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**CURIA OXONIENSIS:**

OR,

**OBSERVATIONS**

ON

**The Statutes**

WHICH RELATE TO

**THE UNIVERSITY COURT;**

ON THE

**ILLEGALITY OF SEARCHING HOUSES;**

ON THE

**Procuratorial Office;**

AND ON THE

**UNIVERSITY POLICE ACT.**

\_\_\_\_\_  
THE THIRD EDITION.  
\_\_\_\_\_

*Rev. John Walker  
of New Coll.*

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## TO THE READER.

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THE Writer is aware, that the publication of these Letters, of which some appeared in the public prints about the time of their respective dates, will expose him to censure and obloquy. Some will say, that he has opposed the privileges of the University; an accusation which will prove, when examined, to be unfounded; for he has written not against the privileges, but against their abuse; against the rigid and strict enforcement of what may, perhaps, be called privileges, but which will appear to be merely assumed, and which, by being extremely liable to abuse, become, in the



hands of those who are fond of power, an engine of oppression. Some will accuse him of having endeavoured to undermine and destroy the morality and discipline of the University: this charge is equally unfounded; it being the writer's firm conviction and belief, that the system he opposes, by vainly endeavouring to suppress one immorality, encourages another more atrocious, of which the cruel effects are perceptible in the frequent seduction and consequent ruin of females in the city and neighbourhood of Oxford. As they were written at different times, and as circumstances arose, the author is not ignorant that they contain much repetition; indeed, he attended more to the matter than the manner in which it is expressed, though it would give him much pain were he conscious that he had, in any part of them, even when speaking of facts calculated to rouse his indignation,

shown any unbecoming violence or want of temper.

————— Man, proud man!  
Drest in a little brief authority,  
————— like an angry ape,  
Plays such fantastic tricks before high heaven,  
As make the angels weep; who, with our spleens,  
Would all themselves laugh mortal.

SHAKSPEARE.

The notes inclosed within crotchets have been added since the letters were first written.



# OBSERVATIONS,

§c. §c.

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## LETTER I.

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An intended Publication—Charters and Statutes of the University—Vice-Chancellor's Court—Claim of Cognizance—Blackstone's opinion of this Privilege—Inhabitants of Oxford put out of the Protection of the Common Law of the Land—Liable to have their Houses searched both by Day and Night—Discipline of the University—Commissioners should be appointed to visit Prisons and Houses of Correction—Great Power naturally attended with Perversion and Abuse.

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MR. EDITOR,\*

It is now some time since an intended publication was announced, under the title of "Observations on the Charters and Statutes of the University of Oxford, so far as they relate to the Procuratorial Power over the non-

[\* This and the five following letters first appeared, either in the Oxford Herald or in some of the London newspapers, soon after their respective dates.]

“ matriculated inhabitants of that place, and on  
 “ the Vice-Chancellor’s Court.”\* This work

[\* The following advertisement appeared in the Oxford papers in June, 1813 :—

*“ Early in next Term will be published,*

“ OBSERVATIONS on the Charters and Statutes of the University of Oxford, so far as they relate to the Procuratorial Power over the non-matriculated inhabitants of that place, and on the Vice-Chancellor’s Court :

“ In which it will be shown, 1. That the Procuratorial Office, with respect to discipline and coercion, is, as its name imports, merely ministerial; that the persons who hold it are to be considered only as assistants to the Vice-Chancellor; and that their power emanates from him, and is continually subject to his direction and control. 2. That some of the Charters, granted to the University in former reigns, are now, in many points, inconsistent both with the letter and spirit of the law of the land. 3. In what cases the power committed to the Proctors, by the Vice-Chancellor, without great caution, judgment, and discretion on their parts, is particularly liable to error and abuse. 4. That persons aggrieved by any error or abuse in the execution of the power entrusted to the Proctors, would be entitled to a verdict in a Court of Common Law, if the University had not the privilege of claiming cognizance. 5. An account will be given of the proceedings in the Vice-Chancellor’s Court, with the most important and remarkable cases in which cognizance has been claimed, and the opinion of counsel on some of them. 6. From these cases it will be inquired, whether the University privilege of claiming cognizance, and consequently of removing causes into the Vice-Chancellor’s Court, is not become so oppressive as to be a proper subject of Parliamentary interference ?”]

has not yet appeared, and report says, that it never will. From a conviction, that recent circumstances require something to be said on the subject, and to be said without any further delay, the person who now addresses you is induced to come forward, though his plan is more confined than that announced as the title of the intended publication must necessarily have been.

The writer of these Observations never had an opportunity of inspecting the charters of the University ; but has been informed, that some were granted previously to the time of Henry III. and others by that prince and his more immediate successors, and that they were all confirmed by Parliaments in subsequent reigns.

The statutes of the University are printed and published, and consequently are accessible to every one. Previously to the time of Charles I. (in whose reign, through the exertions of Archbishop Laud, who was the Chancellor of the University, and a committee for the purpose in Oxford, they were drawn up in their present form) they are said to have been a confused chaos. This code remains still in force, “ except

“ upon points where the exigencies of modern  
“ times have pointed out the wisdom of amend-  
“ ment or abrogation.”

The writer feels less regret from the circumstance of his never having seen the charters, as it is the commonly-received opinion in the University, that in the statutes, under their present form, every thing, that was thought necessary or conducive to discipline, was carefully selected from the charters and former statutes, with some additions ; and, at the same time, many things were omitted, which had either become obsolete, or were considered as unnecessary and useless.

It is the writer's design to confine himself to the statutes, in the form in which they are now extant ; and more particularly to those parts of them which relate to the Vice-Chancellor's Court, and the power of searching houses ; with some cursory remarks on the procuratorial office.

He has selected these parts of the statutes, because they are more odious, and more repugnant to the spirit of the English constitution, and in their execution more liable to abuse, than any other ; because, by the latter, the University

officers, if unhappily they should be so inclined, have many opportunities of exceeding their legal power ; and because, by the former, they might be less liable to punishment (from circumstances to be mentioned hereafter) than in his Majesty's courts of common law.

In the Vice-Chancellor's Court, that officer himself, or his assessor (who is appointed by him) sits as judge, assisted by the two University Proctors, whenever they may think fit to attend. The process is carried on "in a course much conformed to the civil law ;" that is, the evidence is all in writing, and there is no jury. " In this " court, the University has the liberty of claiming " cognizance, in exclusion of the King's courts, " over all civil actions and suits whatsoever, when " a scholar or privileged person is one of the par- " ties, except in such cases where the right of " freehold is concerned."\*

Now, as the Vice-Chancellor and Proctors are the officers upon whom the duty principally falls of carrying the statutes into execution, and to

\* Blackstone's Commentaries, b. iii. ch. 6, § x.



whom almost the whole of the executive government belongs, it may happen, as, with all their dignities, they are but men, that they may err in the performance of their duty, or exceed their legal authority, and that an action may be brought against them in this very court (for, according to the present system, it can be brought in no other) for false imprisonment, or some other offence, to which the best and wisest of magistrates are sometimes liable. The consequence would be, and, no doubt, to the great *satisfaction* of the plaintiff, that they would be judges in their own cause; or if, on the other hand, they are plaintiffs, and institute an action against any person by whom they might think themselves aggrieved, they would be equally judges in their own cause, to the no less *satisfaction* of the defendant. The thing is so ridiculously absurd, and, at the same time, so enormously unjust, as to be scarcely credible.

Sir William Blackstone, who was himself a fellow of one of the most respectable colleges in Oxford, and, as Professor of Common Law, read his Commentaries in the form of Vinerian Lectures,

and who, from his frequent residence, and his connections with the place, and his habits of legal research, must have fully understood the spirit of the statute "De Curia Commissarii sive Vice Cancellarii Universitatis," has placed the matter in a clear light, when he says, that "these privileges [of the Vice-Chancellor's Court] were granted, that the students might not be distracted from their studies by legal process from distant courts, and other forensic avocations." We can hardly suppose it possible that it could have been in the contemplation of those, who framed the statute, that the *officers* of the University, and those very officers too who have the right of sitting as judges in the court, should protect themselves by such a monstrous privilege, in actions brought against themselves. It is, however, well known, that, on the authority of this statute, claims of cognizance have been made in actions brought against the Proctors for false imprisonment within a few years past. It is almost needless to add, that these actions, on cognizance being granted, were abandoned, except in one instance, in which the plaintiff, as well as the defen-

dant, was a matriculated man ; and in that instance the cause was tried in the above-mentioned court, and judgment given for one of the Proctors, who was the defendant.\* The other actions were no more heard of ; for the plaintiffs, however high their opinions might have been of academical justice and integrity, felt no particular desire to put themselves to the expense and trouble of having their causes tried in a court where there is no jury, and before men appearing in the double capacity of judges and defendants.

As the matter stands at present, to put an hypothetical, though not an exaggerated case : let an act of the most gross injustice be committed in Oxford by the Proctors against any individual, though he may be a perfect stranger to the place, and quite unconnected with the University, his only possible mode of seeking redress is through the medium of this court : a court, in which there is no jury, in which the expenses are great, and the process tedious ; and in which (for that material circumstance should not be omitted) the defendants, if they think proper, may sit as judges.

[\* The case of *Williams* versus *Brickenden*, in 1811.]

Under these circumstances, the situation of the inhabitants of Oxford is peculiarly hard. They are put out of the protection of the common law of the land in every case (short of felony) in which they may be aggrieved by the Proctors, or any matriculated man. They are subject to the most odious kind of interference from the University officers. By a particular statute\* they are liable to have their houses searched both by day and night, at any time that the Proctors (who are frequently young men, without much experience or knowledge of the world, and often elated by the power intrusted to them by virtue of their annual office) may think fit ; and no redress is to be obtained, for any excess or abuse of power, how-

\* Titulus xv. § 4. *De Domibus Oppidanorum non frequentandis.* [It must be observed, that this statute was made so late as the reign of Charles the First, when the statutes were revised under the direction of Archbishop Laud, and that it never received the sanction of Parliament ; for the latest Act of Parliament confirming the statutes of the University was the 13 Elizabeth, cap. 29 ; consequently any bye-law of the University, subsequently passed, can have no effect to deprive the subject of his common law right. It cannot, therefore, be pleaded in a court of common law, nor even in the University court, as it is not a legitimate privilege.]

ever enormous it may be, but from a court, in which there is no jury, in which the expenses are so great, as to operate to the total exclusion of the poorer clients, and in which the very persons, who may have committed the injury complained of, are entitled to sit as judges.

The statute, which authorises the search of houses, authorises a measure utterly repugnant to the spirit of our constitution, and to the feelings of Englishmen. This statute (which, fortunately, is illegal, not having the sanction of the common law,) conveys the power of a general search warrant, a most unconstitutional measure, and liable to great abuse, as the necessity may be insisted upon by the officers, when it does not exist in reality. If there be any alleged necessity of searching houses, a special warrant should be granted for the particular purpose by the Vice-Chancellor, who is always a magistrate, and the parties should be responsible to the common law of the land. At all events, if the exercise of this enormous power be necessary, there should be some check on its abuse, and the Proctors should not be allowed to carry it into execution on their own individual

and sole authority; and the courts of common law should be open, as in other places, to those who may be aggrieved.

The writer is aware, that it may be said, granting the right exists of searching the house of every inhabitant, without any distinction or limitation, that the practice of searching has, of late years, been confined to houses inhabited by prostitutes and women of bad character.\* But this reply is unsatisfactory and vague, as the power would still remain of carrying it into execution to its full extent; and as it would give the Proctors the liberty of deciding on the characters of all the female inhabitants of the place, and of condemning them, from partial representations, or individual caprice.

However desirous we may be to suppress prosti-

[\* Since the above was written, the house of a respectable tradesman in the High-street was searched, on account of some gownsmen running into his shop, and escaping through his garden from the pursuit of the Proctors. The tradesman, at the time, showed the way by which they escaped; but he was not believed, and his house was so strictly searched, that even the chamber in which his wife lay ill was not exempt from intrusion.]



tution, we should recollect, that we are not justified in punishing offenders beyond the limits marked out by the law. The method which has been lately used in Oxford of apprehending women of this description for merely appearing in the streets, though walking orderly and quietly in the day-time, and sometimes when they have left their homes to purchase things in the shops, is surely a rigour beyond the law. By what statute of the University, or law of the land, the conviction, and consequent commitment to prison, by the Vice-Chancellor, is justified, the writer (though he has taken the greatest pains in examining the statutes) is not able to discover.

The mode of conduct lately pursued towards these unfortunate females seems to be both cruel and inefficacious.

All severity of punishment, and particularly in these cases, is unjustifiable, unless preceded by some attempt to *reform* the objects who are amenable to it. Without such an attempt being made, what can be more cruel than to commit to a cold and damp cell of a prison, and perhaps in an inclement season of the year, a female, whose

constitution may have been weakened by disease. The lamentable consequence of such a proceeding is sometimes a rheumatism, so severe and inveterate as to cripple the patient for life : and an instance is well known to have occurred in Oxford of an unfortunate prisoner being driven into a state of insanity, from which she never recovered.\*

Its inefficacy is apparent from the circumstance of the delinquents being obliged, from necessity, as soon as they are enlarged, to return to their former course of life. Whatever remaining sense of decency they might have, when first committed to prison, soon leaves them. They become desperate from their wretched state of suffering, and renounce all propriety of conduct. By the disgrace brought upon them by the notoriety of this ignominious punishment, they are deprived of all means and opportunity of retrieving themselves.

This cruel severity has been the ruin of many, who otherwise would have had an opportunity of recovering their characters. Considering the peculiar situation in which young females are placed

[\* She was committed by one of the City Magistrates.]



in Oxford, from the many temptations that surround them, and the difficulty of obtaining employment, the motives of Christian charity, independently of those of common humanity, loudly call upon the officers of the University to temper justice with mercy. Instead of their offence, on its first detection, being made public by their commitment to prison, an opportunity should be given them of recovering themselves from their unfortunate state, of which they are frequently more sensible than their merciless persecutors imagine.

If in the foregoing remarks the writer has ever expressed himself strongly, it must be attributed to the abhorrence he feels of every kind of cruelty, and particularly of that which assumes the semblance of justice, or is clothed in the garb of authority. For publishing these Observations, he exposes himself to the censure of the rigid disciplinarians of the University. They will exclaim, that he has endangered the discipline of the University, and espoused the cause of the profligate and undeserving.

With respect to the discipline of the Univer-

sity, the writer is convinced, that it derives its best and most lasting support from an open and manly conduct in the public officers; from firmness, united with conciliating manners; not to mention that it is possible that the methods put in practice to suppress vice, may, themselves, have a most dangerous tendency, and even exceed in turpitude the particular vices they are designed to correct. To encourage spies and informers, and to listen at doors, and to peep through windows, are means so base and disingenuous, that if they did not fortunately create disgust, they might by their example have a most pernicious effect, and weaken every moral principle.

In anticipating the other charge, the writer can only say, that it is the boasted privilege of this country to have justice administered with an even hand; that the profligate should be punished, but punished according to the known and equal law of the land, and not with greater severity than that allows; and that, by good magistrates, reformation will always be preferred to severity of punishment.\* To which may be added the wri-

\* It would be desirable, that a commission should be appointed, under the sanction of Parliament, for every two or

ter's conviction, from circumstances which he does not wish to particularize, that the method lately pursued has had a very different effect from that of increasing the morality of the place !

It is hoped that the University will no longer persist in the support of the above-mentioned abuses, but that they will amend and explain the statutes in question, so that the inhabitants of

three adjacent counties, (according to their size,) consisting of a certain number of persons, who should visit every prison and house of correction (and perhaps workhouses might be added) in such counties, at least every two or three months, but not at stated periods, and as much oftener as they might think proper. The commissioners should be elected, and well paid, both as to salary and travelling expenses, by the counties in which their visitations might be held. A new election should take place at the end of every two or three years. Their commission should enable them to inquire into the management of such prisons, houses of correction, and workhouses ; to investigate the chief circumstances attending the commitment of every prisoner, and to have the power, wherever a case seemed to be marked with any peculiar severity, or whenever the prisoner's good behaviour appeared deserving of favour, to mitigate the summary convictions of magistrates, and sentences of quarter sessions. They should make a report of their proceedings every six months, to be laid before the Privy Council and both Houses of Parliament ; of which report copies should be transmitted to the mayor or chief magistrate of every city, town, and borough, in the respective counties.

Oxford may be placed within the protection of the common law of England.

What objection the University can have to this measure, the writer cannot readily conceive ; for he cannot suppose that they would wish to protect their officers in the exercise of any illegal power, or in the commission of any thing that is unjust. This measure, too, would have the desirable effect of putting an end to those jealousies and disputes, which are now apt, on every opportunity, to break out, and to show themselves in open acts of violence. It would, in short, tend to civilize the manners of the place, to extinguish inveterate feuds, and prevent the frequent recurrence of disgraceful scenes of riot.

The writer repeats, that he has brought forward the preceding facts and observations, from a conviction that both the morality and discipline of the University, so far from being improved, are injured by the method now pursued. He is bound in duty, as well as inclination, to support the privileges of the University, but not their abuse ; and he conceives, that the best way of supporting them is to clear them from the abuses with which

they are now polluted, and not to lay upon them a greater stress, or load them with a greater weight of authority, than they were ever intended to bear.

It was never the intention of the framers of that statute, which is the most odious and obnoxious of any—of that which allows the entering and searching of houses—that it should ever be put into execution, unless the persons in whom the authority was vested were certain that gownsmen were in them at the time. If they did it under other circumstances, it should be at their own peril. It was designed that the Vice-Chancellor's court should protect the students from “being “distracted from their studies by legal process “from distant courts,” and not that it should protect the University officers from any action or suit arising from the alleged abuse of their power.

The writer's observations respecting the extreme severity of the University officers against certain unfortunate females, were intended to show, that the methods now pursued are cruel, in proportion as they are ineffectual ; that some means should be adopted, which would at least have a probable

chance of effecting a reform in their conduct ; and, at the same time, it was the writer's design to suggest to those persons, who are not divested of every feeling of humanity, that the sorrows, and misery, and disease, almost necessarily attendant on prostitution, are, in the way of punishment, sufficiently severe and acute, without the superadded horrors of a prison, and the distress arising from cold, starvation, and confinement.

The writer will only add, that it is the duty of the inhabitants of every place to observe the conduct of the magistrates ; for great power is naturally attended with perversion and abuse. When the blessings of peace are restored to our country, it is most earnestly to be hoped, that the legislature will have leisure, as well as inclination, to inquire into abuses, and more particularly into those which partake of cruelty and oppression ; and to diffuse throughout the land the benefits arising from the impartial administration of equal laws.

After all, however, in cases of this nature, much will always depend on accidental circumstances, and on public opinion ; on the good sense and

feeling of those in power, and on the temper and spirit of the people.

Y. Z.

*Oxford, Feb. 1814.*



## LETTER II.

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Appeal from the Vice-Chancellor's Court—Delegates of Appeals—Abuse of the Procuratorial Power—Time of Watch and Ward—Instance of unjustifiable and illegal Interference—Vice-Chancellor's Conduct blameable—Ill Effects of this extreme Severity on the Morality of the Place—Petition to Parliament.

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SIR,

IN the discussion that has taken place in Oxford, in consequence of the Observations on certain statutes of that University, and on the power of the Proctors, which lately appeared in your Paper, I have heard the writer taxed with a culpable omission, in not stating, that the sentence of the Vice-Chancellor's Court is not final, but that any person, who conceives himself aggrieved by any proceedings in that court, has means of redress by an *appeal*.

I beg leave to say, that the appeal is generally considered as nugatory, and so completely out of the power of a poor client, as not to be worth mentioning, and as only calculated to add insult to injury.



Respecting the appeal, Blackstone informs us, that from the sentence of the Vice-Chancellor, his deputy or assessor, an appeal lies to delegates appointed by the Congregation ; from thence to other delegates of the House of Convocation ; and if all three concur in the same sentence, it is final, at least by the statutes of the University, according to the rule of the civil law. But if there be any discordance or variation in any of the three sentences, an appeal lies in the last resort to Judges, Delegates appointed by the Crown, under the Great Seal of Chancery.\*

Now, Sir, not to insist upon the impossibility of a poor client having recourse to so tedious and so expensive a mode of seeking redress from the sentence of this court, I shall only observe, that the names of the Vice-Chancellor, of both the Proctors, and not unfrequently of some of the Pro-Proctors,† are among the Delegates of Appeals, both in Convocation and Congregation ! I

\* Blackstone's Commentaries, b. iii. ch. 6.

† Each Proctor has two Masters of Arts to assist him, who are called Pro-Proctors. It may be here observed, that the Proctors are not magistrates ; but, with respect to the police, they act merely as head-constables, and are assisted by the marshal.

hope, then, we shall no more hear of the easy method of a poor person's obtaining redress, and of the utter impossibility of his being persecuted by the University officers

I hope, as the matter is now *beginning to be agitated*, that the members of the University will express their abhorrence of some late disgraceful proceedings, which are well known, and which have long been the chief topic of conversation in Oxford.

From my long residence in the University, I have been personally acquainted with several of the Proctors, who have been men of judgment and of acknowledged benevolence, and who have discharged the duties of their office with honour and integrity. It is to be lamented, that some others have displayed a total want of proper feeling, and have behaved like tyrannical schoolboys.

To produce instances of cruelty and tyranny is always an unpleasant task, and is disgusting to the reader. The cause of truth and humanity, however, requires that facts be brought forward in support of assertions.

I can bring an instance of a Pro-Proctor, who

carried his assumed power to such a length, as to stop every woman he met, walking by herself, in the streets, in the dusk of the evening, and to demand of her who she was, whence she came, whither she was going? This, to say the least of it, was highly inquisitorial. It must have been done to gratify an impertinent curiosity, an insatiable lust of power, or something worse. To the inhabitants of the place, who are daily subject to the effects of such abuse of power, this conduct cannot but be irritating, and must conduce to keep up that jealousy and ill-will, which have always existed between the University and City. It may, perhaps, be said, that this exertion of assumed authority did not arise from any badness of heart, but merely from the excusable desire which a young man feels to display his consequence on his first entrance into office. It is difficult, indeed, to restrain the expression of our pity at the weakness of that man, who can be proud of an office which is merely ministerial, and which places him, in the eye of the law, in nearly the same situation as that of a common constable.

It must, however, be remarked, that this was

not only a very foolish, but a very illegal proceeding, being totally unwarranted either by the law of the land or by the University charters. By the latter, the time of watch and ward is limited between nine o'clock at night and five in the morning ; during which time only, the University officers have the right or power of interference, in the streets, with any but matriculated persons. This, however, was done with impunity. An action could not be brought against the aggressor in any other court than that of the Vice-Chancellor.

I knew a Proctor, who at the very time when several females, whom he himself had apprehended, were confined in prison, at a most inclement season of the year, had so little sense of propriety and feeling, and so much meanness and brutality, as to exult on the success of the *cunning* plans and stratagems by which he had entrapped his victims.

To add to this unpleasant, but necessary recital—the Proctors lately took the trouble of going two miles out of Oxford, late at night, and entered a cottage where five or six girls of bad cha-

racter were dancing with some countrymen, who lived in their neighbourhood. On finding that no gowmsmen were there, it is said, that they all demurred, except one of the Pro-Proctors, who declared that his walk should not be in vain. The fact, however, was, that they took the girls to Oxford, and the Vice-Chancellor committed them to the county gaol.\* On what legal authority, on what law of the land, or statute of the University, the commitment was founded, still remains a problem, which might be solved, could the cause be brought into any other than the Vice-Chancellor's own Court.

The above facts can be well attested. Do not, however, imagine that this severity has at all improved the morality of the place. The case is quite the reverse. The money of the young men is now expended, and their time wasted, in hiring carriages and horses, to pursue their pleasures in

\* There was no riot or disturbance in the house. When the men who were with the girls said, that they were ready to protect them from the Proctors, the girls would not suffer any interference of that sort, but said that they would go quietly with the Proctors to Oxford, which they did. [This happened on December 7, 1813.]

the neighbouring towns and villages; and, in Oxford itself, seduction is very prevalent.

It must be allowed, indeed, that the Proctors are not the only persons to be blamed for these injudicious proceedings. To the Vice-Chancellor, for the time being, must be attributed the greater share of the blame; for it must be remembered, that no commitment can take place but by his warrant, or by that of one of the Pro-Vice-Chancellors acting for him.

If the officers of the University had common prudence, they would act with some degree of moderation; they would not insist upon the rigid enforcement of statutes, and the exertion of privileges, which were always odious and unconstitutional, and which ill accord with the temper and spirit of the times. If, however, they are determined still to persist in these measures, contrary to the voice of justice and reason, they cannot have any cause to complain if they shall be deprived of their means of annoyance; for this business now calls for the interference of Parliament; and a petition from the inhabitants of Oxford, stating their grievances, might place them within

the protection of the law of the land, and put them on a footing of equal security with the inhabitants of other places.

Y. Z.

*Oxford, March, 1814.*



## LETTER III.

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Particular Instance of the Abuse of the Procuratorial  
Power.

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SIR,

THE great power of the Proctors, and the frequent abuse of that power, having become, in consequence of the letters which have lately appeared in your paper, the chief topic of conversation in Oxford, I send you the following case, which can be supported by the testimony of many respectable persons, and request you to lay it before the public.

In the summer of 1800, a few students of this University met several successive evenings, at about eight o'clock, towards the upper part of the High-street, and violently assaulted those inhabitants of the city who happened to be passing.

On the third evening of their continuing the outrage, the Proctors came, and sent the students to their colleges.



On that evening, Mr. Bayliss, of the parish of St. Martin, in this city, was quietly standing at his own door, in Queen-street, at some little distance from the scene of riot. Mr. Alderman Yates came up to him, and inquired what was the cause of so many persons being assembled. They were soon afterwards joined by Mr. Thomas Ensworth, sen. of the Corn Market, when the Proctors, with their attendants came up to them, and desired Mr. Ensworth to go home. He said, he was standing on his own ground, that he had purchased the freedom of the city, and that he should go home when he thought proper.

One of the Proctors next accosted Bayliss, who was a feeble, inoffensive man, and upwards of seventy years of age, while standing at his own door, with words to the following effect :—“ Un-  
 “ less you go into your house immediately, we  
 “ will take you to gaol.” He replied, that “ he  
 “ had done no harm, and that he did not like to  
 “ be driven like a dog into his kennel ;” on which, without further parley, they instantly ordered him into the custody of their assistants, and he was taken to the county gaol, where he was confined

two nights and a day, without being confronted by his accusers, in the vagrant cell, a cold, damp, detached building; a place very improper for a man of his habits and situation in life, and still more so for one of his age and infirmities.

The consequence of his being confined in that cold cell was a severe fit of illness, which lasted several weeks. A violent cold settled in his limbs, and occasioned a lameness from which he never recovered; his mind, too, suffered so considerably from the thoughts of having been confined in a common prison, the receptacle of rogues and vagabonds, that he never appeared to have regained that happiness and serenity, which he had previously been accustomed to enjoy.

This unfortunate man was a fishmonger. He had kept a shop for many years in the High-street; but, when this affair happened, he lived in Queen-street.

An action at common law was commenced against one of the Proctors; but the acting officers of the University pleaded their privilege, obtained cognizance, and moved the cause into the Vice-Chancellor's Court.

His friends being aware, that, in a court, in which there is no jury, and in which the defendant, being Proctor, had a right to sit as one of the judges, he could have but little chance of redress, very prudently advised him to drop the prosecution.

The widow of Mr. Bayliss is still living, and resides in the parish of St. Clement. She can speak to the truth of all the material parts of the above case, and is willing to answer any inquiries.

Yours, &c.

CIVIS.

*Oxford, March 21, 1814.*

[\* \* The above letter appeared in the Oxford Herald, from which paper it was copied by the writer of the preceding and following letters.]

## LETTER IV.

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A Letter signed "Apseudes"—Reply to that Letter—The Proctors have the right of sitting as Judges in the Vice-Chancellor's Court without any restriction—The Proctors have no right to force Doors, or to enter Houses by violence—The Proctors have no power in the Streets over any but matriculated persons, except during the hours of Watch and Ward—Melancholy effect of Imprisonment.

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TO THE EDITOR OF THE OXFORD HERALD.

MR. EDITOR,

INCLOSED you will receive the Morning Chronicle of the 25th instant, containing a letter relative to the Procuratorial Power, &c. I will beg the favour of you to reprint it, and at the same time to admit my answer, a copy of which I have transmitted to the Editor of the Morning Chronicle, but it has not yet made its appearance in his paper.

I am, Sir,

Your obedient Servant,

*The Writer of "Observations," &c.*

*Oxford, March 29, 1814.*

## FOR THE MORNING CHRONICLE.

MR. EDITOR,

I will not intrude upon so large a portion of your valuable columns as has been occupied by the writer of a letter from this place, which I have this minute read in your paper of to-day. I have only to observe, that it is *utterly false*, that the Proctors of the University exercise or possess any right whatever of being judges in their own causes ; and I need not say that this is the main hinge upon which all your correspondent's subsequent observations turn. It is equally false, that the statute cited by your correspondent conveys the power of a general search-warrant ; inasmuch as the power of entering the houses of the inhabitants is given to those officers of the University, solely and expressly for the necessary purpose of ascertaining whether any of their own body are therein, and cannot, therefore, authorize them to proceed in the manner in which they would be entitled to act under the authority of a search-warrant.

It is absolutely false, that any prostitutes have been apprehended " for merely appearing in the

“ streets, though walking orderly and quietly, in  
 “ the day-time ;” they are at no time put into  
 confinement without suitable warning, nor with-  
 out the most earnest endeavours to reclaim them  
 from their vicious mode of life ; and it is espe-  
 cially false, “ that an instance is well known to  
 “ have occurred in Oxford, of an unfortunate pri-  
 “ soner being driven into a state of insanity, from  
 “ which she never recovered.”

The discipline and authority of the University,  
 which are of vital importance to the interests of  
 the State at large, cannot be impaired by the so-  
 phistical argumentation of your correspondent ;  
 but it is perhaps due to a cause, however strong,  
 to shield it from wilful misrepresentation of facts.  
 Of such misrepresentations I have selected only  
 some of the most glaring specimens ; but I may  
 safely assert, that there is scarcely a sentence in  
 your correspondent’s letter, which does not con-  
 tain something of the same nature.

I am, Mr. Editor,

Your obedient Servant,

APSEUDES.

*Oxford, March 11, 1814.*

TO THE EDITOR OF THE MORNING CHRONICLE.

MR. EDITOR,

From the style and manner of the letter from Oxford, which appeared in your paper of the 25th instant, I have great reason to suppose it to be the production of one of the very persons, whose conduct I exposed in my "Observations on the Statutes," &c.\*

The anger of your correspondent, Apseudes, gives me much pleasure and satisfaction. I am gratified in seeing that my animadversions have taken effect. "Let the gall'd jade wince."

But now for matter of fact. The following short statement will, I think, sufficiently show what claim your correspondent has to his assumed name of Apseudes.

If Apseudes will take the trouble of consulting the University Statutes, he will find, notwithstanding his assertion to the contrary, that the Proctors have the right of sitting as judges in the Vice-

[\* Apseudes was generally supposed to be one of the Pro-Proctors. He did not think it prudent to write again on the subject.]



Chancellor's Court, without any restriction, " whenever they may think fit to attend," along with the Vice-Chancellor, or his deputy or assessor. The words of the statute are these: " Cui  
 " [Curia] praesit Commissarius \* sive Vice Can-  
 " cellarius Universitatis, ejusve Deputatus; assi-  
 " dentibus sibi duobus (cum ipsis videbitur) qui  
 " pro tempore fuerint, Universitatis Procuratori-  
 " bus." Tit. xxi. § 2. This, however, is not  
 " the main hinge upon which all my subsequent  
 " observations turn;" for I stated, that it is a  
 court " in which there is no jury;" a court, in  
 which " the process is tedious," and in which  
 " the expenses are so great, as to operate to the  
 " total exclusion of the poorer clients."

If Apseudes, while the statute-book is in his hand, will turn to Tit. xv. § 4, he will find that the University officers have the power, by a statute, (which, however, as it has never been sanctioned by Parliament, cannot be considered as legal) of searching houses both by day and night;

[\* The Vice-Chancellor was formerly called Commissary. The *Deputatus* is the Assessor, who is appointed by the Vice-Chancellor.]

a power equivalent in effect to that of a general search-warrant. I will, however, take this opportunity of pointing out an important difference in one respect, which seems to have escaped the sagacity of Apseudes ; it is, that their power does not extend to the forcing or breaking open of doors ; though I heard an instance, a few years ago, in which this power was illegally exercised by them.\* The words of the statute are these :—  
 “ In subsidium Vice Cancellarii et Procuratorum,  
 “ potestas sit Præfectis Ædium Domos Oppida-  
 “ norum intrandi ; ut explorent an aliqui e suis  
 “ illic versentur de die vel de nocte.”

If Apseudes, from his own knowledge, is not sufficiently acquainted with the fact, he will find, by making the necessary inquiries, that within the

\* The officers of the University have not the power of forcing doors, or breaking into a house, if refused admittance, in any case whatever. If any person refuse them admittance, he is liable to a penalty of twenty shillings for the first offence. On a repetition of this offence, if committed by a non-matriculated man, he is to be deprived of all intercourse or commerce with privileged persons ; and if committed by a privileged man, he is to be deprived of his privilege. See Stat. TIT. xv. § 4. How these penalties are to be enforced we are not informed.

last twelvemonth (though, I believe, not before,) prostitutes have been apprehended by the Proctors, and committed to prison by the Vice-Chancellor, for “merely appearing in the streets, “though walking orderly and quietly, in the day-time.” Indeed the fact speaks for itself; for before this illegal severity took place, women of this description were frequently seen walking in the streets in the day-time, but now very rarely;\* and I am ready to allow, that if this alteration could have been brought about by legal means, exercised with proper temper and discretion, it would have been desirable. But the Proctors have not any power in the streets in the day-time, over any but matriculated persons. The time of watch and ward does not commence till nine o’clock at night, and it ends at five in the morning; and it is only during that time that the Proctors have any power in the streets over those who are not matriculated; for all jurisdiction

\* Their walking used to be checked, in some degree, by a kind of compromise or agreement, that, if they did not appear in the streets in the day-time, they would not be molested by the Proctors at night in their houses.

over them in the day-time belongs exclusively to the Mayor. I must here add, that if any endeavours have been used to reclaim prostitutes from their vicious mode of life, they are solely owing to individual exertion, and not to the officers of the University in their corporate and magisterial capacity.

If Apseudes will condescend to ask almost any inhabitant of Oxford, concerning an unfortunate female prisoner “being driven into a state of insanity from which she never recovered,” he will learn that her name was Susanna Grey. She was a prostitute, and was sentenced to imprisonment at the quarter sessions, for being concerned in a riot. The circumstance happened nearly twenty years ago, and, at the time, made a great impression on the public mind. I have reason to think, from information with which I have been favoured since I addressed my “Observations” to you, that she was not apprehended by the Proctors.\* At any rate, she affords a melancholy instance of the effects of imprisonment (however deserving of

[\* She was committed by one of the city magistrates.]

punishment she might have been) on the constitution of females of that description ; which was all I wished to prove, and is all that was asserted.

So much for Apseudes, the detector of fallacies ! If he will point out any other assertions, which he conceives to be false, (for he says, of the misrepresentations he has “ selected only some of the most glaring specimens, ”) and by so doing give me an opportunity of noticing them, he will make some amends for the coarse language into which his zeal has betrayed him, and, at the same time, confer a considerable obligation on,

Sir,

Yours obedient Servant,

Y. Z.

*Oxford, March 26, 1814.*



## LETTER V.

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State of the City Prison—Letter to the Vice-Chancellor on the Subject—Prisons should be occasionally visited by those Magistrates who have the Power of Commitment.

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SIR,

IN the city prison at Oxford, to which certain unfortunate females are generally committed, the cells in which they sleep, in damp weather, literally run down with water ; there is no glass in the windows, and only a sliding-board to exclude the wind and rain ; and, it must be observed, that were the sliding-board well adapted for the purpose of excluding the wind and rain, which is by no means the case, it must necessarily at the same time exclude the light.

The writer of this letter lately saw almost every part of this prison. Among the female prisoners, there were two ill of the venereal disease,\* who, during the whole time of their confinement, (and

\* See note, p. 60.



it had then been for many days,) slept in these wretched cells. As it appeared to the writer, that no time was to be lost in obtaining some relief for these prisoners, he addressed the following letter to the Reverend the Vice-Chancellor :—

“ This letter is most respectfully addressed to  
 “ the Vice-Chancellor by one, who entertains  
 “ hopes, that it will be received with his usual  
 “ condescension, and not be hastily thrown aside  
 “ or disregarded.

“ The Vice-Chancellor is acquainted with the  
 “ structure, as well as the management of the city  
 “ prison, to which he has the power of commit-  
 “ ment. He must know the damp state of the  
 “ walls of that prison, arising from the nature of  
 “ the stone with which it is built ; and that there  
 “ are merely sliding-boards, and no glass, to the  
 “ windows of the cells in which the prisoners  
 “ sleep ; a severity, which, as it was never in the  
 “ contemplation of the law, will, it is hoped, be  
 “ speedily obviated ; for, under these circumstan-  
 “ ces, imprisonment, in the winter, is a punish-  
 “ ment of the severest kind, and most destructive

“ to the health and constitution of those who are  
“ not very robust, and more particularly of fe-  
“ males. The Vice-Chancellor, however, may  
“ possibly not be aware (as he may never have  
“ been informed of the fact), that two of the fe-  
“ males, whom he committed a short time ago,  
“ were ill of the venereal disease ; and that since  
“ their commitment they have been under a course  
“ of medicine for that disease, administered by the  
“ apothecary of the establishment ; and that these  
“ females have always been obliged to sleep in the  
“ common cells, though they might have been  
“ accommodated with a warmer apartment in the  
“ prison. The Vice-Chancellor is humbly re-  
“ quested to make some inquiry into the circum-  
“ stances of this case ; and always to ask those  
“ women, who are likely to be ill of this disease,  
“ when brought before him, whether they are so  
“ or not ; and to issue his orders, or adopt some  
“ method by which women so diseased may not  
“ be obliged to pass the long winter nights in the  
“ above-mentioned cold and damp cells, when  
“ taking a medicine that requires particular care  
“ and attention.

“ The writer of this appeal to the humanity of  
“ the Vice-Chancellor most sincerely hopes that  
“ it will not have been made in vain !”

*Oxford, Dec. 5, 1814.*

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The writer of the above letter to the Vice-Chancellor has reason to think that it was favourably received. The Vice-Chancellor's interference, however, in the present case, was quite unnecessary, as it was anticipated by the kindness and liberality of the Mayor and the other city magistrates, to whom application had been made on the subject. The sick-rooms (which have not been used for a long time) are to be immediately repaired, and furnished with beds for the accommodation of those prisoners who are ill ; and the writer is convinced, that the humanity of the magistrates will induce them to order that the windows in the cells be glazed : which, by being made to open, will sufficiently ventilate the prison ; and if wire lattices be placed on the outside, there will be no danger of the glass being broken.

This will be an example worthy to be followed

by all who have the management of prisons ; for confinement, labour, and spare diet are surely all that the law requires ; and these are sufficiently distressing, without the addition of cough and rheumatism. It is cruel, unjustifiable, and presumptuous in man to convert the violence of the seasons into the means of punishment. It must be observed too, that this prison is used, not merely as a house of correction, but as the place of confinement of those who are committed for trial at the city quarter sessions ; and who, till convicted, are to be considered as legally innocent. To these prisoners every moderate and reasonable indulgence, consistent with the security of their persons, should be granted. Every magistrate, who has the power of committing persons, should occasionally visit the prison to which they are committed. By making proper inquiries concerning the health and management of the prisoners, and taking care that they have good medical assistance, many unnecessary hardships might be prevented, and much misery alleviated.

Y. Z.

*Oxford, Dec. 12, 1814.*

[P. S. It is highly creditable to the present Vice-Chancellor, that he is the first person in that office who has visited the prison for many years ; and it is hoped that his visits will be frequent. His intention of visiting on any particular day should not be made known before it be put into execution ; and every part inhabited by the prisoners should be the object of his inspection. In viewing this abode of vice and misery, we should consider, while enjoying all the comforts of life ourselves, to what extreme wretchedness our fellow-creatures are consigned, who, without the advantages we fortunately possess, are continually subject to greater temptations ; and, so far as is consistent with the law under which we act, and particularly when its rigorous enforcement is not calculated to produce any benefit, we should incline to the side of mercy.

I know that this opinion will be strenuously opposed by certain persons, over whose minds a puritanical affectation of piety, and a spirit of persecution (for these qualities are inseparable), exercise their gloomy and savage influence. In such persons, compassion and mercy are totally

absorbed by their love of power ; and so long as they can exert this power, they are indifferent to the evils and calamities it may produce. Happily, however, the acts of these men, though for a short time very harsh and oppressive, are ultimately ineffectual without the concurrence and support of the Vice-Chancellor, whose sense of moderation and justice will, at length, it is hoped, induce him to restrain their violence.

Thou rascal beadle, hold thy bloody hand :  
Why dost thou lash that whore ? Strip thine own back ;  
Thou hotly lust'st to use her in that kind  
For which thou whipp'st her.

SHAKSPEARE.]





## LETTER VI.

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Another Instance of the Abuse of the Procuratorial Power  
—Cognizance claimed and allowed—Vice-Chancellor's  
Court—Why similar Instances of Abuse are not made  
public.

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SIR,

To the many instances of the abuse of the procuratorial power in the University of Oxford, which have been lately animadverted upon in your Paper, I beg leave to add the following :—

On the 29th of November, 1811, two young women, the daughters of a widow in the middle rank of life, resident in Oxford, were in the High-street, near St. Mary's Church, between four and five o'clock in the afternoon, when two gownsmen crossed the way, and endeavoured to enter into conversation with them. One of the Pro-Proc-tors, accompanied by the marshal of the Univer-sity, stopped the young women, and charged them

with having conversed with the gownsmen. They in vain denied the fact. The Pro-Proctor desired them to follow him, which they did, attended by the marshal. The gownsmen perceiving that the young women were stopped, and supposing that it might have been occasioned by their having been in their company, returned, and begged leave to assure the Pro-Proctor, that no blame whatever was imputable to the young women; but they were desired to go to their college; and the females were escorted to Exeter College, where the marshal learned that the Vice-Chancellor was engaged, and would not be spoken with. The Pro-Proctor, upon being informed of this circumstance, desired they might be taken to the marshal's house, and said that he would send the Senior Proctor to them. The marshal obeyed the Pro-Proctor's directions, and conducted them to his house, where the Senior Proctor came soon afterwards. The young women asked what they had been brought there for. The Proctor said that the Pro-Proctor had informed him, that they had been talking with gownsmen. This they denied, and begged they might be liberated. The Proctor replied, that they must be

confined there all night, and taken before the Vice-Chancellor in the morning to exculpate themselves. They then requested that their mother might be sent for ; but this was refused by the Proctor, who immediately left the house, desiring the marshal to confine them. The marshal conducted them into a room up-stairs (the usual place of confinement for common prostitutes) and locked them up. Perceiving that the marshal, before he left the room, was about to take away the candle, the girls begged they might have a light and a fire ; but he told them that it was as much as his place was worth to allow them to have either the one or the other ; and they were confined all night, without fire, candle, or any sort of refreshment.\* In the course of the evening, their mother, and two of their friends, wished to be admitted, but were refused. About nine o'clock the following morning, the marshal desired them to prepare to go before the Vice-Chancellor, and then left them. He returned to them at twelve o'clock, and told them, that they were to be liberated without going

[\* No blame is here meant to be imputed to the marshal, who, no doubt, acted according to orders.]

before the Vice-Chancellor, upon which they came down stairs and walked home.

An action was brought in the Court of King's Bench against the Proctor, the Pro-Proctor, and marshal, for false imprisonment.\* The University claimed cognizance of the cause, which was allowed. The plaintiffs, whose expences amounted already to a considerable sum, were advised to drop all further proceedings, as the cause must have been determined in the Vice-Chancellor's Court, where there is no jury, and where it might have been protracted to a great length of time, and have been attended with much additional expense ; not to mention this trifling circumstance, that the Proctor himself, the very man who was one of the defendants, might have sat with the assessor, and his brother Proctor, as one of the judges !

Now, it must be observed, that the conduct of the Proctors seems to have been not only unnecessarily harsh and severe, but illegal. That this was the opinion of the Vice-Chancellor, may be

\* Thornton *versus* Ford.

inferred from the circumstance of the young women being liberated without appearing before him, who, if any thing whatever could have been proved against them, would not have dismissed them without a reprimand. It would have been unjustifiable and illegal, even if the young women had been common prostitutes, for they had been guilty of no ill behaviour ; and the Pro-Proctor interposed his authority at a time of the day when he had no lawful nor statutable power of exerting it, except on matriculated persons.— Punishment, in this case, if inflicted at all, should have been inflicted on the gowmsmen ; but they were allowed to escape with impunity.

Instances similar to the above, I have reason to think, have frequently occurred, though the individuals who suffered had no opportunity of bringing their cases before the public ; a circumstance that will not be wondered at, when it is considered, that aggressions of this nature are generally committed against persons, who cannot take any expensive measures to obtain redress, or who, by their own situation, or that of their relatives and friends, are more or less dependent on the Uni-

versity, and to whom any resistance or opposition to those members of it, who are clothed with authority, might be very detrimental, and, perhaps, ruinous, in its consequences. To which may be added, that publicity, in these cases, is extremely distressing to females, as it may be the means of subjecting their characters, however pure, to uncharitable remarks and ill-natured surmises.

Y. Z.

*Oxford, Feb. 18, 1815.*

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At the city quarter sessions, held April 21, 1817, five women were brought up from prison, most of whom had been apprehended by the Proctors in the day-time, and all before nine o'clock at night. None of them had been riotous or noisy, neither had they been found in the company of gownsmen, or any other persons. To a person of any feeling, the sessions of this city present a very distressing scene. The same women are almost constantly brought up every quarter, for



having returned to Oxford after having been passed to their parishes. The fact is, from their loss of character, no persons will receive them into their houses, or give them any employment, so that they are compelled to return to Oxford by extreme distress, and are again committed to prison, where they live the greater part of the year. This shows the necessity of an asylum, where they might have an opportunity of recovering their characters. Till something of this kind be done, punishment seems to be scarcely justifiable. I shall not here inquire, how far it may be prudent or necessary, in large and populous places, to connive at certain immoralities, so long as they are not offensive to public decency; but I will again assert with confidence, and I do it from much observation, that the injudicious interference of certain officers in this University has frequently been the cause of greater offences against morality than those against which it was directed, and which it is out of its power to suppress; and such, it may be observed, is, in all cases, the common effect of ill-timed and indiscreet exertions of magisterial authority.



In the Second Report of the Committee on the Police of the Metropolis, it is said, that “ Cases having been submitted by the committee of the Guardian Society to two eminent counsel, for the purpose of ascertaining, among other things, whether the existing laws are sufficient for the apprehension of females, whose gestures and demeanour induce a belief that they are prostitutes, and for their commitment, when proof is adduced that they are reputed prostitutes ; it is stated by one, ‘ I am clearly of opinion, that the apprehension of a female, whose gestures and demeanour induce a belief only that she is a prostitute, could not in law be justified. I am as decidedly of opinion, that the commitment of a woman as being a reputed prostitute could not be supported ; and, till found guilty, I am not aware that she is liable to any temporal punishment. Even a bawd, though notoriously so, cannot be indicted for being a bawd generally ; the bare solicitation of chastity not being an indictable offence. 1 Hawk. 71. Salk. 382.’ And it is the opinion of the other, that ‘ A bare solicitation to unchaste conduct is not indict-

“ able, 1 Salk. 382 ; and I therefore think, that  
 “ the apprehension of females, whose appearance  
 “ indicates that they are prostitutes, cannot be  
 “ justified by any existing law ; and that they  
 “ cannot be committed by magistrates as reputed  
 “ prostitutes : that they are not within the provi-  
 “ sions of either 7 James I. c. iv. or 17 Geo. II.  
 “ c. v. The first is directed against rogues, vaga-  
 “ bonds, and wandering and idle persons ; the  
 “ second particularly describes who shall be deemed  
 “ such, but does not, in my opinion, include *pros-*  
 “ *titutes as such*. That neither peace officers nor  
 “ others are authorised to apprehend them.’ ”

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The Proctors, in 1817, in the exuberance of  
 their zeal on first coming into office, caused almost  
 all the prostitutes, who did not escape to Abingdon  
 and the neighbouring villages, to be committed to  
 prison ; and not satisfied with this exertion of au-  
 thority, they applied to the Mayor of Abingdon,  
 to drive away or imprison the women who had  
 taken refuge in that place. The Mayor declared

his inability to interfere, so long as the women lived quietly in their habitations, and were not guilty of any breach of the peace, or public nuisance. The Vice-Chancellor then took up the cause, and, by letter, supplicated the Mayor to drive away these women; and some of them, who did not fly to other places in the neighbourhood, were committed to prison. The consequence of this absurd business was, that when those who had been committed to prison in Oxford were liberated, the number of common women, by the previous arrival of new comers, and the many seductions that had taken place in the mean time, was found to be nearly doubled. This affords another lamentable proof of the ill effects of injudicious interference.

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About the middle of January, 1818, one of the women, who had been committed to prison, was shockingly diseased; and her case requiring particular attention, I addressed the following letter to the Senior Proctor. It contains the *decies repetita*; but it had the desired effect, so far, at

least, as the sick person was concerned, and I felt the satisfaction of having done every thing in my power to relieve distress.

My suggestion of establishing an hospital has been hitherto useless, but the Proctor seemed to acknowledge the truth and justice of my remarks ; for instead of showing ill-temper, and acting with more than usual severity (which, I am sorry to say, was the conduct of certain persons in his situation on reading some of the preceding letters when they first appeared), and instead of obstinately persevering in an erroneous and mistaken system, which is the sure and infallible sign of a weak mind, he evidently conducted himself with greater moderation, and in a more lenient manner than he had previously done, of which the good effects, during the remaining time he held the office, were very perceptible.

TO THE REV. THE SENIOR PROCTOR OF THE  
UNIVERSITY OF OXFORD.

SIR,

I TAKE the liberty of addressing you, as Senior Proctor of the University, and most earnestly call your attention to the wretched state of the females confined in the city prison, who sleep in cells, of which the walls, floors, and roofs are stone, and where there is no glass in the windows ;\*

[\* Not long after this letter was written, I inspected the city prison, and was pleased with the state of cleanliness in which it was kept, and with the conduct of the keeper, who, as far as I could judge, appeared to be attentive and humane ; but I found the same objections to exist as on my former visits. There was not, indeed, at that time any great degree of dampness on the walls of the cells in which the prisoners slept, for though there had been much rain, it was accompanied with a clear, drying wind. In damp weather, and particularly on the breaking up of a frost, the wetness of the stone walls can never be entirely prevented, but may be lessened by the exclusion of the damp air. The sliding boards (of which I have always complained, and always shall, as a very ineffectual substitute for glass in the windows) neither exclude the fog, nor the dampness of the atmosphere, nor the cold air in severe weather. There were nine women in the

and I particularly call your attention to them at this time, as I am informed that one of them is shockingly diseased, and is not allowed any better accommodation, though she be under a course of medicine that requires very great care, and in which cold is frequently productive not only of disorders which render the patient a cripple for life, but which sometimes terminate in death or insanity. What medical assistance she has, I do not know ; but that is a circumstance which likewise demands inquiry.

I must be allowed to observe, that if the Vice-prison ; three of whom were ill and in bed in their respective cells, but were not thought by the apothecary to be ill enough to be removed to the sick room. This sight convinced me of what I had long thought, that the establishment of a venereal ward in the Radcliffe Infirmary would be a great act of charity. Enough has been already said (and more than enough, if the persons for whose ears it was intended had any feeling) of the impolicy and cruelty of subjecting women, except in cases of riot, or of such ill behaviour as would make them amenable to the common law of the land, to the hardships of a prison ; and of the folly and wickedness of increasing, rather than checking vice by injudicious severity ;—a severity, too, which drives away from Oxford the more decent women, who will not subject themselves to frequent imprisonment. The worst and lowest remain ; and hence the prevalence of the above-mentioned disease.]



Chancellor, who commits these women, and the Proctors, who apprehend them, ever reflected on the wretched place in which they are imprisoned, and the misery they must endure during the imprisonment, their humanity would more frequently plead in favour of the offenders ; and, unless in cases of great misconduct or ill behaviour, would mitigate their punishment.

The prison, it must be recollected, was never designed, and is not adapted, for a place to receive persons who are sick ; and therefore it seems to be the height of cruelty to commit women who are known to be diseased ; indeed, by those who are in good health, the effects of the cold and damp have, in several cases, been severely felt during the remainder of their lives.

It would be very desirable that a ward in the Radcliffe Infirmary should be appropriated to the reception of female venereal patients. If such an arrangement be inconsistent with that establishment, a house should be taken and converted into an hospital (subject to the controul of the Vice-Chancellor, the four Pro-Vice-Chancellors, and the two Proctors of the University), which might



be done at a small expense, and be supported by subscription.

By pleading the necessity of such an establishment to the Vice-Chancellor and Heads of Houses, and setting it on foot before you retire from your office, you will perform an act of charity, that cannot fail to reflect pleasure and satisfaction to your own mind, and be of the greatest benefit to the most wretched and pitiable of your fellow creatures; to those whose guilt, without the avenging hand of man, is generally attended with its own punishment; but under which, in humble imitation of that mercy we are taught to hope for and expect from our Heavenly Father, and as a means too of obtaining that mercy ourselves, we should not suffer them to fall and perish.

By promoting this act of charity, I must beg leave to say (and I say it from a sense of duty, and without the slightest intention of giving offence), that you will at least make some amends for, if you cannot retrieve the errors you have committed during the time you have been in office. I say *errors*, for as you have the reputation of being a sensible and honest man, I most willingly give you credit for having acted from the best

motives, and without that childish pride of office, and that low and contemptible desire of showing your power, and of exerting your authority, which have actuated too many of your predecessors ; but, at the same time, you must excuse me if I observe, that your mode of proceeding has been the cause of the worst effects.

In few words, your great, though well-intentioned severity towards these unfortunate women, has been considered by many, who are unacquainted with your real character, as an instance of the most useless and disgusting cruelty, as the gratification of a prying curiosity, and as the mere love of power, exercised under the semblance of duty, and disguised in the garb of authority. It is looked upon in this light, as the ill effects are apparent to all ; but the good effects, if there be any, lie concealed. It is generally said, and I believe, so far as my inquiries go, with truth, that, by confining or driving away these women from Oxford and its neighbourhood, you compel many of the young men, at the great expense of their time and pockets, to pay frequent visits to places at a distance from the University ; while others, of a less active turn, have recourse

to artifice and intrigue (which, above all things, tend to weaken and corrupt the moral principle,) and employ their time and money in seducing girls resident in the city, and reducing them to the horrid necessity of taking the situation of those, whom you very piously and conscientiously have thought fit to drive away or imprison. You have thus, unfortunately, with the best intentions, injured, instead of improved the morality of Oxford; and have been the cause of great distress and misery to many, by inducing the Vice-Chancellor to inflict upon them a severe punishment, unproductive of any good (for a prison is not the place to recover the loss of character, and it rarely leads to an amendment of life,) and of ruin to many others, by virtually having been the cause of their seduction.\*

I am, Sir, with a perfect conviction that you have acted from well-intentioned, though erroneous motives,

Your most obedient Servant,

Y. Z.

*Oxford, Jan. 20, 1818.*

[\* The present system, so far from reclaiming those women who are notoriously vicious, hardens them in their vices; and

**P. S.** With great submission I will beg leave to state, that I have heard from good authority, that most of the women might be prevented from walking in the streets by gentle means, if they were not irritated, and almost driven out of their dwellings, by the procuratorial visits. Those that occasionally appear in the streets are generally well-behaved, and when there is any ill behaviour, it is often provoked by ill usage; for whether they be noisy or quiet, riotous or peaceable, they are too frequently treated with the same indiscriminate and unfeeling severity.

Granting that the Proctors have a legal right,

with respect to others, whom more gentle means might reform, the public ignominy of the punishment, added to the misery they suffer, and the injury done to their health by the cold and damp to which they are exposed in the prison, drives them to despair. Hence is extinguished every remaining spark of decency and moral feeling; their characters are lost beyond recovery, and themselves involved in utter ruin. It must not be forgotten too, that this harsh treatment has irretrievably ruined many female servants and other persons in the lower class of society; for, by making their offence public, on its first detection, it has deprived them of every opportunity of recovering themselves. It first compels women to become prostitutes, and then punishes them for being so.]

as they suppose they have, of searching houses ;\* the power is so oppressive, so liable to abuse, and so indelicate and degrading to the office, that it should be exerted as little as possible ; and if a Proctor should ever think it necessary to use it, and find a gownsman in company with a female, it would be more manly to let the punishment fall solely on the gownsman.

Informations should not be attended to, unless in cases of riot, or breach of the peace. In other cases, I have been informed by persons who have held the procuratorial office, that on examination they have almost invariably been found to be false, and to have originated in malice and revenge, and in the hope of obtaining reward.†

[\* See Note, page 9.]

† On the authority of this kind of vague information, instances have been known of Proctors assuming the right of apprehending the women, wherever they could be found, of entering their habitations, without any warrant, either by day or night, and taking them, even from their beds, into custody ; though, according to the statute (and that statute, it has been observed, has never received the sanction of parliament) the only right that Proctors have to enter houses is to search whether gownsmen be in them or not ; and the only right they have to apprehend any persons (except those who

I will beg leave to add, that cases of false imprisonment, or of assault, arising from the abuse of the procuratorial power, and particularly those cases in which one of the parties does not belong to the University, should be heard in the common courts of law. Redress is now so difficult to be obtained as scarcely ever to be attempted ; for cases in which the University officers are concerned, either as plaintiffs or defendants, can only be brought before the Vice-Chancellor's Court, where the process is both tedious and expensive, and where the Vice-Chancellor himself, or his assessor, and the two Proctors, may, by the statutes of the University, sit as judges, and consequently may give judgment in the very cause, in which they may happen to be either plaintiffs or

are, matriculated) is for wandering about the streets between nine o'clock at night and five in the morning. And here it may be observed, that those great constitutional lawyers, COKE and BLACKSTONE, both agree, that " particular jurisdictions, derogating from the general jurisdiction of the courts of common law, are ever taken strictly, and cannot be extended farther than the express letter of their privileges will most explicitly warrant." *Blackstone's Comment.* b. iii. ch. 6.



defendants, for we must remember that in this court there is no jury.

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On the 5th of September, 1818, I sent the following letter to the Recorder of Oxford, as the City Quarter Sessions were to be holden, by adjournment, on the 7th of that month.

TO THE RECORDER OF THE CITY OF OXFORD.

Sir,

A circumstance has lately occurred, which, I hope, will be considered as an apology for the liberty I take in troubling you with this letter. In consequence of the noisy behaviour of some prostitutes in the streets of this place in the evening lately, several women have been apprehended and committed to prison by one of the city magistrates. That the worthy magistrate acted perfectly right in endeavouring to punish persons guilty of such misconduct cannot be denied; but I have been informed, that by his issuing warrants, without proper discrimination, some have been



apprehended in their lodgings, and elsewhere, who were innocent of the offence.

It may, perhaps, be said that these women, though not concerned in the disturbance, had been in the habit of walking in the streets, and that they are, therefore, deserving of punishment. But as persons, however immoral they may be, are not liable to punishment unless they have trespassed against the law, these women do not appear to be liable to any legal animadversion, inasmuch as the act of walking in the streets, unless attended with indecent, noisy, or riotous behaviour, or a breach of the peace, is not any offence or misdemeanour.

In the warrants, by which these women are committed at Oxford, they are generally described as *vagrants*, though I cannot find in any law-book I have consulted, that women of this kind (unless they have committed an act of vagrancy by soliciting charity, or applying for parochial relief, &c.) come under that denomination.

I have good reason to think, that these women are often committed hastily ; and I beg leave most humbly to submit to your consideration, whether the riotous and noisy behaviour alleged against

them should not be always minutely inquired into, and proved, previously to their conviction, and especially in cases where the person who apprehends them is allowed a fee on their commitment, and when he is the only witness against them.

In cases of women returning to Oxford after having been passed to their parishes, I cannot but observe, with great deference, that the mere act of returning does not constitute an act of vagrancy ; and, therefore, that they cannot be punished for merely having so returned ; and that they cannot be legally apprehended before they shall have committed some act of vagrancy, or breach of the peace ; and that their commitment as reputed prostitutes cannot be supported ; that their lewdness, to render them amenable to the law, must be open, and that it then becomes the subject of indictment, and, till found guilty, that they are not liable to any temporal punishment.

As it is desirable to prevent these common women from walking in the streets, except when they occasionally go to the shops, (for to endeavour to exclude them entirely would be cruel and absurd,) I am convinced, that the object might be effected

by more gentle means, and without any violation of the law. In cases of riot or indecency, there are laws enough, which might be strictly enforced. To prevent their living at all in Oxford, has been found to be impracticable ; indeed, the attempt to carry this ridiculous idea into execution, has produced inconveniences and crimes of the most serious nature. Among the former, may be reckoned the loss of time and the expense, in which the young men of the University involve themselves by frequent visits to the metropolis, and the consequent evasions and subterfuges to which they have recourse to avoid detection ; among the latter, the many calamitous instances of seduction, which take place, not only in Oxford, but in the neighbouring villages.

These are some of the serious evils and immoral effects of an injudicious exertion of authority by the persons invested with the procuratorial office, and which have the farther ill consequence of encouraging and supporting informers ; a mean and infamous tribe, who unfeelingly extort from these women the greater part of their wages of prostitution by the threat of having them apprehended

on their tell-tale informations ; and who, from their profligate and dissipated habits, repeatedly appear at the bar of your court, in the character of petty thieves and drunken assailants.

I am, Sir, with great respect,  
Your most obedient Servant,

Y. Z.

*Oxford, Sept. 5, 1818.*

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THE preceding pages afford an extraordinary and memorable instance of a long-continued exercise of illegal power; for it had been many years the practice of the University officers to apprehend and commit to prison prostitutes who were walking quietly, even in the day-time, in the streets and public walks of Oxford.

Soon after the first publication of this pamphlet (in 1822,) the custom became too notoriously illegal to be any longer persisted in. The consequence was, that, since that time, few or none have been apprehended, except for disorderly behaviour.

The University, thus having found that they had hitherto been acting illegally, and that their own statutes were not a sufficient sanction for the exercise of their assumed authority, applied, in the last session, to Parliament, through the Right Honourable Robert Peel, one of their Representatives; and an Act was passed, intituled, "An Act for the better Preservation of the Peace and good Order in the Universities of England."

By this, it is enacted, “ that every common  
 “ prostitute and night-walker, found wandering  
 “ in any public walk, street, or highway, within  
 “ the precincts of the said University of Oxford,  
 “ and not giving a satisfactory account of herself,  
 “ shall be deemed an idle and disorderly person,  
 “ within the true intent and meaning of an Act,  
 “ passed in the last session of Parliament, inti-  
 “ tuled, ‘ An Act for the punishment of idle and  
 “ ‘ disorderly persons, and rogues and vagabonds,  
 “ ‘ in that part of Great Britain called England,’  
 “ and shall and may be apprehended and dealt  
 “ with accordingly.”

By this Act, it is not necessary for their apprehension, that they should be riotous or disorderly; and, on this account, it met with opposition in both Houses of Parliament.\*

The penalties in the Act for “ the punishment

\* The severity of the punishment seems to arise from the penalties in one Act being affixed to an offence of a different description in another. Each law should contain its own penalties, clearly marked and defined; so that the offence and punishment may appear together in the same Act, without reference to any other.—Here it may be asked, what is the meaning of the word *wandering*?

“ of idle and disorderly persons, and rogues and  
“ vagabonds,” are, for the first offence, imprison-  
ment in the house of correction, where the offend-  
ers may be kept to hard labour, for any time not  
exceeding one calendar month; for the second  
offence, for any time not exceeding three calendar  
months; for the third, they may be committed till  
the next general or quarter sessions, where “ it  
“ shall be lawful for the Justices of the Peace  
“ there assembled to examine into the circum-  
“ stances of the case, and to order, if they think  
“ fit, that such offender be further imprisoned in  
“ the house of correction, and be there kept to  
“ hard labour for any time not exceeding one year  
“ from the time of making such order.” So that  
the term of imprisonment may be limited at the  
discretion of the magistrates.

Severity in these cases is not only cruel, but  
useless, unless some means be adopted to reform  
the offenders. Long imprisonment has been al-  
ways found to harden these women in their vices,  
and to make them desperate.\*

\* See pages 13, 14, and some of the following.



If the magistrates be severe in the execution of this Act, it is to be feared that all the evils will recur which are enumerated in the preceding pages.\*

By this Act, commonly called the "University Police Act," the Chancellor, or Vice-Chancellor, is allowed to appoint constables, who may have the power of acting within the precincts of the University, and four miles of the same, and it is provided, "that every such constable, for any act done by him in the execution of his office, shall be liable to be sued or indicted in the courts of common law, notwithstanding such constable may be a member of the University, and notwithstanding any claim of cognizance or privilege whatsoever." This is an acknowledgment of what is above asserted, that it was "designed that the Vice-Chancellor's Court should protect the students from being distracted from their studies by legal process from distant courts, and not that it should protect the University officers from any action or suit arising from the alleged abuse of their power."†

\* See particularly pages 27, 59, 62, 65, 66, 73, 74.

† See page 19.

It is to be hoped, that little more will be heard of this University Court. It has had its day. It may be useful and convenient to both parties in matters of debt ; but it should interpose its authority only in those cases in which the debt may have been contracted in Oxford, and when the debtor may be resident in that place.

By motives of regard and esteem for the University, in which I very happily passed, what, in all probability, will be the greater part of my life ; and, at the same time, by a determination to endeavour to resist cruelty and oppression, in whatever form they may appear ; and by the disgust I have long experienced in seeing the ill effects of that useless interference, and injudicious severity, which, instead of checking, promote immorality ; I have been induced to apply to this important subject my most serious attention ; and, whatever may be the result of my exertions, I feel the pleasure and satisfaction of having done my duty !

*October 10, 1825.*

THE END.

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