaid ſhip; but was refuſed by the other

other owners to keep his ſhare or intereſt in her; to which the ſaid Nicholas Fiott ſaid to the owners, that they had as much right to ſell his houſe or eſtate as his property in the ſaid veſſel, and ſtill declared, that he oppoſed the ſale of his ſaid intereſt, and proteſted againſt ſuch a ſale; but the officer was ordered by the other owners to go on with the ſale, and accordingly the ſaid ſhip, or veſſel, was ſold entirely to Thomas Pipon, eſq; one of the owners of her. That, immediately after the ſale, the ſaid Nicholas Fiott applied to the ſaid officer to give him a record under his hand, as he had ſo oppoſed the ſale of his ſaid intereſt in the ſaid veſſel; upon which Philip Lempriere, eſq; one of the owners, being then preſent, ſaid to the officer, that he could not give ſuch a record, as there was an act of the royal court, ordering the ſale of the ſaid veſſel. To which the ſaid Nicholas Fiott anſwered, he knew that there was an act of the court, and did only oppoſe the ſale of his ſhare in the ſaid ſhip; but not thoſe of the other owners; and that it was no reaſon to hinder the officer to give him a record of his ſaid oppoſition: at which the ſaid Philip Lempriere replied, that beſides the act, the court was even then preſent at the ſaid ſale. Therefore, he, the ſaid Nicholas Fiott, was ſtill refuſed of having ſuch a record from the ſaid officer. In witneſs whereof the ſaid appearers have hereunto ſet their hands and ſeals, the day and year above written, in the iſland of Jerſey, aforeſaid, (where no ſtamp paper is uſed,) in preſence of the under-ſigned witneſſes.

Signed *John Le Gros*, LS.
Edward Snow, LS.
Witneſſes, *Joſhua Gabourel*, *John Kerby*, LS.
Pr. Le Cronier. *Nicholas Le Queſne.* LS.

Number 12.

WE ſubſcribed commiſſioned officers in his majeſty's navy and army, reſiding in this iſland of Jerſey, and others, inhabitants of the ſame, do hereby certify, that we have never heard, nor ſeen, that Mr. Nicholas Fiott, or his adherents, have cauſed, or even attempted to cauſe, any riot, or mutiny, in this Iſland. That on the 24th day of April laſt, when, by order of his majeſty,

as was publickly known, he was releaſed from confinement, the company of militia, whereof he is captain, compoſed of two ſerjeants and about forty private men, aſſembled with their arms together on the ſands near the ſaid Fiott's houſe, at the uſual place of exerciſe, where they only diſcharged their arms, and never made any bonfires. And that they, nor any other, did not make the leaſt attempt of riot, or mutiny. Witneſs our hands this 15th day of November 1764.

W. Brown, capt. in the 72d. regt. of invalids.
Rich. Carteret, capt. in the navy.
Alex. Hogge, fort major.
J. Carteret, lt. of the navy.
Geo. Burrard, lt. 74th. regt. invalids.
M. Du Pre, lt. of the navy.
John Luce, lt. of the navy.
Peter Patriarche,
Geo. Roweliffe,
David Patriarche,
Ch. Le Marinel.

I do hereby certify, that in laſt April, I commanded in chief in his majeſty's iſland of Jerſey, and that on the 24th day of the ſaid month, it was publickly known there, that Mr. Nicholas Fiott was releaſed from confinement, when the company of militia, whereof he was capt. aſſembled, with their arms, on the ſands, near his houſe, at their uſual place of exerciſing, where they only diſcharged their arms, and never made any bonfires, nor did they, or any others, make the leaſt attempt of riot or mutiny; and that, to my knowledge, the ſaid Mr. Fiott never cauſed, or even attempted to cauſe, any riot or mutiny in the ſaid iſland, while I had the honour to command there; and this I give under my hand, at Plymouth, this 18th day of Feb. 1765.

Ja. Graham.

Number 13.

(C O P Y)

Iſland of Jerſey.

Before his excellency, Col. John Campbell, commander in chief of his majeſty's iſland of Jerſey, and of all the gariſons, forts and forces in the ſame, &c.

PERSONALLY appeared John Helier Dumareſque gent. and Philip Laurens, inhabitants of this iſland, who made oath. that they, together with John Fiott, attorney jointly with the ſaid Dumareſque attorney to Mr. Ph. Pr. De Gruchy of London, and James Fiott, attorney to Mr. Nicholas Fiott, of this iſland, now abſent, went on the 18th day of Jan. laſt, to the place where Charles Lempriere, eſq; lieutenant-bailly and five jurats of the royal court of this iſland were, in the publick uſual manner, paſſing and authenticating deeds of ſales and contracts between parties, and theſe offered, according to cuſtom, to confirm, ratify, and corroborate a certain deed of ſale of ſome tenements, &c. ſituated in this iſland, ſold and conveyed, by the ſaid Mr. Nicholas Fiott to the ſaid Mr. Ph. Peter De Gruchy, in London, the 31ſt day of October 1765, before Abra. Ogier, notary publick. That the ſaid lieutenant-bailly, after having examined the ſaid deed of ſale, deferred the corroboration thereof, and appointed the deponents, and the attorneys aforeſaid, to be at a certain place the 25th of the ſame month, for that purpoſe. That before they went to the ſaid appointed place a meſſage came from the ſaid lieutenant-bailly to the deponents, and others, as aforeſaid, that they might apply to the court on the 27th of the ſame month. That they accordingly attended in court, and there again offered to corroborate the ſaid deed of ſale; and the court refuſed it. That Mr. Edward Payne, a counſel ſtanding at the bar, who acted for the ſaid attorneys, after the ſaid lieutenant-bailly had pronounced the ſentence, demanded an appeal therefrom, to his moſt excellent majeſty in council, in behalf of the attorneys of the ſaid Mr. Philip Peter De Gruchy; the court alſo refuſed it, and ſome of the jurats told him he had better ſit down and ſay nothing.

Theſe deponents further maketh oath, that, after repeated applications to John Le Hardy, eſq; judge delegué (the lieutenant-bailly being abſent) to ſwear them to the truth of the above affidavit, by his directions, they applied on the 12th day of July laſt, to the aforeſaid royal court, then ſitting, and there again prayed to be ſworn to the truth thereof, and to have it authenticated accordingly; and the ſaid court refuſed it. That there is no perſons in the iſland (as they know of) that have the power of adminiſtring an oath, in any civil cauſe, except thoſe of the ſaid court, who have refuſed them; and finding themſelves deſtitute of means whereby to make authentically appear the above recited tranſactions, in the uſual manner, have prayed the aforeſaid commander in chief to take this their affidavit.

Which declaration, being thus made upon oath, by the ſaid John Helier Dumareſque, gentleman, and Philip Laurens, I, the ſaid commander in chief have hereunto ſet my hand and ſeal this 6th day of September 1766.

(C O P Y)

Iſland of Jerſey.

Before his excellency Col. John Campbell, commander in chief of his majeſty's Iſland of Jerſey, and of all the garriſons, forts and forces in the ſame.

PERSONALLY appeared Philip Laurens of this iſland, who made oath, that by virtue of a ſale and transfer to him lawfully made, in London, the 13th day of July 1765, by Mr. Nicholas Fiott, amongſt other things, of all and ſingular the debts to him due in this iſland, he had ſerved an action to one James Gebert, alſo of this iſland, one of the ſaid Mr. Nicholas Fiott's debtors to pay him the ſum he owed. That the cauſe came on to be heard before the royal court of this iſlaud, on the fourteenth day of June laſt, when the ſaid debtor contumaciouſly abſented; and upon a motion of the court to examine the date of the ſaid transfer, the ſaid Philip Laurens, counſel, produced an act, or order of the court, which had been obtained in the ſaid Mr. Nicholas Fiott's own name, ſince the ſaid transfer was made; notwithſtanding which the court gave ſentence, that they would not admit of any transfer from the ſaid Mr. Nicholas Fiott,

Fiott, whereupon the ſaid counſel demanded that, in purſuance of his majeſty's orders of council, an act, or order, ſhould be made of that ſentence; and the court refuſed it, which declaration &c.

Number 14.

(C O P Y)

Iſland of Jerſey.

Before the honourable Rudolph Bentinck (by a ſpecial commiſſion from his majeſty) commander in chief and lieutenant-governor of the iſland of Jerſey.

PERSONALLY appeared Philip Laurens, Inhabitant of this iſland, attorney to Mr. Nicholas Fiott, ſenior, ſince the year 1762, who made oath, that the ſaid Fiott did, on the 18th day of February 1764, preſent to the royal court of this iſland a remonſtrance againſt Mr. Peter Mauger, praying, that, for the reaſons therein ſet forth, he might not be admitted to the office of king's deputy procureur-general; wherefrom enſued a croſs action, between the ſaid Fiott and Mauger, which being brought before the ſaid court, on the 24th of Feb. 1764, was deferred, without day; and being brought on again the 19th of January 1765 was deferred as before. That on the 22 day of November 1765, when the ſaid Fiott (who has not returned ſince) had been abſent from this iſland above five months, a ſummons was ſerved, at his dwelling houſe, to appear at court the next day, to anſwer to the ſaid action. That this deponent, as attorney to the ſaid Fiott, did engage and fee an advocate or counſel to defend the action, in behalf of the ſaid Fiott. That this deponent did appear at court the next day, when, the cauſe being called, the ſaid advocate pleaded, that it could not then come on, becauſe of ſaid Fiott's abſence from this iſland. That, notwithſtanding the aforeſaid objection, the court ordered the officer to ſignify and leave a copy of ſaid Mauger's reply to the abovementioned remonſtrance at the late dwelling houſe of the ſaid Fiott, ordering him to anſwer peremptorily in January term next enſuing. That, in the courſe of the ſaid

month of January, ſeveral motions were made in court for bringing on the ſaid cauſe, at one of which ſaid motions, on the 23d of the then inſtant January, this deponent offered, by means of his advocate, to conteſt the ſaid action, when it was reſolved, that he was not an admiſſable party; and that none but the ſaid Fiott could be admitted, and a day was appointed for the 27th then inſtant, for hearing the matter; on which day the cauſe (notwithſtanding the aforeſaid offer to conteſt) was called, when the court condemned the ſaid Fiott to a fine of one hundred livres, order money, and to pay the ſaid Mauger five hundred pounds ſterling, damages; for which ſum the ſaid Mauger has ſince obtained an order, or act, on pain of bodily impriſonment.

This deponent further maketh oath, that ſoon after the determination of the court, a grievous and frivolous ſuit was commenced againſt the ſaid Fiott, whereupon Nicholas and Ann Fiott, children of the ſaid Fiott, preferred a petition to colonel John Campbel, then commander in chief in this iſland, ſetting forth, amongſt other things, that the royal court, having giving ſentence againſt their father, without admitting this deponent, as his attorney, to proſecute or conteſt any demands at law in any wiſe; they had great reaſon to apprehend, that, by ſuch a ſentence, their father's eſtate might ſoon become a prey to evil-minded perſons, to the total ruin of the petitioners, as well as the reſt of the ſaid Fiott's children, who were then all minors; praying, therefore, the ſaid Colonel Campbell to grant them his aſſiſtance, and that he would beſeech, in their behalf, the Earl of Albemarle, governor of this iſland, to grant them his protection; that thereby a ſtop might be put to proceedings, which they humbly conceived would appear to his lordſhip oppreſſive and ruinous to their parent, as well as to themſelves, ſo far as might be conſiſtent with reaſon and equity. Since which time the grievous and frivolous ſuit ſo commenced has been deſerted, and the ſentence, given in favour of Mr. Mauger, remains without execution.

And this deponent further maketh oath, that, after application made to Charles Lempriere, eſq; lieutenant-bailly to ſwear him to the truth of the above affidavit, by his directions, he hath made repeated applications to the

royal

royal court, then ſitting, and prayed to be ſworn, as aforeſaid; and on the thirtieth day of June laſt, the ſaid royal court was pleaſed to refuſe it.

That there is no perſons in this iſland (that he knoweth of) that have the power of adminiſtring an oath, in any civil cauſe, except thoſe of the ſaid court, who have refuſed him. And that, finding himſelf deſtitute of means, whereby to make authentically appear the above recited tranſactions, in the uſual manner, he hath prayed the aforeſaid commander in chief to take this his affidavit.

Which declaration, being thus made upon oath, by the ſaid Philip Laurens, I have hereunto ſet my hand, this thirteenth day of July 1770.

Rudolph Bentinck,
Commander in chief, by a ſpecial commiſſion.

Number 15.

Iſland of Jerſey.

Before the honourable Rudolph Bentinck (by a ſpecial commiſſion from his majeſty) commander in chief and lieutenant-governor of the iſland of Jerſey, &c.

PERSONALLY appeared Philip Laurens, Inhabitant of this iſland, who made oath, that in the year 1764, Mr. Nicholas Fiott brought an action againſt Charles Lempriere, eſq; and Mrs Elizabeth Corbet, his wife, for them to ſee rectified an error in the ſum of rent, contained in the purchaſe deed of an eſtate, which the ſaid Fiott had purchaſed of the ſaid Elizabeth Corbet, having authority of the ſaid Lempriere, her huſband.

That the cauſe coming on to be heard before the royal court of this iſland, on the 3d day of May 1764, the court diſcharged the ſaid Lempriere and Corbet from the ſaid action, for reaſon, that the ſaid action referred to the meaſure contained in the purchaſe deed; and that none is mentioned in it; from which ſentence this deponent, as attorney to the ſaid Fiott (who was then abſent from this iſland) prayed, and was allowed, an appeal to his majeſty in council; which appeal this deponent was adviſed by Mr. John Dumareſque, his council, to deſert, ſeeing that judgment was given on the error in the action, and not on the merit of the cauſe.

That

That the ſaid John Dumareſque has ſince told this deponent, that the ſaid Fiott, ſome time after, inſiſted on his drawing up another action, to be ſerved to the ſaid Lempriere and his wife; whereupon the ſaid Dumareſque replied to the ſaid Fiott, that he muſt firſt acquaint the ſaid Lempriere with it; and that in making the ſaid Lempriere acquainted with it, he, the ſaid Lempriere, had told the ſaid Dumareſque, that if that matter was not made up, it was the ſaid Fiott's fault, and that, on his part, he was ready to do it.

That the matter was, notwithſtanding all this, left undone; and upon a doleance preferred by the ſaid Fiott to his majeſty in council, complaining of the ſaid Lempriere and others, relative to ſome differences ariſen betwixt them, concerning a privateer, wherein they were concerned; the ſaid Fiott obtained an order of his majeſty in council, at the producing of which terms of accommodation were propoſed to the ſaid Fiott, by the ſaid Lempriere; to which the ſaid Fiott conſented, on condition, the ſaid Lempriere would make good to him the error on the rent abovementioned; and the ſaid Lempriere was to make known to the other part owners the conditions of the agreement for the ſaid privateer; in order to give the ſaid Fiott an anſwer; as the ſaid Fiott ſayeth, and this deponent verily believeth.

That this deponent was, ſome days after, ſent by the ſaid Fiott to the ſaid Lempriere, to know what reſolution he and the other part owners of the ſaid privateer had come to, and was further charged, by the ſaid Fiott, not to acquieſce to any agreement for the ſaid privateer, unleſs the ſaid Lempriere gave under his hand, that he would rectify the error on the aboveſaid rent.

That this deponent, purſuant to thoſe directions, went to the ſaid Lempriere, and concluding the ſaid verbal agreement for the privateer, this deponent demanded of the ſaid Lempriere, in preſence and full hearing of the ſaid Lempriere's wife, and Thomas Pipon, gent. to rectify the error on the rent; to which the ſaid Lempriere replied, that it was the ſaid Fiott's fault that it was not done, and that madam de Roſelle, (as he called her) his wife and he had looked out for rents to aſſign over to the ſaid Fiott. Whereupon it was agreed that Philip Lempriere, eſq; brother to the ſaid Lempriere, ſhould

pay

pay the ſum accruing from the ſaid agreements; and ſeeing there was witneſſes preſent, this deponent did not demand the ſaid Lempriere to oblige himſelf under his hand to rectify the ſaid error.

That ſome days after, having effected the agreement relative to the ſaid privateer, this deponent went, by order of the ſaid Fiott, to the ſaid Lempriere, and deſired him to appoint a day for rectifying the ſaid error, purſuant to his promiſe; at which he anſwered, that he had found an old authentic liſt, whereby there appeared no error; and moreover, that the deed was paſſed, which contained his meaſure.

That the next court term after, advocate Payne and Dumareſque made a new action, which was ſerved to the ſaid Lempriere and his wife; and, at the appointed time, this deponent went (by the directions of the ſaid Fiott) to advocate Dumareſque, to deſire him to put the cauſe at the table, that it might come on in courſe, as is uſual; which he, the ſaid advocate, refuſed to do; and held, that advocate Payne had told him, that if he did, a fine would be impoſed: but being aſked by this deponent, wherefore? he replied, he knew not of any reaſon why. Whereupon this deponent returned, and told it to the ſaid Fiott, who went himſelf to the ſaid advocate, and had the action put at the table; and two days before the cauſe was to come on, the ſaid Fiott ſet out from this iſland, and has not returned to it ſince.

That, on the appointed day, this deponent applied in court to the ſaid advocate Dumareſque, and deſired him to bring on the action; to which he replied, that advocate Payne had adviſed him to the contrary, for fear of a fine, and after ſome arguments, he abſolutely refuſed doing it. That this deponent, ſeeing his endeavours uſeleſs in that caſe, he retired, and was afterwards informed, that Philip Lempriere, eſq; king's attorney-general in this iſland, demanded that that cauſe ſhould be brought on; on which this deponent was ſent for to the court, but being not found at home, the ſaid king's attorney demanded *un congé de cour*, a diſmiſs of the action, which was allowed, as by the act of court appeareth.

This deponent further maketh oath, that the royal court of this iſland did ſoon after, and have continued ſo ever ſince, refuſe to admit any one to repreſent the ſaid

ſaid Fiott, at law, in any wiſe, until compelled by an order of his majeſty in council, bearing date the 27th April 1770, and conſequently it has not been in the power of this deponent, as attorney to the ſaid Fiott, to proſecute the ſaid matter.

That the ſaid error, according to the ſaid Fiott's computation, is four quarters and a half of yearly wheat rent, which the ſaid Fiott deducted from the whole amount of rent he owed to the ſaid Lempriere, and accounted with him for the overplus for the years 1755 to 1759, both inclusive.

That this deponent has always had directions not to pay the ſaid four quarters and a half of rent, which this deponent has complied with, until January 1766, ſaid Fiott having, ſome time before, ſold and conveyed, in London, the ſaid tenement, with others, the ſaid Fiott's eſtates in this iſland, to Mr. Philip Peter De Gruchy; the deed whereof being preſented to be judicially corroborated, and confirmed as in like caſes. The ſaid Lempriere demanded, who was to pay him the arrears of the rent due to him, for which he had nothing to take to if the deed of ſale was corroborated; whereupon this deponent, being apprehenſive, that the ſaid Lempriere, as chief magiſtrate, might make it a pretext not to corroborate the deed of ſale for non-payment of the ſaid arrears; he told the ſaid Lempriere, he would pay him, which was accordingly effected, for the whole amount of rent, for the years 1760 and 1761, without any deduction.

That at the payment of the ſaid arrears, in preſence and full hearing of the ſaid Lempriere's wife, and Mr. Charles Poingdeſtre, the ſaid Lempriere demanded of this deponent to pay him for the deductions of the four quarters and half of rent, which the ſaid Fiott had made, in accounting with him for the years 1755 to 1759, which this deponent refuſed to do; the ſaid Lempriere (uſing many arguments) offered to reduce it to half the amount thereof, which this deponent ſtill refuſed, and the ſaid Lempriere offered to accept of a leſſer proportion, but this deponent totally refuſing to pay any thing, in that behalf, the ſaid Lempriere at laſt accepted of the arrears for 1760 and 1761, as is here above expreſſed.

Which

Which declaration, being thus made upon oath, by the ſaid Philip Laurens, I have hereunto ſet my hand, this ſeventh day of Jauuary 1771.

Signed *Rudolph Bentinck*,
Commander in chief, by a ſpecial commiſſion.

Number 16.

At the royal court of the iſland of Jerſey, in the year 1770, July 21.

At the requeſt of Mr. Philip Laurence, the greffier of the royal court, is authoriſed to give him an authentic copy of a certain remonſtrance, which had been lodged in the greffe, at his requeſt, the 9th of June preceding.

The tenour of which remonſtrance is as follows.

To the lieutenant-bailly and the jurats judges of the royal court of the iſle of Jerſey.

Philip Laurence, one of the inhabitants of the iſle, humbly remonſtrating.

THAT on Saturday 26th May 1770, he preſented to the court, by the means of his advocate, an order of his moſt excellent majeſty, and the right honorable the lords of the privy council, dated 27th April 1770, obtained in conſequence of a doleance preſented to his majeſty in council, which order was lodged in the greffe.

That your remonſtrant, preſuming the ſaid order being thus lodged in the greffe, cannot be of ſufficient utility to produce its effect, deſired his advocate to demand that the ſaid order ſhould be regiſtered; to which his advocate replied, that the entering of the ſaid order was of courſe to be entered, without the neceſſity of demanding it; and that your remonſtrant applied to the greffier to have an authentic copy.

That your remonſtrant contenting himſelf with the anſwer of his advocate, hoping it would be as he ſaid, and withdrew; and after the riſing of the court he addreſſed himſelf to Philip De Carteret, eſq; greffier, and demanded an authentic copy of the ſaid order, as ſoon as he had regiſtered it. He anſwered your remonſtrant, that he had no orders to regiſter it, and conſequently he could not comply with his demand.

That

That every order being, (as your remonſtrant humbly conceives it) a definitive ſentence, confirmed by his moſt excellent majeſty and his right honorable lords of the privy-council, which ought to have the force of law; on that account your remonſtrant ſupplicates you to take the whole into your conſideration, and to order that the ſaid order be enregiſtered, according to the uſage practiſed on the ſubject of orders coming from his majeſty and his privy council, ſo that he can derive a full effect to the benefit of your remonſtrant, the whole according to what in your good juſtice ſhall be found agreeable.

And your remonſtrant ſhall pray &c.

Signed *Philip Laurence.*

Delivered to the court ſitting,
31ſt May 1770.

True Copy. *Philip De Carteret*, greffier.

At the royal court of the iſle of Jerſey.

IN the year 1770 June 9th, Mr. Philip Laurence having preſented to the court a remonſtrance, requiring, that the greffier be directed to enregiſter a certain order of his majeſty in council, which he preſented to the court 26th May 1770, and which was then lodged in the greffe, as it is more at length related in the remonſtrance, the court hath not judged it *à propos* to order the enregiſtering of the ſaid order; becauſe it is not ordered to be done, and it is not of a public nature, nor between party and party; and hath ordered the greffier to give an authentic copy to the ſaid Laurence, declaring they are ready to obey the ſaid order in all its contents.

Philip De Carteret, greffier.

Number 17.

Act of the court.

IN the year 1770 the 13th of Auguſt, on the action of the attorney-general againſt John Robichon, junior, a vintinier, of the pariſh of St. Martin, ſeized and brought before the court by the deputy viſcount, in virtue of an act of the court, in 1770, the 11th of the preſent

ſent month, to ſubmit to what the court ſhall think proper to determine of this propoſition, ſeditious and menacing, at the pariſh aſſembly, held the ninth of this month, having declared, in ſpeaking of the ordinance, recently made for the high roads, that that could occaſion a ſecond revolt; and beſides that that order was a bougre of an order. After the avowal of the ſaid Robichon and his ſubmiſſion to the court, the attorney-general, being heard in his concluſions, he was diſcharged of his place of vintinier and office of the conſtable, condemned to a fine of two hundred livres, money of order, applicable to the king, the cohue and the general hoſpital; and to demand pardon of god, the king, monſieur the commander in chief, and the court; which he hath done on the ſpot, and to give bail of his good and peaceable behaviour, and to be ſent to priſon on bread and water for fifteen days, the jailer being forbidden to give him any other aliment; in conſequence of which he hath produced Mr. John Carter for his bail, which he accordingly remains to be.

Number 18.

IN the year 1770 November 13th, monſieur the commander in chief, Colonel Bentinck, having propoſed to the court, a certain prohibition, under his hand and ſeal of his arms, of a perſon, named Joſeph Bruzaud, an alien, from exerciſing pharmacy in this iſle, in any of its branches and that the ſaid Bruzaud be enjoined to reſtrain himſelf to ſurgery alone, during the time he ſhall be ſuffered to remain in the iſland, on the footing of an alien, without preſuming to adminiſter any internal remedies, or to let blood, but in caſes of accidents or frights, or when it may be preſcribed by thoſe of the profeſſion received to practiſe pharmacy; and to conform himſelf to the rules for aliens, on pain of being conſtrained to leave the country. The court, therefore, at the requeſt of the ſaid commander in chief, and conformable to the concluſions of the king's attorney-general, hath ordered, that the ſaid inhibition be ſignified by the viſcount to the ſaid Bruzaud, with injunction to conform himſelf thereto, under the pains which are therein denounced; and that a copy of the ſaid inhibition, and

of

of this act, ſhall be delivered, by the viſcount, the original remaining in the hands of the greffier, to be reproduced: and it is moreover ordered, that the preceding act ſhall be publiſhed and affixed in the ordinary place, to the end that it may be rendered notorious.

Philip De Carteret, greffier.

Number

Number 19.

PAPER I.

Colonel *Bentinck*'s Reports,

As drawn by the Writer of this Narrative, and which the Colonel aſſured him were never tranſmitted to the Secretary of State.

HIS majeſty's ſubjects of the iſland of Jerſey, having preſented their petitions to the king, humbly praying that his majeſty will be graciouſly pleaſed to eſtabliſh the ſeveral articles and regulations therein mentioned, which they humbly conceive to be the ſureſt and moſt effectual method of re-eſtabliſhing on a ſolid foundation the public tranquility, of reſtoring a mutual confidence between the magiſtrates and the people of that iſland; in obedience to his majeſty's commands, ſignified by Lord Weymouth, one of the principal ſecretaries of ſtate, as alſo by three letters, bearing date the 6th and the 20th of June, and the 20th of July, together with the orders in council, bearing date the 15th of June 1770, to which the petition of the inhabitants of Jerſey was annexed, and directing me to examine into the matters, contained in the ſaid petitions of the ſaid ſubjects of Jerſey. I have exerted my utmoſt endeavours to obtain the beſt information of thoſe matters, and to determine of the truth of them from the facts which have been tranſacted in the iſland.

In conſequenee of this reſearch, I humbly propoſe it, as my opinion, that altho' the origin of this almoſt univerſal averſion, which the inhabitants of Jerſey have lately manifeſted againſt their magiſtrates and perſons in power, may be traced back to cauſes more remote; yet that the violence to which it has arrived may be chiefly aſcribed to the tranſactions of the year 1758, when the re-

ceipt of the king's revenue came into the hands of thoſe men who poſſeſs the greateſt power in the legiſlative body; and to whom the execution of juſtice is ſolely committed in this iſland. Theſe men, ſo circumſtanced, and connected with the officers of the court, have, at length, aſſumed a power but little leſs than deſpotic. The king's procureur being, till ſince the tumult of the people, in fact the receiver of the king's revenues; his brother the lieutenant-bailly, one of the farmers under him; and one of the jurats, his brother in law, the oſtenſible and acting receiver. To this diſpoſition of things, the chief cauſes of the popular diſcontent and tumultuary proceedings on the 28th September 1769 are to be aſcribed, and are as follow.

1ſt, That the farmers of the king's revenue above mentioned, having annually, by means of their farming a very conſiderable part of the corn of the iſland in their poſſeſſion, would not permit the ſmalleſt quantity to be ſold in the public market, but diſpoſed of it by private contracts to the bakers. The lords of manors and other proprietors of corn followed this precedent, to the conſiderable augmentation of the prices of grain; ſo that the poor and induſtrious, who labour for their ſuſtenance, were neceſſitated to purchaſe their daily bread from theſe monopoliſing bakers, who were ſupported in their oppreſſions by the farmers of the revenue and other venders of grain.

2dly, This diſpoſition of things was productive of another cauſe of diſcontent, not leſs conſiderable than the preceding, viz. an exceſſive taxation, ariſing from the corn-rents; for in this iſland there are, in reality, but few tenures which can juſtly be denominated freehold, both lands and houſes, in general, are ſubject to ground-rents, either to lords of manors, or to ſome other perſons. Theſe ground-rents, for the moſt part, are not paid as in England, in certain fixed ſums of money, but in ſtipulated meaſures of corn; but as the entire produce of the moſt plentiful harveſt, muſt prove inſufficient to diſcharge theſe rents in kind, it has been a rule long eſtabliſhed, that in the beginning of Auguſt, in every year, the court ſhall eſtimate the ſeveral prices of corn, during the preceding year, and taking the average price to fix the taxations in money according to that medium. Hence it is evident, that the price of corn being artificially

kept

kept up by the preceding means, the average price muſt be the greater; and all thoſe who commute for their corn-rents in money be oppreſſed by this ſpurious and oppreſſive method of enhancing the price of corn, during the antecedent year; that this is not an imaginary cauſe of complaint will be evinced by the annexed certificate taken, on oath, No. 1.

3dly, That theſe farmers, having indulged divers members of the ſtate, and other perſons, with participating in the farm of the royal revenues, have connected the intereſt of theſe men with their own; and, thereby have acquired an arbitrary power and an almoſt irreſiſtable influence over the people; ſo that in all elections for members of the ſtate, and for the officers of the court alſo, thoſe alone are choſen whom theſe farmers nominate, and who, they imagine, will be moſt ſubſervient to the purſuits and purpoſes which they may undertake. In conſequence of this conduct, the independency of the ſtates, and the rights of the people, were well nigh annihilated; and nothing was interpoſed between their arbitrary intentions and the carrying of them into execution: and as all fines do, at leaſt, in a great part, go to the king, and of conſequence to thoſe who farm the revenues, the ſame farmers, who moved for the inflicting of pecuniary fines, were thoſe who did, in fact, determine the ſums and receive them alſo, for their own profits.

4thly, That it has frequently been decreed, to fine individuals a conſiderable time before the ſums has been aſcertained; and it has been ultimately fixed, by thoſe jurats who were not preſent at the times when theſe perſons were condemned, to be fined. During theſe tranſactions, the perſons, criminally accuſed, have been unacquainted with every part of their ſentence, ſaving that they were found guilty, and to be fixed according to the pleaſure of thoſe who were their proſecutors, their judges, and the receivers of thoſe fines which were to be impoſed upon them.

5thly, That altho' the iſland does not produce, in the moſt plentiful harveſt, a quantity of corn which is more than two-thirds ſufficient for the annual ſubſiſtance of the inhabitants, an attempt was made, under a ſanction of an ordinance from the ſtates, of the 29th Auguſt 1769,

to export the corn, produced in this iſland, into France, where it then bore an exceſſively high price. The injuſtice and inhumanity of this proceeding is ſtill the more egregious, becauſe, at that very inſtant, when corn was dear in England, and an exportation prohibited, a clauſe had been obtained, in an act of parliament, to allow the inhabitants of Jerſey to import a certain quantity of corn from Great-Britain, to relieve them from thoſe diſtreſſes which they ſuffered from their preſent ſcarcity in Jerſey. By theſe means it was intended, that the permiſſion of importing corn for the ſuſtenanee of the poor and induſtrious ſhould be perverted to theſe of enriching the farmers of the revenue and others, who had paſſed an act for the exporting of the corn of Jerſey growth, and thus the moſt uſeful ſubjects were to remain with their diſtreſſes unalleviated.

6thly, That this ordinance of the ſtates was manifeſtly the more ſelf-intereſted and oppreſſive, becauſe it was paſſed a few days after the pecuniary commutation for corn-rents had been fixed, at a higher rate than had, till that time, been known in this iſland. The people, therefore, ſenſible of this unjuſt exertion of power, were apprehenſive that men who had thus preſumed to elude the beneficence of the parliament of England, and to convert it to their private advantages, would no longer heſitate at the inſtituting any ordinance, however arbitrary and oppreſſive. This ſingle incident gave fire to the train of events, which had long lain ready to catch from the firſt ſpark of aggravated oppreſſion, which might fall upon it; and from this the tumult on the 28th of September 1769 more immediately derives its origin.

Having in this manner preſumed to lay my ſentiments on the preceding meaſures before your lordſhips, I ſhall now proceed to ſpeak of thoſe matters, which are contained in the petition from the people of Jerſey, and what has been tranſacted in relation thereto.

As Lord Albemarle, the governor of Jerſey, has aboliſhed the mode of farming the revenues of the crown, and appointed a receiver, with a fixed ſalary, and given him inſtructions to alleviate the hardſhips of the people, in many reſpects, the complaints of the petitioners are thereby already attended to and the cauſes of ſeveral of them removed. The other articles of the petition, which

which appear to be of greater conſequence, will, I imagine, be relieved by the ſubſequent meaſures, which have been carried into execution ſince my arrival, and on my repreſentation, and to which I beg leave to refer your lordſhips.

No. 1. That of repairing the high roads, and of fines for boughs not lopped.

No. 2. That in relation to the electing of conſtables.

No. 3. That of regulating the markets.

No. 4. That of the meaſurement of land in each pariſh.

No. 5. That for regulating and abbreviating the duration of law-ſuits, without intruding on the ſpirit and intention of Rouillé and Terrièn.

The comments on the Norman law, which are followed in this iſland, have been ſtrictly obſerved, with a view to reduce them to their genuine practice, and to correct the many abuſes which have been introduced, at various times, and on ſeveral occaſions. By theſe means all law-ſuits may, for the future, be concluded within the limits of three years; and which, in a multiplicity of inſtances, have hitherto been extended to thoſe of thirty.

No. 6. That of regulations, concerning the diviſions of right between coheirs, who are lords of manors, in caſes of ſucceſſion; as alſo of renunciators, by which inexpreſſible hardſhips have been frequently impoſed on the people. Such as exacting the feudal rights with the utmoſt rigour. Thoſe, it is preſumed, may be in a great meaſure precluded by theſe regulations; and though the whole benefit, which a more extenſive alteration is ſuſceptible of imparting, may not be obtained thereby, or ſuch as equity in ſtrictneſs may require, I thought it more preferable to improve it, as far as their preſent diſpoſitions and private intereſts will admit them to agree to, than to renounce every benefit, becauſe they will not accompliſh every particular, which I propoſed, and thereby leave this affair in its former power of vexation and cruelty.

No. 7. That including alterations or rather modifications upon more eaſy terms of an order of council of the 12th of June 1735, in regard to a certain quantity of land to be occupied and continued, with every meſſuage and tenement; alſo that of an act of the ſtates of

this iſland, dated the 8th of April 1673, to the ſame effect, both which were intended to promote the encreaſe of tillage, and prevent the arable lands from being converted into orchards; the neglect of which hath been attended with a ſuperabundance of cyder and a deficiency of bread, which inconvenience, it is hoped, may, in a great meaſure, be removed by theſe regulations.

No. 8. That of reducing the taxation of corn-rents was prevented from being carried into immediate execution by the timidity of the ſtates; who, conſidering this as the primary cauſe of the late diſturbances, have detained that meaſure, until they ſhall receive an order of king and council for their conduct on that particular.

The preceding meaſures are thoſe which have been adopted by the ſtates upon the repreſentations which I have made to them. I come now to thoſe which relate to myſelf alone. And firſt, with regard to thoſe moſt eſſential articles of importation and exportation, under the title of obſervations No. 1. is an act on this ſubject, which the ſtates propoſed; but as it does not coincide with my ideas on that head, and thinking it to be a matter of a nature too difficult and important for me to determine, I have ſuſpended my approbation, and have taken the liberty of tranſmitting the ſaid act, together with my ſentiments thereon, and to await your lordſhips reſolutions and commands.

From an impartial conſideration of the preſent ſituation of affairs in this iſland, and for the reaſons given in the paper No. 2. I am perfectly convinced, that this country muſt derive eſſential benefit from the reſtoration of the office of advocat du Roy, authoriſing ſuch officer to conduct himſelf with power agreeable to his poſt.

No. 9. There is a real hardſhip which is juſtly complained of, and which ſeems to have been the true ſource of that total diffidence which the people entertain of the integrity of their ſtates and magiſtrates. This conſiſts of the egregious abuſe that has been made of his majeſty's orders in council, 22d May 1729, and the 9th July 1730, eſtabliſhing the value of thoſe coins which are current in the iſland of Jerſey.

By theſe orders it is eſtabliſhed, that during the term of ſix months, from the date thereof, all creditors ſhall be obliged to receive their debts, if tendered, at thoſe

rates

rates of value in which the current coin then ſtood, immediately before the iſſuing the orders in council of the 22d May 1729, and this under the penalty of forfeiting one third of their debts to their debtors, on non-compliance with the tender; that being the exact difference between the old and the new eſtabliſhed currency.

Previous to theſe orders of council there had been one of the 25th October 1714, regulating the value of the current coin, which had never been regiſtered; and to which not the leaſt regard had been paid by the ſtates or magiſtrates; but in theſe orders no notice is taken of the contracts for perpetual rents, in which, beſides the ſpecified quantities of corn, there are ſometimes ſums of money to be annually paid alſo. Theſe ſums then not being ordered, becauſe they were not redeemable debts, in equity, and conſecutive of the intention of the above orders, ought to have been paid, after the alteration of the currency, according to what I humbly ſuppoſe to be the fair conſtruction and deſign of the ſaid orders of council, viz. at the rate of one third leſs, being the exact value of the ſums intended by the deeds.

This is the caſe with many people, at this day, who being by contract obliged to pay 300 livres before the 22d May 1729, when the currency was altered, have ſince paid but 200 livres according to order, which ſum is of equally intrinſic value with 300 livres at the time when their reſpective contracts were made, notwithſtanding this compliance of ſome particular perſons, there are others who adhere to the laws mentioned in the deeds and diſregarding the juſtice of the king; and the intent of the order of council, who have exacted the ſame ſum of money, according to order, and conſequently have in fact received 450 livres in the place of 300, which were intended by the deed; this proceeding, oppreſſive as it is, has been adopted of late by particular perſons, as it will appear by the copy of two deeds No. 2. and 3. with the certificates annexed, and by another certificate, No. 4.

Singular as it may appear, it is nevertheleſs certain, that the deed, No. 3. bearing date December 1732, more than two years after the laſt order of council, is ſtill made on the rate of old currency; and conſequently in direct contradiction to the ſaid order of council.

I would, therefore, moſt humbly recommend, that, by an order of his majeſty in council, all rents in money, contracted by deeds previous to the 22d May 1729, or ſince that time, upon the footing of the old currency, which appears to have been the caſe in ſome inſtances, ſhall, for the future, be paid according to the intention of the deeds, and as the crown rents are paid, by deducting one third

For, if a quarter of corn-rent were worth 12 livres, *per annum*, French money, which was the accuſtomed eſtimation before the year 1729, and is now reckoned to be 8 livres only, and adequate to the former, according to the alteration of the currency in 1729, then ought they to be ſo ſettled, becauſe the yearly taxations of corn-rents are made according to that value and eſtimation of money.

It is to be remarked, that money-rents are not yet common in this iſland; that there may be in all about fifty deeds, by which perſons are ſubjected to the payment of ſuch rents; and as this exaction of a third part more than is truely due, has been made by different perſons at different times, and many having not hitherto copied the example, it may reaſonably be believed, that, on this account, it may have been ſubmitted to, with ſo little reluctance. It is a truth, not to be contraverted, that it has been a long and inconſiſtent practice, to inſtitute new laws, diametrically oppoſite to thoſe already exiſting, and to carry them into execution without repeating thoſe which were antecedently eſtabliſhed. And three times in the year, at their ſeſſions, or *cour d' heritage*, all laws, however contradictory to each other, or obſolete by diſuſage, are, in general terms, renovated and confirmed. In conſequence of this abſurdity it not unfrequently happens, that men are puniſhed for having offended one of theſe laws, on one day, and for having offended another of an oppoſite on the ſucceeding. And by theſe means the adminiſtration of juſtice is wholly dependant on the judges, and on their ſelecting from thoſe contradictory laws, that on which they intend to found their judgment. In this manner it has been proceeded, notwithſtanding the perpetuating laws and ordinances of their own making, is abſolutely repugnant to the order of king and council, in the year 1619, which expreſsly declares

declares, that ſuch acts, as are made in their aſſemblies, are but proviſional ordinances, and have no force or property of law untill they be confirmed by us.

Animated by theſe conſiderations I have been induced, conformable to the repeated, but hitherto neglected, conſiderations of king and council, to undertake the collection of thoſe things on what ſomething like a code, or ſyſtem of government, may be formed; and the abſurdity and miſchief of their preſent contradictions, in laws and ordinances, be averted: for ſuch has been the anarchical and inconſiſtent ſtate of the legiſlature in this iſland, that, on ſome occaſions, laws have been inſtituted by the ſtates, and, on others, by the magiſtrates of the court alone.

In the execution of this part of my commiſſion, the lieutenant-bailly hath promiſed me his aſſiſtance, and I have alſo taken two other perſons, who I thought are the moſt capable of giving the trueſt information, with whom I am now conſtantly employed, in ſelecting aud new modelling things, ſo as to form a collection, which, with thoſe alterations and improvements that may be thought proper to be made on their being tranſmitted to your lordſhips, may anſwer to the petition of the inhabitants.

When theſe reports were drawn, the colonel was pleaſed to honour me with another taſk of the ſame kind, and which were written in the following manner.

PAPER II.

THAT the adminiſtration of juſtice may be conducted in a manner more conformable to the laws of equity and of England than it has been of late transacted in the iſland of Jerſey, to me it appears reaſonable, 1ſt that, in all criminal ſuits, the officers of his majeſty ſhall no longer be permitted to commence a proſecution againſt any perſon, on the reports alone of a real or pretended informer; but that every information be taken, upon oath, before one or more of the judges of the royal court: and at the time of making this information, on oath, the informer ſhall be examined in the preſence of the perſon whom he accuſes, and the accuſed ſhall then be admitted to bail or committed to priſon, according to the nature of his offence, which ought to be ſpecified, and not left to the will or determination of the court.

2dly. That every one of the twelve judges, or jurats, be authoriſed to adminiſter an oath, equally with the lieutenant-bailly, who at preſent engroſſes the ſole right of that authority to himſelf.

3dly. That the oath of office of thoſe, who are employed in it, ſhall not, for the future, be a ſufficient depoſition on which the jurats may determine, when either the acquittal or condemnation of a priſoner ſhall come before them.

4thly. That, for the future, to impart a due ſolemnity to the adminiſtration of an oath, the perſon who adminiſters it, ſhall, in proper terms, pronounce it in the moſt awful manner, that the deponent ſhall repeat it with his hand on the goſpel, during that time, and then apply it to his lips, as in England.

5thly. That in all future proſecutions every perſon accuſed ſhall be entitled to engage an advocate or pleader to aſſiſt him in his defence; and to all others ſuch means as

are

are lawful for the juſtification of his innocence; that if he be proved guilty, thoſe who are preſent at his trial may be acquainted with the juſtice of the ſentence, and the criminal himſelf not have to complain that he is longer denied ſuch aſſiſtance.

6thly. That, as according to ancient uſage, ſix advocates only were allowed in the courts of Jerſey, the nomination of which the lieutenant-bailly hath aſſumed, in virtue of a pretended right from the grand bailly of Jerſey; that this right be no longer confined to him, but placed in a manner ſo as to prevent taylors, dependants of the court, or men who accept the charge and decline the duty, men of mean capacities and of meaner education, the ſole perſons to whom ſuch important concerns, as the defence of the lives liberties and properties of the people, can now be entruſted.

7thly. The ſentence of the *amende qualifiée* conſiſts in aſking pardon of gód, the king, of juſtice, and the party injured, pronouncing, at the ſame time, that the ſentence was malicioufly intended. This puniſhment, though it be deemed extremely diſhonorable to the perſon who is ſentenced to it, is not, on all occaſions, and in all caſes, that ſuch ſentences impart that degree of infamy, which can exclude the perſons found guilty from the privilege of giving teſtimony, on oath, or prevent them from bearing any public office, though cuſtom hath produced that effect. It is, therefore, propoſed, that thoſe ſentences denominated *amendes qualifiées*, in which part of the profit is applied to the king, and the other to that of the public, be no longer conſidered or received as bringing an imputation of diſhonour on the character of the perſon guilty; and that, containing nothing nefarious in their nature, they ſhall not be adjudged to be ſuch, nor more diſhonorable than thoſe others impoſed by the ordinances of polity.

8thly. That the *amende qualifiée* be not pronounced, but in ſuch caſes wherein the accuſed may be corporally puniſhed according to law, and that, in ſuch inſtances, the court may change the corporal puniſhment into that of the *amende qualifiée* and pecuniary fine, if the perſon found guilty ſhall apply for that commutation, and the nature of the offence will admit it.

9thly. The ancient uſage being annually to levy the *amendes* or forfeitures, according to the rates eſtabliſhed by the extent of the royal revenues, it may be proper to aboliſh that method, and, for the future, to ordain the expreſs ſums of pecuniary fines in the ſentence, which is pronounced againſt each offender, and that the extent or levying of the ſaid fines and amerciaments be every year made according to the ancient cuſtoms of the iſland.

10thly. In order to avoid the manifeſt irregularity and abſurd cuſtom of uniting the legiſlative and executive power in the ſame perſons, and that the third part of the ſtates ſhall conſtitute the authority of the whole, it may be appointed that for the future, that all ordinances for the eſtabliſhing new laws, or repealing the old, are to be paſſed by the whole ſtates, and by them alone, and this whether ſuch laws reſpect the civil or political government of the people. In like manner when any ſubject of either of the preceding natures in government be propoſed in the aſſembly of the ſtates, it ſhall be brought in as a written bill, and in the form in which it ſhall be propoſed to paſs. This bill, being publickly read, ſhall be left at the proper office, or greffe, in order that every individual of the aſſembly may have full power to conſider it, and the conſtable the time of conſulting his conſtituents on the merits of the ſaid bill. At the ſame time granting to the ſtates the permiſſion of diſpenſing with this delay in times of war, and when occaſions equal thereto may ſuperſede all their conſiderations.

11thly. That in all juriſdictive proceedings, the magiſtrates and officers of the king, be duly required, not to permit the ſaid ſuit to continue beyond the limits which the law requires; that they do compel the parties to proceed without accepting frivolous reaſons for the delay of juſtice; and that the duration of the ſuit be preſcribed, and fixed according to the order of king and council, bearing date and perfectly correſponding with the uſage of the laws.

Number 20.

At the court at St. James's, the 28th day of March 1771.

PRESENT

The King's Moſt Excellent Majeſty,

Duke of Ancaſter,	*Earl of Briſtol,*
Lord Chamberlain,	*Viſcount Falmouth,*
Earl of Rochford,	*Viſcount Hinchinbrook.*

WHEREAS there was this day read at the board a report from the right honourable the lords of the committee of council, for the affairs of Jerſey and Guernſey, dated the 26th of this inſtant, ſetting forth, amongſt other things, that it having been repreſented to the committee by lieutenant colonel Bentinck, commander in chief, of the iſland of Jerſey, by ſpecial commiſſion, that thoſe perſons, who ſubſequent to the riot, on the 28th of September 1769, and, in conſequence thereof, had ſhewn a propenſity to excite new diſturbances by their irregular and unjuſtifiable conduct (againſt whom ſeveral affidavits relating to their mutinous and threatning behaviour; were tranſmitted to his majeſty, by the lieutenant-bailly, and jurats, of the royal court, in purſuance of his majeſty's order in council of the 1ſt of November 1769) are now become very ſenſible of the evil and dangerous tendency of ſuch proceedings, and appear to have been hurried into the ſame through ignorance, and not from any ſpirit of independence or impatience of legal government, and have of late manifeſted a very ſincere and thorough repentance of ſuch their errors. The ſaid lords of the committee, therefore, propoſed, that a pardon might be granted to all ſuch as may have been concerned in any mutinous and threatning behaviour; tending to excite new diſturbances from the ſaid 28th of September 1769, to the 31ſt of December laſt paſt. His majeſty taking the ſaid report, into conſideration, is pleaſed, with the advice of his privy-council, to approve of what is therein propoſed, and the better to eſtabliſh quiet and unanimity among all his majeſty's ſubjects in the iſland of Jerſey; and, as a mark of his majeſty's

jeſty's gracious diſpoſition and royal clemency, his majeſty doth hereby grant a general and free pardon, to all ſuch perſons as may have been concerned in any mutinous and threatning behaviour; tending to excite new diſturbances, from the ſaid 28th day of September 1769, to the 31ſt of December laſt paſt; and his majeſty doth hereby order that no further proceedings be had againſt any of the ſaid offenders, on account of ſuch mutinous and threatning behaviour; and in caſe any of them ſhall have been taken into cuſtody or confined on that account, that they be forthwith diſcharged, and ſet at liberty. And his majeſty doth hereby ſtrictly require and command the governor; lieutenant-governor; or, commander in chief, for the time being, as alſo the bailly, and jurats of the royal court, and all other his majeſty's officers in the iſland of Jerſey, to exert their utmoſt endeavours to diſcourage and ſubdue all ſpirit of faction and diſcontent, by enforcing, with firmneſs and ſpirit, a due and exact obedience to the eſtabliſhed laws of the iſland. Whereof the ſaid governor, lieutenant-governor, or commander in chief, the bailly, and jurats of the royal court, and all others, whom it may concern, are to take notice and govern themſelves accordingly.

Signed *W. Blair.*

Number 21.

L'An Mille Sept Cents Septante, le vint-unième Jour du Mois de Juin, Jean de St. Croix, jun. and Jean Pinel Son Caution, Amice le Vavaſſeur Dit Durel, jun. & Jean le Vavaſſeur Dit Durel Son Caution, Nicholas Arthur fs. Elie & Phil. Eſthur Son Caution, Jean Hamon & Pierre Laurens Son Caution, Phil. Luce & Jean De Gruchy fs. Thomas Son Caution, Jean Coûtanche & M. George Touzel Son Caution, François Le Boutillier, jun. & Jean Le Boutillier Son Caution, & Phil. Alexandre & M. Jean Gallichan fs. Jean Son Caution, convenus à l'inſtance du deputé Procureur-géneral du Roi, pour avoir (leſdits Jean de St. Croix, Amice le Vavaſſeur Dit Durel, Nicholas Arthur, Jean Hamon, Phil. Luce, Jean Coûtanche, François Le Boutillier, & Phil. Alexandre)

andre) tenu une conduite ſeditieuſe, ménaçante & injurieuſe contre la juriſdiction, depuis le 28me jour de Septembre 1769, ſuivant les premiſſes et ouïr depôts d'informateurs ; après que Charles Gruchy a depoſé par ſerment ſur l'accuſation faite audit Philip Luce, & que Judith le Feuvre a pareillement dépoſé par ſerment ſur celle faite audit Nicholas Arthur & que leſdites depoſitions ont été priſes & redigées par ecrit & logées au greffe ; honorable homme Colonel Bentinck, deputé gouverneur, aïant propoſé à la cour, que conformêment aux intentions favorables de ſa majeſté envers ceux des habitans de cette iſle, qui pourront être ſuppoſés avoir été engagés inconſiderément, & avoir agi ſans mauvaiſe intention premedité relativement aux derniers troubles qui ont agité cette iſle, leſdits accuſés (paroiſſans s'étre engagés inconſiderément dant la part qu'ils ont euë audits troubles) ſoient, avec l'approbation du deputé procureur général du Roi, relâchés & dêchargés de la pourſuite continuée vers eux à cet egard. La cour, toûjours diſpoſée à concilier ſa conduite à l'intention & clemence de ſa majeſté & portée dans l'examen du comport deſdits accuſés au rêtabliſſement & au maintien de la paix publique, à (avec le conſentement du deputé procureur général du Roi) relâché leſdits accuſés & dêchargé de toutes pourſuites à ce ſujet, aïans tous témoigné être ſenſibles de leur indiſcretion & diſpoſés à ſe conduire à l'avenir comme bons & fidelles ſujets.

Philip De Carteret, greffier.