

A N  
ANSWER

TO

*Jura Populi Anglicani:*

OR, THE

Subjects RIGHT

OF

Petitioning.

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T H E  
P R E F A C E.

**T**H E Preface that lets us into the Design of this piece of Malignancy, being too prolix for the Body of the Treatise, and of too great a Bulk for what is subsequent to it, I shall hold it unnecessary to give it the Reader verbatim, or answer it in the same method, that is, Paragraph by Paragraph; but, by way of Abridgement, take notice of what is most remarkable in it.

He begins with the dissatisfaction which the Nation in general has entertrin'd against the management of the House of Commons, but more particularly their Treatment of the Five Kentish Gentlemen: when 'tis manifest from the reception which some of the Leading Members in that Affair have had in their several Counties and Burroughs, and the Universal Acclamations they have been welcom'd home with, that the People whom they represented had a grateful sense of the Services they had done 'em, and had been neither led away from their Duties by the sight of Thom. Cockerill's fine piece of Seditious, the Kentish Petitioners Picture, nor by 'Squire Tate's most elaborately dull Poem in praise of his thick-skull'd Worthies.

*But because the People are generally known to stand by the Acts of their Representatives, (which is a tacit Confession, that they stand by what has lately been transacted, and contradicts the displeasure of the Nation in general, which he positively affirm'd to be burning hot just before) he excuses himself, and makes an Interest with them not to misinterpret his meaning; for he does not reflect on the People in general, but those particular Counties and Boroughs that chose those Gentlemen who forwarded the Commitment of his mutinous Favourites; that is, the Majority of that Honourable House. A sign indeed of a general Dissatisfaction, when he owns the Electors stand up in Vindication of the Elected, which were known to be two thirds of the Members of Parliament, and certainly must lessen the number of his Complainers!*

*He brings it for an undoubted Maxim, (as surely it is) That if things are done contrary to Justice and Reason, the Majority of the House does not give a Sanction to them; which Negative includes this Affirmative, That where Justice and Reason are the only Motives for a Vote or Resolution of the House, there a Majority certainly stamps an Authority upon it. But he either takes it for granted, and would have us do the same, that those Worthy Members acted contrary to Justice and Reason, or knowing himself to be incapable of proving the Charge upon em, purposely omits running into the Detail of that Injustice, and keeps his Reasons for another opportunity.*

*In another place he says, Their Imprisonment was not an Act of the whole House, because the*  
*honestest*

*honestest part of it, meaning those that were of his Party, dissented from it. Now in every man's opinion, what is agreed to by a Majority of Voices in any Community or Society of Men whatsoever, is look'd upon as an Act of the whole, otherwise some peevish discontented Members, that have no great Inclination to the present Government, or the Church by Law establish'd, might lessen the Credit of Bills of Supply, by saying it was no Act of the House, because He voted against it; or that such an Act of Parliament for the Preservation of the Protestant Religion was of no Force, because it had not His Concurrence.*

*Next, he pursues the malignity of his Discourse, by affirming, that the House of Commons are not the whole People of England's Representatives, but only of those who actually chose 'em; that the Power Legislative is only Representative in a Political State. To make the Absurdity of this Argument appear, and that they are esteem'd otherwise, we need go no further than the form of Words which is generally made use of in all Impeachments, part of which run thus: In the Name of the Commons, and all the Commons of England, &c. Now 'tis visible from hence, that they themselves think they represent All the Commons of England, otherwise they would not make use of their Names to impeach Offenders in, or those who are look'd upon to be the most judicious part of the Nation are mistaken in their Sentiments, which it is not Manners even so much as to suppose. If the Legislative Power is their Representative, certainly the Legislators themselves may claim the same Title, since they are invested with that Power, and*  
*have*

have the exercise of that Authority which he gives his decision in favour of.

Another thing that seems (as he pretends) to discourage him from the Prosecution of the Discourse he has so manfully undertaken, is the Judgment people will make of his Intentions, and the Censure that probably will fall on him for designing to serve a Party; and to let us into the knowledge of what he means by the word Party, he gives us the Character of a Tory as given by himself, and the Principles of a Whig according to the definition of Men of that Seditious Persuasion. Amongst the Tories he intermixes a List of some Worthy Members, as the Speaker's Brother, &c. and seems to make a wonder why they, that were Men of the greatest inveteracy to the true Tory Principles, should be blended with Sir Edward Seymour, Sir Christopher Musgrave, and others. I know not what he means by the true Tory Principles: but if he stands to the Account he makes the Gentlemen of that Name give of themselves, it's what they need not be ashamed of, especially when Men of direct contrary Principles stand up in opposition to 'em.

However, at last, tho' he seem'd unwilling to be reckon'd a Scribe to a Party, he seems proud to own that he copies from St. Paul to the life, and, like a true Pharisee which that holy Man was a Son of, makes use of the Apostle's words: After the way which they call Heresie, so worships he the God of his Fathers; that is, makes an Idol of Sedition, and bows the knee to the Baal of those that are restless and discontented. He needed not have made this Confession; for a man would have guess'd as much from the Title of his Book, and drawn an

*Inference from his uneasiness under Parliamentary Proceedings that he was a Lover of Anarchy and Confusion.*

Nothing more occurs in his Prefatory Declamation, besides his concern at the Bill against the Translation of Bishops; which he reflects upon Sir John Packington for, being to be sure a fast Friend to the Bishop of Worcester, whose many Translations from one See to another it seems to squint at, and the good Bp. of S--ry's acquaintance, who has all manner of reason to think the Diocese of Winchester better than his own, and who deserves the highest Preferment in the Church as much as he does what he is now possess'd of. Why he should be so zealous for Episcopacy, 'tis not in my sphere to imagin, unless he stands up for that Holy Order by way of opposition; or why he falls upon the Lower House of Convocation, unless he would shew himself a profess'd Enemy to all Clergy-men who will not be rid upon. He was for the Liberty of the Lay-men just before; but would have the inferiour Clergy, which are the most Exemplary Men for their Learning and pious Conversation of all that wear that holy Garment, have no manner of Privileges; which shews, that he's for having a Power assum'd over all People but Men in his own station, and even is resolv'd to maintain hard and fast, that the Lords should exercise a Despotick Authority over those that represent the Nation, even to such a despicable Partizan as he is: when what Memmius says in his Oration to the People of Rome concerning the Exorbitancy of Power usurp'd by the Nobility, may be adapted to our purpose, and may serve as a sort of remembrance to that Venerable  
Assembly

*Assembly which has lately so honourably asserted its Rights and Privileges. Superioribus Annis taciti indignabamini Ærarium expilari, Populos Liberos paucis Nobilibus Vectigal pendere, penes eosdem & summam Gloriam, & maximas Divitias esse: tamen hæc talia Facinora impune suscepisse parum habuere: Itaque postremo Leges, Majestas vestra, Divina & Humana omnia hostibus tradita sunt, &c. At qui sunt hi qui Rempublicam occupavere? Homines sceleratissimi, cruentis manibus, immani avaritia, nocentissimi idemque superbissimi, quibus Fides, Decus, Pietas, postremo honesta atq; inhonesta omnia quæstui sunt. What sort of Grievances this Orator hinted at, may be seen in the History of those, and whom these Complaints are apply'd to, may be known from the Constitution of the present Times: so that there needs no other Explanation but that the Commons of England would have been in the same Condition, were it not for the prudent Resolves of our present Senate.*

*Jura*

*Jura Populi Anglicani*

# ANSWER'D,

Paragraph by Paragraph.

**T**HE Death of the King of *Spain*, and the alteration made in the Affairs of *Europe* by the Settlement of his Dominions, has caused a general Consternation in all those Countries which before had any apprehensions of Danger from the growing Power of *France*. Among them all, none has more reason to be alarm'd than *England*, since, when we consider our Scituation, the Affairs of Commerce and Religion, and the Interest not only of the Abdicated Family, but of their great Protector likewise, among us: we must allow that no other Nation (unless perhaps we will except *Holland*) is more immediately affected, and likelier to feel the first dire effects of this unhappy Conjunction.

This the People of *England* are generally sensible of; and 'tis to this sense of their Danger, and the suspicion they have entertain'd of a much greater inclination to continue than destroy this Union of Power, that we are to ascribe their Discontents, and the Resentments they have expressed against their Representatives, to a degree never before known in any Age of our Government.

B

'Twas



'Twas in the midst of these Clamours that echo'd through the Kingdom, and the universal dissatisfaction of the People at the Proceedings of the House of Commons, that the five Kentish Gentlemen presented this following Petition, agreed to by the Gentlemen, Justices of Peace, Grand Jury, and other Freeholders, at the General Quarter-Sessions holden at *Maidstone*, the 29th of *April*, in the 13th year of his Majesty's Reign.

“ WE the Gentlemen, Justices of the Peace,  
 “ Grand-Jury, and other Freeholders, at the  
 “ General Quarter-Sessions at *Maidstone* in *Kent*,  
 “ deeply concern'd at the dangerous Estate of this  
 “ Kingdom, and of all *Europe*, and considering  
 “ that the Fate of us and our Posterity depends up-  
 “ on the Wisdom of our Representatives in Parlia-  
 “ ment, think our selves bound in duty humbly to  
 “ lay, before this honourable House the consequence  
 “ in this conjuncture, of your speedy Resolutions,  
 “ and most sincere Endeavours to answer the Great  
 “ Trust reposed in you by your Country.

“ And in regard, that from the experience of all  
 “ Ages, it is manifest no Nation can be happy with-  
 “ out Union, we hope that no pretence whatso-  
 “ ever shall be able to create a Misunderstanding  
 “ between our selves, or the least distrust of his  
 “ Majesty, whose Great Actions for this Nation  
 “ are writ in the Hearts of his Subjects, and can  
 “ never, without the blackest Ingratitude, be for-  
 “ got.

“ We most humbly implore this Honourable  
 “ House to have regard to the Voice of the People,  
 “ that our Religion and Safety may be effectually  
 “ provided for; that your Loyal Addresses may  
 “ be turn'd into Bills of Supply, and that his most  
 “ Sacred Majesty (whose propitious and unble-  
 “ mish'd Reign over us we pray God long to con-  
 “ tinue)

“ tinue) may be enabled powerfully to assist his Al-  
 “ lies before it be too late.

And your Petitioners shall ever pray, &c.

*Signed by all the Deputy-Lieutenants there pre-  
 sent, above twenty Justices of the Peace, all  
 the Grand-Jury, and other Freeholders then  
 there.*

*Answer. There is no person in his senses but will  
 grant, that the Spanish Succession, according to the  
 Settlement made in his late Catholick Majesty's Will,  
 has alter'd the Ballance of Europe, and aggrandiz'd  
 the Family of Bourbon to an extraordinary degree of  
 Power: but no Inference is to be drawn from thence  
 that We are oblig'd instantly to have recourse to Arms,  
 who are no Parties concerned in the said Will, who  
 have no Right or Title to the least spot of Ground belong-  
 ing to the Kingdoms bequeath'd in it, and who have  
 enter'd into such a perpetual Peace with France and  
 Spain, that cannot be violated without a manifest  
 breach of Faith on the side of the Aggressor. Our Scitu-  
 ation indeed, the difference of Religion, which they  
 call Heresie, and the Interest the late King and his  
 Family has in the nearest of those Kingdoms, may en-  
 title us to some Jealousies and Apprehensions of his  
 most Christian Majesty's Designs, and make us provide  
 against any Emergencies whatsoever, as far as the im-  
 poverish'd state of the Nation will allow, and the weak  
 condition of our Pockets, which have groan'd under the  
 pressures of a long and expensive War, are capable to  
 permit: but that a People should be dissatisfied with  
 their Representatives that study'd the Conservation of  
 the Peace, should enter into Clubs and Confederacies,  
 and run canvassing after Subscriptions to disturb the  
 publick Tranquility, which has so lately been secur'd to  
 'em by the Treaty of Reswick, is a plain Indication that  
 the persons who busie themselves in such Impertinencies  
 B. 2 take*

*take Measures that are unjustifiable for their Imprudence. and deserve more than a Gatehouse-Punishment for the Presumption that bears it Company. As for the Petition, the Judgment which has been passed already upon it, and the Voice of that Venerable Assembly which declar'd it Scandalous, Insolent, and Seditious, has, I question not, such an Authority with those that have not bid adieu to their Understandings, as to render it of a very disagreeable and tumultuous Complexion; and if Inferiours, who have invested Superiours with the defence of their Rights and Privileges, and have resign'd every thing as it were to their disposal (as to those who are the best Judges of what is most advisable for 'em) take upon 'em to give Advice to their Councillors, as they prescribe Bills of Supplies instead of Loyal Addresses, they ought to be reminded of their Duty by such Punishments as may deter others from the like Arrogances. The Subject, says Sir Humphrey Mackworth in his judicious Treatise, has an undoubted Right to petition the Lord Chancellor, but not to give his Lordship any affront: and if he should presume in such a Petition to desire the Lord Chancellor to turn his plausible Speeches into just and righteous Decrees, I presume his Lordship might commit him to the Fleet for such an Indignity to the Court.*

*Jura Pop. Ang.*

This Petition was offer'd to the House on the 8th day of May; the Gentlemen who deliver'd it, and own'd it at the Bar of the House, were Mr. William Colepepper, Mr. Thomas Colepepper, Mr. David Polhill, Mr. Justinian Champneys, and Mr. William Hamilton; for so I find all their Names written in the Votes, without the addition of *Esq;* tho' four of them were Justices of the Peace, and two Deputy-Lieutenants of the County. This was thought by some to be prudently contriv'd to lessen the Credit of the Petition among People without doors, and to make others less eager to follow the

the Example of those Gentlemen. Concerning the Petition the House came to this Resolution, That 'twas *Scandalous, Insolent and Seditious, tending to destroy the Constitution of Parliament, and to subvert the established Government of this Realm.* The five Gentlemen they order'd to be taken into the Custody of a Serjeant at Arms. The Treatment they had from him was very singular, and shew'd that they were under the high displeasure of the House; for when he accidentally saw two of them talk together, he drew his Sword upon his Deputy for permitting it; and when upon one of those Gentlemen's demanding a Copy of their Commitment (which they reckon'd they had a Title to, by virtue of the *Habeas Corpus Act*) and his refusing it, the Gentleman said, he hop'd the Law would do him Justice: his Reply was, that *he car'd not a fart for the Law.* The Reverence of the Law is fallen very low indeed, when one who has the Honour of being a Servant to the House of Commons can presume to make so bold with it. In his Custody they continu'd till the 13th of *May*, when he (contrary likewise to the *Habeas Corpus Act*) by an Order of the House of Commons, and a Warrant issu'd out from the Speaker, deliver'd them Prisoners to his Majesty's Prison at the *Gatehouse*, where they continu'd to the end of the Session. Besides this severe Punishment inflicted by themselves, that they might shew their utmost Resentment, and proceed to all the Severities in their Power, they at the same time resolv'd upon an Address to his Majesty to put them out of the Commissions of the *Peace and Lieutenancy.*

Ans<sup>w</sup>. *The omission of the Title of Esq; it seems sticks mightily in the Gentleman's stomach, because four of 'em were Justices of the Peace, and two Deputy-Lieutenants: when the very Orders of the House, as may be seen in the printed Votes, very seldom give that sonorous Appellation to their own Members, but run thus:*  
Order'd,

Order'd, That Mr. such-a-one carry the Bill to the Lords, &c. *But the Engraver that gave us their Seditious Effigies has pleas'd 'em to the life, in not only cutting 'Squire Colepepper, &c. but has given 'em their Coats of Arms into the bargain. The Serjeant at Arms for his part is known to be a Gentleman of singular Humanity; and if he is obliged to make use of some things that may look like Severities, it is for fear of disobliging the Members of that House whose Servant he is, and whom it is his Interest to keep a good understanding with, in his valuable Post; And Mr. Powell's respect for the Laws, as well as the Legislators, is so great, that he utterly denies any other Reflection on it, than that when one of the five Mutineers threaten'd him with a Prosecution, he gave him to understand, but in more decent Terms, that he defied him, since he was under the Protection of that high Power which would stand by him in the Execution of his Office.*

The Imprisoning of those Gentlemen is the Fact which comes under my consideration. In order to handle this Subject fully, 'twill be necessary that I consider these things: *First*, What Power the House of Commons has to imprison. *Secondly*, The Subject's Right of Petitioning. *Thirdly*, What Reasons the Gentlemen, Justices of the Peace, and Grand-Jury of the County of *Kent*, had to offer that Petition when they did.

*First*, I am to consider what Power the House of Commons has to imprison. Tho' this enquiry may by some be thought needless in this place, since a bare setting forth the Subject's Right to petition will be sufficient to shew us what we are to think of the imprisoning of the *Kentish* Petitioners; yet the best way, I think, to enable us to make the truest Judgment concerning this Fact, will be to examine what Provision the Laws have made for the Liberty of our Persons, and how far we are subject to the Will of the House of Commons.

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Such an enquiry would be highly necessary at this time, tho' the treatment of the *Kentish* Petitioners had given no occasion for it. Great Numbers of other Subjects have been imprison'd by them this Session, to the horror and amazement of all those who know the Rights and Liberties of the People of *England*, and therefore cannot but be concern'd to see them so miserably infring'd. To prevent such Acts of Power for the future, 'tis necessary that we shew that they are meer Acts of Power, and manifest Incroachments on the Liberties and Rights of the People. If there be any who still retain the old fond Opinion they had of the Peoples Representatives, and think that our Liberties are sufficiently provided for when they are in the hands of such Guardians, and that we can suffer no great Inconvenience by any Power which they are entrusted with, I would desire them to enquire how Mr. *Buckley* (committed for shewing the Letters which he received from Sir *Edw-d. Sey--r* and Mr. *Colson*) and Mr. *Hassam* (committed on Mr. *Samuel Shepherd's* Account) were treated by the Sergeant at Arms in their Confinement; and consider whether such Severities are not sufficient to convince them, that the Peoples Representatives (as they are call'd) are not to be complemented with more Power over the Liberties of the People, than our Laws and Constitution do allow them? Do not the fierce and rigorous Prosecutions which we have seen make it evident to us, that Men can fall under no Resentment, no Rage, or Malice, more outrageous than that of a Party? Don't we see how regardless Men can be of their Reputation, what little and unbecoming Artifices they can stoop to, when they are intent upon breaking an opposite Faction? Is it fit then that in such a disorderly and divided State, Men should be entrusted with excessive Power, who are inclin'd to make so ill use of it? If by our Constitution the House  
of

of Commons were allow'd a Power to restrain the Freedom of our Persons, as they should think fit, for the good of the Community, the exercise of that Power, however rigorous and severe, would (if it were free from the bias and influence of Parties) be as patiently born from them, as any other hands whatsoever. But if by a Lawless and Arbitrary Power they invade that Freedom which an excellent Constitution entitles us to, 'tis impossible that a regard for the Persons who afflict us should reconcile us to the Suffering. 'Tis my business here to discover whether they have done so, or no. The properest method to do this, and to satisfy this first enquiry concerning their Power to imprison, will be, First, to examine how far our Laws have secured the Liberty and Freedom of our Persons. Secondly, to examine whether the Power exercis'd by the Commons be not repugnant to the Laws, and plainly destructive of our Constitution.

*Ans. The Method that our Author promises to take in Vindication of those Gentlemen, he should by all means call Squires, on account of their high Posts, has all imaginable appearance of what is fair in it; and his Orthodox way of dividing the Text into three Parts has been so long approv'd from our Pulpits, that no Exceptions can be made against it. But we may make an estimate of his designs to state the Case, and in whose favour he intends to decide the business in hand, from the little Artifices he makes use of in relation to Sir Edward Seymour's Letter, and the Treatment of the righteous and plain-dealing Mr. Shepherd's Agent. He tells us Mr. Buckly and Mr. Hassam were hardly us'd; the first committed on account of very indecent Reflections on an Honourable Member of the House, which is a Breach of the Privileges of Parliament; the last for his concurrence with indirect practices, and forwarding the great Concern of Bribery, which was in agitation amongst some persons who have  
been*

been expell'd the House, but he would instance in the particulars, were there any Truth in his Allegations, he lays down in such general Terms. If they had a severe Treatment, 'twas the just Result of their Crimes, and those Persons who are now at Liberty, ought to thank the House that they did not make use of further Severities, since the Law directs Punishments beyond Imprisonments in Cases of Bribery, and orders a plenary Redress for false Accusations. What is hinted at further in this Paragraph is so much of a Peice with what is gone before, that it will be unnecessary to dwell any longer upon it, wherefore let us look into his two Subdivisions, in relation to the Common and Statute Law.

As to the first enquiry, 'tis evident that both the Common and Statute Law, of this Land, as they suppose Men to have an Inheritance in the Liberty of their Persons, so have they taken all imaginable care to secure them in the Possession of this Inheritance.

1<sup>st</sup>, As to the Common Law, we know what favour she shews to the Liberty of our Persons. This was so great, that formerly she suffered none to be imprison'd, but for Force, and things done against the Peace. Force indeed she (being the Guardian and Preserver of the Land) could not but abhor; those therefore that committed it, she accounted her Capital Enemies, and did subject their Bodies to Imprisonment. In all other cases she protected them from this Restraint. This was our Constitution in the time of the Saxon Kings, and a long while after, till the 35<sup>th</sup> year of Hen. 3<sup>d</sup>, who was the eighth King from the Conquest: Because Bailiffs would not render Accounts to their Lords, 'twas then enacted by the Statute of Marlebridg, cap 24, that their Bodies should be attach'd. Had this Law been a little unreasonable, 'tis no great wonder that it should pass at that time, considering the weakness of the  
C
King



King, and the Power of the Lords, in whose favour 'twas made. We may remark concerning it, that the first Act to restrain the Subjects Liberty was procured by those Lords who forced a Charter from the King to confirm their own Liberties. Three Reigns after this (23 *Edw.* 3. 17.) because Men took no care to pay their Debts, 'twas provided by another *Statute* that their Bodies should be attach'd. Before these Statutes, as I said, no Man's Body was subject to be taken or imprison'd otherwise than as aforesaid. As the Moderation of our Ancestors in not enacting any such Laws, in all the Ages that went before, demonstrates the great regard they had for Liberty; so did the Course and Practice of the Law afterwards fully shew how great a Punishment they reckoned to have it restrain'd, as by those Statutes. Before the Reign of K. *James* I. 'twas allow'd, that he who died in Prison discharged the Debt, how great soever it was, for which he was committed. The reason was, because they thought Imprisonment a Punishment so great, that no other satisfaction ought to be demanded after it. 'Twas the opinion they had of the greatness of the Punishment, that made our merciful Forefathers bear with Men in using such Acts of Force to enlarge themselves, as are not now allow'd. The *Statute de frangentibus Prisonam*, made in the first year of *Edward* the Second, enacts that *no one shall undergo Judgment of Life or Members, for breaking of Prison alone, unless the Cause for which the Person is imprison'd require such a Judgment.* And the *Mirroure of Justices*, which was writ before this King's Reign, where it reckons up the Abusions of the Common Law, tells us, *That 'tis an Abuse to hold an Escape out of Prison, or the Breach of the Goal, to be a mortal Offence, FOR AS MUCH AS ONE IS WARRANTED TO DO IT By THE LAW OF NATURE.* All this cannot be wonder'd

der'd at, when we consider how great an evil Imprisonment is reckon'd, and that 'tis in Law called *Civil Death: Perdit Domum, Familiam, Vicinos, Patriam*; he loses his House, his Family, his Wife, his Children, his Neighbours, his Country, and is condemned to live among wretched and wicked Men. For this reason it is that as a Man, if he be threaten'd to be kill'd, may avoid a Feotment, Gift of Goods, &c. So it is, if he be threaten'd to be imprison'd, or kept in Dureſs; that being reckon'd to be a Civil Death, any Specialty or Obligation, made by him is null in Law: And he may avoid the Action brought upon such Specialty, by pleading that it was made by Dureſs.

Answer,

*The Common Law, it must be confess'd, shews great favour to the Liberties of our Persons, but certainly it has regard to what is Equitable and Just, and if Persons formerly were Imprison'd on Account of making use of force, or threatenning to make use of it, or any other Breach of the Peace, he has brought an Argument against himself which Justifies the Confinement of the 5 Kentish Gentlemen, since the Law allows, that coming in a Tumultuous manner with Petitions, getting Subscriptions through a whole County to Affront the highest Courts of Judicature, is a direct Breach of the Peace. None of 'em being Imprison'd for Debt, it is needless to search into the Statute of Edward the 3<sup>d</sup>. or for him to Quote it, but it is plain if the Gentleman that writes this practises the Law, he may have Clients enough if he can clear Poor Debtors from any Obligations from Bonds which have been sign'd and deliver'd in Prisons.*

As the Common Law has shewn a great regard, so secondly has the Statute Law of this Land abundantly provided for the Liberties of our Persons. This is evident from many Acts of Parliament. The first that I shall take notice of is the *Grand Charter of the Liberties of England* granted first in the

17th year of K. John, and renewed twice in the Reign of King Henry the Third. By that Charter it is provided that *no Freeman shall be taken or imprison'd, unless it be by Judgment of his Peers, or by the Laws of the Land: That is, by Jurors who are his Peers; or by due Process of Law.* That this is the meaning of those Words *per Legem terræ, or Law of the Land,* will plainly appear from divers other Statutes which explain those Words. In the 25 Ed. 3. c. 4. we find them thus explained in these Words: *Whereas it is contained in the Great Charter of the Franchises of England, that no Freeman be imprison'd, or put out of his Freehold, nor of his Franchise, nor Free Custom, unless it be by the LAW OF THE LAND, it is accorded, assented, and establish'd, that from henceforth none shall be taken by Petition or Suggestion made unto our Lord the King, or to his Council, unless it be by Indictment or Presentment of his good and lawful People, of the same Neighbourhood where such Deed was done, in due manner, or BY PROCESS MADE BY WRIT ORIGINAL AT THE COMMON LAW; and that none be out of his Franchises or Freehold, unless he be duly brought in to answer, and forejudg'd of the same by COURSE OF LAW: And if any thing be done against the same, it shall be redress'd and held for null.* The 28th of Edw. 3. is very direct to this purpose: There 'tis enacted, *That no Man of what Estate or Condition he be, shall be put out of his Lands or Tenements, nor taken nor imprison'd, &c. without he be brought in to answer by due PROCESS OF LAW.* 36. Ed. 3. Rot. Parl. Num. 9. Amongst the Petitions of the Commons, one of them, being translated out of French into English, is thus; *First, That the Great Charter, and the Charter of the Forest and the other Statutes made in his Time, and the Time of his Progenitors, for the Profit of him and his Commonwealth, be well and firmly kept and put in Execution, without putting Distur-*

bance, or making Arrest, contrary to them, by special Command, or in any other. The Answer to this Petition, which makes it an Act of Parliament, is, *Our Lord the King by the Assent of the Prelates, Dukes, Earls, Barons, and the Commonalty, hath ordain'd and establish'd that the said Charters and Statutes be held and put in Execution according to the said Petition; which is, that no Arrest should be made contrary to the Statutes by special Command.*

This explains the matter fully, and is of as great force as if it were printed; for the *Parl. Roll* is the true Warrant of an Act, and many are omitted out of the Books that are extant.

26 Ed. 3. Rot. Parl. Num. 30. explains it further; for there the Petition is, *Whereas it is contained in the Grand Charter, and other Statutes, that none be taken or imprison'd by special Command, without Indictment, or other due Process to be made by Law; yet oftentimes it hath been and still is, that many are hindred, taken and imprison'd without INDICTMENT, or OTHER PROCESS to be made BY THE LAW upon them as well of things done out of the Forrest of the King, as for other things: That it would therefore please our said Lord to command those to be deliver'd who are taken by special Command, against the Form of the Charters and Statutes aforesaid.* The Answer is, *The King is pleas'd if any Man find himself griev'd, that he come and make his Complaint, and Right shall be done unto him.* 37 Edw. 3. c. 18. agreeth in Substance, when it saith, *Though it be contain'd in the Grand Charter, that no Man be imprison'd, nor put out of his Freehold without Process; nevertheless divers People make false Suggestions to the King himself, as well for Malice as otherwise, wherewith the King is often griev'd, and divers in the Realm put in Damage, against the Form of the said Charter: wherfore 'tis order'd that all they who make such Suggestions, be sent with the Suggestions before the Chancellor, Treasurer, and the Grand Council,*  
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and that they there find Surety to pursue their Suggestions, and incur the same pain that the other should have had, ( if he were attainted ) in case that their Suggestions be found evil, and that then Process of the Law be made against them without being taken and imprison'd against the Form of the said Charter and other Statutes. Here the Law of the Land in the Great Charter is explain'd to be Process of the Law.

Answer,

As his Quotations from the Common-Law might have been left out, as bearing no relation to the Subject in hand, so he might have forborn the Recital of the Statute-Law. The great Charter, and several Acts of Parliaments in diverse King's Reigns since King John's Time provided for the Liberty of the Subjects. ( viz. ) That they should not be imprison'd without Process, or Indictment, but many subsequent Statutes since their time to forward a due Execution of Justice, have taken care likewise of the Priviledges of our Superiors, as in the Reigns of their late Majesties Charles and James the 2<sup>d</sup>. as also in those of Henry the 7<sup>th</sup> and 8<sup>th</sup> as may be seen likewise in the Parliament Rolls. For if Criminals were not imprisoned, and by close Confinement forc'd to appear and answer to their Indictments, what would become of the Law, and how large would be the Number of Offenders. If a Scandalous and defamatory Person, a Man that whispers about Jealousies and groundless Suspicions thro' the Nation, and vilifies the Magistracy must have his Liberty till he can be brought to a Formal Tryal, without doubt we should be to seek for the Malefactor at the day appointed for bearing his Offences? The wisdom of the Nation has therefore taken care for the bringing such Delinquents to Justice, tho' sometimes as in the Case of the Kentish Petitioners, the mercy of our Superiors has been such, as to content themselves with depriving 'em for some time of their Liberty, when they might have order'd them to be prosecuted after the breaking up of the Session, and this Power of Imprisoning

ing Persons that are not Members has been exercis'd and claim'd as an undoubted Right in the Commons in all former Reigns, and has been made use of thro' the whole Course of his present Majesty's, and never interrupted or attempted against till this very time, when Faction is grown barefac'd, and Malecontents dare shew themselves in Print, and shed their Venome in Publick Places.

From what I have here delivered, it appears what care both the Common and Statute Law have taken of the Liberty of our Persons; that the former abhor'd Imprisonment, and never allow'd it, unless it was when Men had been guilty of Force, and render'd themselves Enemies to the Community; and that the latter has frequently enjoin'd that it shall not be inflicted, unless it be by Indictment, or such due Process as the Law requires. What we have here said will assist us in

Answer,

What he has here deliver'd ( *in the words of the Preacher* ) has nothing to do with the Case of Persons whose defence he has undertaken; since any Intelligent Creature knows that Riotous Assemblies as getting of hands by way of Remonstrance against Parliamentary Proceedings, imply a sort of threatening, to make use of force if they did not comply without it; and Sir Edward Seymour's saying, that the Petition smelt of Forty One was very Apposite to the Papers. since the Proceedings in those days came to such a high head from the very same beginnings.

The second thing propos'd, which was to enquire whether the Power exercis'd by the House of Commons be not an Invasion of our Legal Rights, and tends not to subvert even our Constitutions? The Laws are called ( *Edw. 6. Fol. 36.* ) *The great Inheritance, and the Inheritance of Inheritances, without which a man can have no Inheritance.* The greatest Inheritance a Man hath is the Liberty of his Person, for all others are necessary and subservient

subservient to it. If then the *House of Commons* have invaded that fundamental Liberty of our Persons, which by *Magna Charta*, and several other Statutes, as well as the most ancient Customs and Laws of this Land, we are entitul'd to, this will inform us how far the Powers exercis'd by them have destroy'd our Legal Rights. *Magna Charta* says, that *no Freeman shall be taken or imprison'd, but by the Judgment of his Peers, or the Law of the Land*: But 'tis certain that Men imprison'd by them underwent no Judgment of their Peers, were not committed by legal Process or by any Law that we know in this Land. I know 'twill be said, that by the Words of *Magna Charta* we are to understand not *legal Process*, but the *Law of the Land* generally, and that the Words extend to all the Laws in the Realm. Since then there are Laws and Customs in Parliament, and by those Customs Imprisonment is allow'd, 'twill be said in favour of the *House of Commons*, that they in committing People do not necessarily destroy that Right which we have by *Magna Charta*. 'Tis true, there are Rules and Customs in Parliament, and by those Customs they have a Power to imprison: But that is a Power which extends to their own Members; such a Power is necessary within their Society, because without it 'twould be impossible to keep the Members of it to such Rules and Orders as must necessarily be observed by so great a Body of Men, engaged in so weighty and important Business. Confinement here is no violation of the Right Men have to the Liberty of their Persons by *Magna Charta*; that Right they all give up, and submit to the Rules of the House, when they make themselves Members of it. It must be confessed that this Power has been extended farther to Persons who are not Members, as in cases of breach of Privilege, and Contempt. I shall not here take notice of the  
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rise of this Power, and how great a Grievance the exercise of it has been to the People of this Land; but must observe, that if a Liberty has been taken of confining those who offer'd violence to *Members* in their own Persons, or in their Servants or Estate, because such Molestations, if allow'd, might give them too great disturbance, and ruin the Business of the Publick; yet it must not from hence be inferr'd that the *House of Commons* has an absolute or an unlimited Power to imprison whom, and for what cause they please. If there are some Confinements order'd by that House, which are not, 'tis sure there may be some which are repugnant to *Magna Charta*; otherwise *Magna Charta*, and all the other Acts which designed to secure our Liberties from the Invasions of our Kings, whose Subjects we are, and to whom we owe Allegiance, have left us expos'd to the Arbitrary Will of our *Fellow Commoners*, who (thanks be to God) have yet no such Rule or Dominion over us.

Answer,

'Tis certain, those that are the Peoples Representatives assert the Peoples Rights as they stand up for their own, since their Priviledges are inseparable; and that the five Prisoners beforemention'd, were legally committed since they receiv'd their *Mittimus* from the Fountain of Law from whence all Commitments proceed; and if ev'ry private Justice of the Peace can send Criminals, or at least those who are reputed to be so, to Goal, certainly, Gentlemen in such Publick Stations as the Members of the House of Commons may be invested with as high an Authority. The Magistrate he orders 'em to be kept in hold, in order to secure 'em to stand Tryal, and certainly they that make the Magistrate, in the Person of the Supream Magistrate, even the Kings most Excellent Majesty can have the same Prerogative over the People; and it no more destroys the Rights we have from *Magna Charta*, to

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*imprison those that are not Members of their House, than it does, by confining those that are, since the same Custom that pleads for one may be alledg'd in defence of the other, and the People who are represented cannot have Pretensions to greater Priviledges than those that represent 'em. Either all Confinements order'd by the House, must be agreeable to Magna Charta, or none can be; since the same Argument that destroys One, disannuls All, and we must either allow the Judgment of Parliaments for a Tryal by our Peers, or own no such Tryal has been made use of in Parliamentary Proceedings that were previous to Commitments.*

Whether they have invaded our Rights contrary to *Magna Charta*, and in such instances as are a Subversion of our Constitution, will be evident to us, if we look over the Catalogue of their Prisoners, and examine the cause of their Commitment. The five *Kentish* Gentlemen, whose Case I am now considering, were imprison'd for a Fact no more prohibited by the Laws of this Land, than praying for the King, or that God would direct the Consultations of the Parliament, to the advancement of the Safety, Honour, and Welfare of our Sovereign and his Kingdoms. It would be too tedious to descend to particulars; of the great number which might here be taken notice of, as pertinent to my purpose, I shall mention only two, *Mr. Paschal* and *Mr. Whitmore*. The former was sent to the *Tower*, and kept there to the end of the Sessions, for not giving in his Accounts after the manner prescrib'd by the Commissioners of Accounts, pursuant to an Act of Parliament. The latter was committed, and continued likewise in his Confinement till the end of the Session, for being faulty (as the House of Commons thought) in the discharge of his Office, in an instance of taking Bail. After his Confinement, his Accounts which  
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he had passed were examined, and they were made another Charge against him. Whether those Gentlemen were faulty or no, it concerns not me here to enquire. Mr. *Paschal* has printed his Case, and 'tis a very hard one; the Crime for which he was sent to the *Tower* was for not doing what was not in his power to do. But tho' he and others were guilty, 'tis certain that the punishing of them after that manner is nevertheless an Injury to the Publick. If Mr. *Paschal* was guilty of Contempt, and punished thus for not obeying an Act made in the Session of another Parliament, and Mr. *Whitacre* for being faulty in the discharge of his Office, may they not for the same reason charge all with Contempt who disobey Acts of Parliament, or are faulty in the execution of their Offices, and punish them after the same manner? Either they claim such a Power as this, or they do not: If they do not claim such a Power, as the Right of the Commons of *England*, then they own that they have been injurious to those Gentlemen in imprisoning them, and destroying that great and fundamental Right which they have to the Liberty of their Persons. If they do claim such a Power, they may seem to assume a Power which overthrows our whole Constitution. This will be manifest, when we consider the several Instances wherein it subverts the Laws, the Rights and Liberties of the People.

Ans<sup>r</sup>. *The List of the Prisoners committed by Parliament might be ten times as great, and yet the Prisoners under the same Guilt, and the Gentlemen that had 'em taken into Custody justified in their Proceedings, since the same Authority that entitles 'em to confine one, may make it lawful for 'em to commit more. But I cannot be induc'd by any means to believe that the Kentish Petition was only a Prayer for the King and the Safety of the People, when it tended to make a difference between 'em, and prescrib'd the giving Supplies*

to their Consideration, who sat as Judges to consult when they were necessary. Particulars are things he cannot make out, therefore he speaks in general, tho' at the same time he flies from the particular Case of the Kentish men to that of Mr. Whitacre and Mr. Paschal. The first is too well known, for the great Estate he has lately acquir'd in a Post of no very great Salary; and the last is remarkable enough for Actions when Commissioner of the Prize Office, not to justify their Commitments. Mr. Paschal, without doubt, could have given in a satisfactory Account in relation to the Prizes taken in the Streights, was not a certain Great Man who has rais'd his Fortunes by that gainful Expedition, at the bottom of the Plot; and Mr. Whitacre could have done the Nation very signal Service in relation to Captain Kidd's Affairs, had he taken better Security for the Appearance of a Prisoner, that would have let us into the knowledge of some Great Mens Practices that were Accomplices with him. But they knew their business; One was Rich, and would not detect those that had made him so; and t'other was Poor, and would not impeach him that was in a capacity of making him Rich. To what end therefore has the Parliament a Power to give Money for the Service of the Nation, if they have not likewise a Power to call those Persons to an Account, that either misapply it themselves, or permit corrupt uses of it in others?

First, It may be thought an Incroachment on the Power Legislative: For where the Commons are pleased to inflict such a Punishment for the violation of a Statute, as is not mentioned in the Statute, and was never designed by the Legislators, there they may seem to assume an Authority at least equal to that of the Legislative. To create a new Punishment, and superadd it to a Law, may be allowed to be the Act of a Power equal to that which made it; and in the present Case some may reckon it in some sense greater, since that Ad-  
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dition makes it a Law with a Punishment *ex post facto*, which is a Power inconsistent with the Freedom of a People, and therefore is never made use of by our Legislators.

*Answ. The Commons have one part, and that the most material, of the Legislative Power in their hands; they contrive Laws, and put 'em into Form, and might be said actually to make 'em, were not the Concurrence of the Two other Estates of the Nation altogether necessary towards the Enacting them: And how they can encroach upon their own Authority, is beyond my Sphere to determine, since we generally look upon Encroachments to be an Invasion of other Peoples Rights, and not our own.*

Secondly, It may be deem'd an Encroachment on the Power and Rights of the King. He by our Constitution has the supreme and sole executive Power: He is *Caput & Salus Reipublicæ*. The Laws are his, and the Execution of them, wherein the Safety and Freedom of his People consists, are committed to Him, and those who derive their Authority from him. Where ever therefore any part of his People take upon them to inflict Punishments without being authorized by him, or, which is the very same thing. by his Laws, some may think that his Rights are thereby invaded, and his Majesty lessened, not only by that Invasion, but likewise by his being thereby made, instead of a Ruler of a brave and free People, a Titular King of poor and contemptible Slaves.

*Answ. The King is by every Subject's acknowledgement the Supreme Head of his Kingdoms: but the Commons Imprisonment of People who made too free with Gentlemen in their high Station, does not affect the Royal Supremacy, or take any thing from the respect that is due to it. It's true indeed, they do not represent the King as the ordinary Magistrate, but they assist him, are his Counsellors, nay, such a part of his very*  
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Composition, *that he cannot subsist without 'em, and certainly may be allow'd the same Privilege as every Officer of Justice is permitted the use of.*

Thirdly, Some may account this an Invasion of the Rights and Liberties of the Kingdom, and such a one perhaps as destroys Freedom, and introduces downright Slavery. It may be worth *English-mens* while to consider, whether they can form to themselves any other Notion of a State of *Freedom* and Slavery, than that in the former, Men are governed by Laws made by their *Representatives*, and are liable to no Punishments but what are prescrib'd by the Laws of that State: and in the latter, that they have no certain Rule to walk by, but are subject to the meer Will of One or More who claim a Power and Dominion over them. If they find these Notions to be true, they will do well to consider again, Whether they can avoid making this Inference, That they who assume a Power to punish a People who live under the direction of the Laws, without a Rule or Law, destroy the Rights and Liberties of the People, take away their Freedom, and reduce them to a perfect State of Slavery?

*Answ. The Rights and Liberties of the Kingdom are inviolably preserv'd by 'em, unless keeping the Ballance even between Lords and Commons be an Invasion of 'em; and any person that has any Gratitude, in return for their Noble and Generous Resolutions this last Sessions, will never make use of any expressions to decry what has got 'em such Immortal Praise in the chiefest Courts of Christendom. If a Man should threaten to fire my House, it's my business to take him up by way of prevention, not to stay till he has executed his design, that the Law may have its immediate Course with him: I probably may be ruin'd whilst I intend to proceed regularly against him; therefore it's necessary sometimes to strike out of the common Road, and se-*

*cure Malecontents from doing any harm, by Commitments, &c.*

Against what I have here said, 'tis, I know, generally objected, That Justices of the Peace, Judges, and others, are allow'd to imprison Freemen, without being impeach'd of destroying that Liberty which they enjoy by *Magna Charta*, and the *Common Law* of this Land : Why then these Outcries against the *Honourable House of Commons*? The Answer is very plain and easie : The former are Officers appointed by the King, who is invested with the whole executive Power, to preserve the Peace of the Kingdom ; and the latter are commissioned to do the same, and to preside in his Courts, and to administer Justice to his Subjects, which 'tis impossible for them to do without having a Power given them to confine evil and rebellious Subjects. The lower House of Parliament is no Court, has no need of such Power, being call'd by the King to assist him with their Counsel in Affairs of the greatest moment and weight, to bear a part in the Legislature, and to represent the Grievances of the Nation, and desire to have them redress'd ; but not to redress them themselves, by taking upon them to punish Offenders. If Judges, or Justices of the Peace, or others who are entrusted with this Power, exceed their Commission, and are oppressive and injurious to the Subject, there is a superiour Jurisdiction to appeal to for satisfaction, and Laws to determine whether Injury has been done or no : But if a House of Commons will punish thus without Law, there is no Authority or Power on Earth from which Relief may be had by Appeal, which in our Constitution is a very good reason against their having such a Power ; for the Lord-Chief-Justice *Hussey* tells us, That Sir *John Markham* told King *Edward IV.* that he could not arrest a Man, either for Treason or Felony,

Felony, as a Subject might, because that if the King did wrong, the Party could not have his Action against him.

Ans<sup>w</sup>. If *Justices of Peace* are cloath'd with the Power of Imprisoning without Process, &c. what should They be who sit at the Helm to inspect their Proceedings, and have it in their power to punish 'em, by calling them to an Account for Abuses or Misdadministration? They are no Court of Judicature, but they are part of those Estates from whence all Courts of Judicature belonging to this Nation have had their first Establishment, and ought to have the Preference, as much as the thing created is inferiour to Him that made it. As for Sir John Markham's Observation, that the Subject can have no Action against the King, the many Law-Suits we have seen commenc'd lately between the King and the Subject make appear to the contrary; for otherwise a Prince may do what he pleases, and seize upon any one's Estate without any manner of Right to it.

It may be farther urg'd, That as Judges having a Power to settle and determine Property, is a reason why they should have a Power to imprison, because the one is impracticable without the other: So the House of Commons not having a Power to determine concerning Property, is a reason why they should not have a Power to imprison. *Cui non convenit minus, ei non majus convenit*, is a Maxim among the Logicians, and is a good Argument in the present Case. If the House of Commons have no Power over our Goods, then *a fortiori* not over our Persons to imprison them, because they are much more valuable than either Goods or Lands. This Christ himself declares, when he tells us, that *the Body is more than Raiment*, where by *Raiment* the Canonists understand all outward things whatsoever. Our Laws also make this clear, and give the preference to the *Body*. 'Tis

a Rule in Law, that *Corporalis injuria non recipit estimationem e futuro*: So as if the Question be not for a Wrong to the Person, the Law will not compel him to sustain it, and afterwards accept a Remedy; for the Law holds no Damage a sufficient Recompence for a Wrong that is Corporal. There are Cases in Law that prove this Rule. If one menace me in my Goods, or that he will burn the Evidence of my Land which he hath in his Custody, unless I will make unto him a Bond, there I cannot avoid the Bond by pleading of this Menace: But if he restrains my Person, or threatens me with Battery, or with burning my House, which is a Protection for my Person, or with burning an Instrument of Manumission, which is an Evidence of my Enfranchisement; upon these Menaces I shall avoid the Bond by Plea. So if a Trespasser drive my Beast over another Man's Ground, and I pursue to rescue it there, I am a Trespasser to him on whose Ground I am: But if a Man assault my Person, and I for my Safety fly over into another Man's Ground, there I am no Trespasser to him: for *quod quis in tuitione sui corporis fecerit, jure id fecisse existimatur*; What a Man does in defence of his Person, he is reckon'd to do it lawfully. Nay, which is more, the Common Law did favour the Liberty, not only of Freeman but even of the Persons of Bondmen and Villains who have no Right of Property in Lands or Goods, as Freeman have. The Lord by the Law could not maim his Villain; nay, if he commanded another to beat him, and he did it, the Villain should have his Action of Battery for it against him: if the Lord made a Lease for Years to his Villain, if he pleaded with him, if he tender'd him to be a Champion for him in a Writ of Right, any of these Acts, and many others, were in the Law Enfranchisements, and made those Villains Freeman. From all which it appears, That the Law has a

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greater regard to our Persons than Estates; which, as I said, is a good Argument why the House of Commons. who have nothing to do in regulating or determining our other Properties, should not have a Power over the Liberty of our Persons.

*Answ. The Commons have a Right to determine and settle Properties, if the many Bills pass'd in their House relating to Entails of Estates, and the many Pleadings by the Learned in the Law before 'em as Judges, can entitle 'em to it. They cannot indeed alter a Settlement without Application made to 'em by the Parties concern'd; neither can a Judge give his definitive Sentence in a Cause, without it be brought into Court. As they are authoriz'd to be Judges in matters of Estate that are doubtful, so it is apparent from Example, and one of a fresher Date, the Case of Sir John Fenwick, they can go beyond Imprisonment of the Body, and punish it with Death. If therefore they can Attaint where the Laws that have been made are of no force, and the Interpretation of 'em is in favour of the Criminal, they may certainly Imprison by his own approv'd Maxim, since Confinement is a business of less Concern than that which is incomparably superior to it, (viz) Infliction of Death.*

Sir John Fortescue, the Learned Chancellor to King Henry VI. writing (*de Dom. Polit. & Regal.*) of this Kingdom, saith, *Regnum illud in omnibus Nationum & Regum temporibus, iisdem quibus nunc regitur legibus & consuetudinibus regebatur.* This Saying will not suite our Times; we cannot say, That the *Laws and Customs* which we are govern'd by, are the very same with those by which this Kingdom was govern'd in the Times of all the former Kings. and the several Nations that came in hither. The Power assum'd by the House of Commons in executing Laws, and imprisoning Men, is a very new thing, and makes our present State very different from our antient Constitution.

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lute Power, and compell them to that which is against the Right of their Freedom. To be free from such Force is the only Security Men have of their Preservation, and Reason bids them to look on those as Enemies to their Preservation, who would take away that Freedom which is the Fence to it; and so conclude that they have a Will and Design to take away every thing else, since that Freedom is the Foundation of all the rest.

Answer,

*The way to defeat the progress of Arbitrary Power, is certainly to restrain it, but how those Members who have effectually suppress'd it in others, have stood up so Zealously for the Liberties of the People, and have been such hearty sticklers for the Rights of the Commons of England, against the presumptive Encroachments of the Lords, can be said to take the same impetuous Measures, it is not in my Power to divine. Neither is it my purpose, to dispute the Wisdom and Justice of their Predecessors, tho' it is my Business to vindicate the Proceedings of those that are now in Authority, yet if Supplies to the King without any Burthen to the Subject, a ready concurrence to Assist his Confederates, without coming into an open Rupture with those that were his their Enemies; and the sincerest Endeavours for the continuance of the Publick Peace, while they are making provision for our Defence, be not as much as has been done in any Parliament; nay, farther, in any Age whatsoever, and preferable to any antecedent Resolutions, then Patriots that come after these worthy Gentlemen, and succeed 'em in their care for the security of the Nations, must despair of doing any thing that can be praise worthy since, if these are accounted the Nations Enemies, it is not in the Power of Humanity to be its Friend.*

From what I have here delivered concerning the Power of imprisoning in the Lower House, 'tis evident, I think, that if Petitioning, as the *Kenish* Gentlemen did, had been an illegal Act, and  
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the Punishment enjoin'd by the Law had been Imprisonment, yet it belong'd not to them to inflict that Punishment, but to make application (as they have always done heretofore) to have the Law executed against them. But if what they did was strictly agreeable to Law, this will make their Commitment a greater Violation of the Rights of the Community. That it was so, will appear, when we consider.

Answer,

*He has hitherto been deliver'd like the Mountain in the Fable, nothing but insignificancies and Productions of ridiculous Consequences, and affirms he has made out the matter he took in Hand to a Tittle; when the Reader has reason to have other Sentiments, and entertain Notions of another Proportion than what he lays down for undoubted Truths. Those that can Command others to prosecute as Attorney Generals, &c. have an indisputable Title to Imprison, since Prosecution is precedent to Punishment, and consequently is of more moment than Imprisonment, which only a bare Confinement of the Person without affecting his Life, or Estate, which are in Danger from it, and the Old Maxim holds good, that omne Majus continet in se Minus.*

The Second thing propos'd, *the Subject's Right of Petitioning.* This Right I take to be as large and ample a one, and what will as little bear controverting, as any thing that we can think of, since 'tis justified by the Law of Nature, the Practice of all States in the World, and is allowed by the Laws of this Land.

'Tis certain that nothing can be more agreeable to Nature, and a plainer Dictate of Reason, than that those who apprehend themselves aggriev'd be allow'd a liberty to approach those by Petition who know their Grievances, or perhaps are the Authors of them, and consequently able to redress them. When Men enter'd first into Society, and  
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gave up that Right which they had to secure themselves in the State of Nature, 'tis manifest that they did it for the preservation of Property, which is the end of Government. This necessarily supposes, and indeed requires, that People should have Property, without which they must be supposed to lose that by entering into Society, which was the end for which they enter'd into it. If Men enter'd into Society to preserve it, and therefore are so entitled to it, that ( as a very Learned and Ingenious Author tells us ) *The supreme Power cannot take from any Man any part of his Property without his own consent*; Can any Absurdity be so gross, as to imagin, that Men gave up their Right to pray for Redress, if they thought themselves injur'd in their Properties? Or that the supreme Power may hinder them to pray for that which they have not a right to deprive them of? Wherever therefore any Government is established there the natural Right which People had to secure what was their own, must be so far at least continued, as to allow them a liberty to Petition for what they think their Right, because this is a Privilege which they could not give up, when they enter'd into Society. And where there has been no government but the Prince's Will, even there this Right has seem'd so natural and agreeable to Reason, that it has not been denied. This might be seen in all the Arbitrary Governments of the World. In the *Roman Empire Julius Cesar*, when he was in the height of his Power, and made himself *Perpetual Dictator*, permitted the People to represent the Hardships that were put upon them, and pray for redress. And in the Reign of other Princes who exercis'd a Despotick Power, whilst the *Lex Regia* prevail'd *rescribere Principi*, to petition the Prince, and set forth their Grievances, was allowed their Subjects as the natural Right of Mankind.

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Ans.

Answ. No Man living contraverts the Subjects right of Petitioning, but that is not the Case in hand, it's the Writers business to prove that Libelling is Lawful. The most virulent Piece of Treason imaginable may go under the Name of a Petition, and be gloss'd over with a Specious fair Title, when the contents of it are embitter'd against those in Authority, and aim at the very Foundation of the Regal Supremacy. In Charles the Martyr's time Faction skulk'd abroad under the Covert of Remonstrances, and Petitions to Kings were as full of Blasphemies, as those which were sent up from the Pulpits to the divine Majesty; the Removal of evil Councillors was the pretence they made use of when the downfal of Monarchy was what was really intended; as what the Kentish Gentlemen design'd by finding fault with the proceedings of Parliament and making use of the Voice of the People, to put down St. Stephens Chappel over their Representatives Head, looks very much like Something of the same complexion. As for Julius Cæsar in his Perpetual Dictatorship he permitted the People to have Access to him on account of real Grievances, but when one Popilius whisper'd unseasonable Advice in his Ear, he ordered him immediately to be punish'd by the Lictor, as an interfering Coxcomb, and one who concern'd himself with business above his Sphere. Marcus Antonius likewise caus'd Cicero to be Assassinated, and put to Death, tho' he had been Consul of Rome, which is a Post of Honour something above a Kentish Justice of the Peace, because he did spargere voces in Vulgus, insinuate to the People, that Anthony's Proceedings were Irregular, that it tended to subvert the Constitution of the Roman Republick, &c.

If this Right be natural, the People of England, who have lost as little by entering into Society as any others, must have as just and ample a Claim to it as any Nation in the World. That they have

a Right to represent their Sufferings, and pray for a Relaxation of them, is evident from the Opinions of our Sages of the Law, from what our Kings have permitted and declared, and what has been declared and enacted in Parliament.

Our Books are very clear in this matter. My Lord-Chief-Justice *Hobart* tells us, That 'tis lawful for any Subject to petition the King for redress in an humble manner; for (says he) *Access to the Sovereign must not be shut up in case of the Subject's distress*. This Right was fully prov'd by the Learned Council at the Trial of the seven Bishops, and allow'd by the Judges. It was one of the Crimes for which the *Spencers* were banished, that they hinder'd the King from receiving and answering Petitions from Great Men and others; and one Article against the Lord *Strafford* was, That he issued out a Proclamation and Warrant of restraint to inhibit the Kings Subjects to come to the Fountain their Sovereign, to deliver their Complaints of Wrongs and Oppressions.

*Ans. The Right of Petitioning for Assistance in Cases of imminent Danger, is not only agreeable to the Law of Nature, but directly commanded by the great Law of Self-preservation: But to disperse Fears and Jealousies when there is no occasion, to call out for Help, like the Shepherd's Boy in the Fable, when there are no Wolves at hand, is to divert our Protectors from assisting us when there are imminent Dangers that actually threaten us. In the BISHOPS Case, those Right Reverend Fathers of the Church stood accus'd on account of their indispensable Duty: They petition'd the King as the Directors of his Conscience, and his spiritual Advisers, in relation to His Majesty's Declaration, but did not interfere with his Prerogative, as the Wise Men of Kent did with that of their Representatives; and it is but too visible what side their Advocate inclines to, when he produces an Article that was brought against the Lord Strafford,*

*who was guiltless of the Offences laid to his Charge, tho' he was murder'd for 'em, to justify the Right of Libelling Governments, and bantering the Proceedings of Parliaments.*

As the Sages of the Law have told us, That 'tis our undoubted Right, so have our Kings in all Ages permitted us by Petition to inform them of our Grievances. In the Reigns of King *Edw. II.* and King *Edw. III.* such Petitions were frequent, and then even *Ireland* was allow'd to represent their Grievances, and petition for a Parliament.

Doctor *Burnet*, the Learned Bishop of *Salisbury*, informs us, That King *Henry VIII.* told his Subjects, when in Arms against him in *Yorkshire*, that they ought not to have rebell'd, but to have applied themselves to him by Petition.

King *James I.* by a Proclamation publish'd the 11th year of his Reign, begins thus: *The Complaints lately exhibited to Us by certain Noblemen and others of Our Kingdom of Ireland, suggesting Disorders and Abuses, as well in the Proceedings of the late-begun Parliament, as in the Martial and Civil Government of the Kingdom, We did receive with all extraordinary Grace and Favour.* And by another Proclamation he declares, *That 'twas the Right of his Subjects to make their immediate Addresses to him by Petition* And in another he tells his People, *That his own, and the Ears of his Privy Council, did still continue open to the just Complaints of his People. ----- And that they were not confin'd to Times and Meetings in Parliament, nor restrain'd to particular Grievances.*

It appears by the Lords Journals in the Year 1640. that the House of Lords both Spiritual and Temporal, *Nemine Contradicente*, voted Thanks to those Lords who petitioned the King at *York* to call a Parliament: And that King by his Declaration 1644. declared his Royal Will and Pleasure,

sure, That all his loving Subjects, who have any just Cause to present, or complain of any Grievances or Oppressions, may freely address themselves by their humble Petition to his most Sacred Majesty, who will graciously hear their Complaints.

On *Wednesday* the 27th of *October*, 1680. it was resolv'd in the House of Commons, *Nemine Contradicente*, That it is, and *EVER* hath been, the undoubted Right of the Subjects of England to petition the King for the calling and sitting of Parliaments and redressing of Grievances. 'Twas then likewise resolv'd, *Nemine Contradicente*, That to traduce such Petitioning as a violation of Duty, and to represent it to his Majesty as tumultuous and seditious, is to betray the Liberty of the Subject, and contribute to the Design of subverting the antient legal Constitution of this Kingdom, and introducing Arbitrary Power. On the *Friday* following (as we find in the same Journal) it appearing to the House, upon the examination of several Witnesses at the Bar thereof, upon the Evidence against Sir Francis *Withins*, as well as upon his own Confession, that he had presented an Address to his Majesty expressing an Abhorrency to petition his Majesty for the calling and sitting of Parliaments; 'twas resolv'd, That Sir Francis *Withins*, by promoting and presenting to his Majesty an Address expressing his said Abhorrency, hath betrayed the undoubted Rights of the Subjects of England. 'Twas moreover order'd, that he should be expell'd the House, and that he should receive his Sentence upon his knees.

*Answ.* I have too great a deference for the Sages of the Law, not to agree with them that 'tis part of the Privileges that a Subject enjoys, to petition his Prince: but must take the freedom of thinking, that in Edward the 2d, and 3d's days they had not the liberty of so frequently making Addresses to the Throne, had there been any *Colepeppers* or *Polhills*, &c. to take the busi-  
ness:



*ness of Privy-Councillors upon 'em, without a Privy-Councillor's Understanding. And tho' what the Bishop of Salisbury writes may carry an Authority with it in relation to King Henry the 8th's Speech to his Subjects, that Prelate can remember a Person he is very well acquainted with, did not take the Advice, but appear'd in open Arms against his Sovereign. King James the 1st's two Proclamations have likewise no more in 'em to make for his purpose, than what has preceded, since they were grounded upon Just Complaints, which are exclusive of the Kentish Petitioners, who had no Grounds or Reasons for their Arrogance; and the Quotation from the Lords Journals, if we consider the Times the Resolution was made in, (viz.) the very Infancy of Rebellion, and beginning of the Civil War which was then in projection. The Resolutions of the Year 1680. are much of the same stamp, if we consider from what hands they came; and those Members that could justify the Treasons and Seditious Speeches of Stephen Colledge, are not to be suppos'd to be Enemies to Remonstrances against the Proceedings of Supreme Authority, when their very Being tends to Confusion and Anarchy.*

This Right of the Subject to petition, is farther confirm'd by the Statute-Law of this Land, particularly in an Act made in the 13th year of King Charles II. the Enacting part of which I will here at large set down, because 'tis a plain Declaration of the Subjects Right in the Case of the Petition now under our Consideration.

‘ Be it Enacted, &c. That no person or persons  
 ‘ whatsoever shall from and after the first of *August*.  
 ‘ 1661. solicit, labour, or procure the getting of  
 ‘ Hands, or other Consent, of any Persons above  
 ‘ the number of Twenty or more, to any Petition,  
 ‘ Complaint, Remonstrance, Declaration, or other  
 ‘ Address to the King, or both or either Houses of  
 ‘ Parliament, FOR ALTERATION OF MATTERS  
 ‘ ESTA-

ESTABLISHED BY LAW IN CHURCH OR STATE, unless the Matter thereof have first been consented to, and order'd by three or more Justices of the County, or by the major part of the Grand-Jury of the County or Division of the County where the same shall arise, at their publick Assizes, or General Quarter Sessions; or if arising in *London*, by the Lord Mayor, Aldermen, or Commons in Common-Council assembled; and that no Person or Persons whatsoever shall repair to his Majesty, or both or either Houses of Parliament, upon pretence of presenting or delivering any Petition, Complaint, Remonstrance, or Declaration, or other Addresses, accompanied with excessive Numbers of People, not at any one time above the number of ten Persons upon pain of incurring a Penalty not exceeding the Sum of one hundred Pounds in Money, and three Months Imprisonment.

Provided always, That this Act, or any thing therein contain'd, shall not be constru'd to extend to debar or hinder any Person or Persons, not exceeding the number of Ten aforesaid, to present ANY PUBLICK OR PRIVATE GRIEVANCE OR COMPLAINT TO ANY MEMBER OR MEMBERS OF PARLIAMENT, after his Election, and during the Continuance of the Parliament, or to the King's Majesty, for any Remedy to be thereunto had.----

*Answ. The Act in the 13th Year of King Charles the 2d. was expressly design'd against tumultuous Petitioning, as may be seen from the Preamble, which lets us into the Intentions of it; and because it was not to be suppos'd that Justices of Peace would set their hands to every ridiculous Whimsy some Malecontents might entertain in relation to Governments, was worded after that manner. But the County of Kent has furnish'd us with Examples to the contrary, and made appear that there are more than twenty Justices that*

*are*

*are Fools enough in it to subscribe what is against its Profit, and are ready to run mad for a new War, when the Charges of the last have been enough to make 'em sober.*

Concerning this Statute we may observe Four things: First, That it allows (as Mr. Serjeant *Levins* observ'd in the Trial of the seven Bishops, and we are taught by several other good Authorities) that by the Law of the Land before, it was the settl'd and undoubted Right of the Subjects of *England* to apply themselves to the King, or either or both Houses of Parliament, by Petition, to have their Grievances redress'd. Secondly, That where it limits this Power of the Subject, and requires that the Petition shall be consented to and order'd by three or more Justices of the County, or by the major part of the Grand-Jury of the County, or Division of the County where the same Matter shall arise, or by the Lord Mayor, Aldermen, or Commons in Common-Council assembled, if it arise in *London*: 'tis only in a particular Case, where the Address is for *Alteration of Matters establish'd by Law in Church or State*. Thirdly, That even in this Case the Concurrence of those Persons is not requir'd, unless it be where there are more than *Twenty* hands to the Petition. Fourthly, That the Act extends not to Grievances or Complaints either Publick or Private, but that they may be presented to the King or Parliament, without any of those previous Formalities, provided that the Petition or Address be not presented by more than *Ten*.

*Answ. Mr. Serjeant Levins his Observatins at the Trial of the Seven Bishops are taken notice of very mal a propos in reference to the Five Kentish-men, because their Case is as different from each other, as a Libel to create Tumults, is from an Address to beseech*  
 His

*His Majesty not to impose upon one's Conscience; and tho' the Petition (as they call it) was lawful in the Manner or Form of presenting it, being not brought up by more than Ten yet it was Illegal in the Design, as well as exceptionable from some words which were reflective on the Honour of Parliaments in it.*

Having mention'd this Act, which (tho' made to limit and restrain the Subject, and curtail his natural Right of petition) is a full Declaration of the Peoples Right to apply themselves to the King or Parliament *by Petition, for the Redress of their Grievances, and for obtaining such things as they apprehend necessary or beneficial to the Safety or Well being of the Nation.* I need not urge any other Authorities, nor take notice even of that Act pass'd since the Revolution, wherein the Rights of the People are contain'd, and that of Petitioning is declar'd to be one. 'Tis evident to any Reader of the most ordinary Capacity, that the *Kentish* Petition is warranted by the Law of the Land, and so plainly within the Letter of that Act, that those Men are forc'd to acknowledge it, who take a great deal of pains to justify all the Proceedings of the House of Commons. Was it not then (to use the Words of *Legion*) *illegal, and a notorious Breach of the Liberty of the Subject, and setting up a Dispensing Power in the House of Commons, to imprison Men who were not their Members, by no Proceedings but a Vote of the House, and to continue them in Custody SINE DIE?* A late Pamphleteer, by way of Answer to this, tells us, *That to say this is done by a single Vote without other Proceedings, is meer Babling and Nonsense; for Imprisonment is the first step in order to future Proceedings, and practis'd by every single Magistrate.* What does this Scribler mean? Were not those Petitioners imprisoned by a Vote of the House, without any other Proceedings? Was there any Indictment, or legal

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Process to try whether they were guilty of any Trespas against the Law ? For what reason does he tell us, that *Imprisonment is the first step in order to future Punishment* ? Would he thereby insinuate that their Crime was such as might be further punish'd by Law ? Their Judges in *St. Stephen's Chappel* knew very well that it could not. If it could, why were they not proceeded against ? Why were they kept in Prison till the end of the Session ? If they could not, why should they be imprison'd at all, since it could be in order to no future Proceedings ? But he tells us, That *this is practis'd by every Magistrate*. 'Tis true, they imprison, but 'tis to keep the Peace, and in order to future Punishment ; and what they do, is allowed and warranted by the Law of the Land. From what I have already said in this Discourse, 'twill appear how absurd it would be to make this an Argument for the Commons having such a Power as they have us'd in imprisoning those Gentlemen. The Reader will from hence judge whether *Legion* or this Author is most guilty of *Babbling* and *Nonsense*. The Design of this Pamphleteer is to throw all the Dirt he can on the late Ministry, to bring them under the Odium of the Nation, (a Work which the *Jacobites*, the *French Party*, and *Papists* of *England* are now, and have been a great while very intent upon) and to recommend the Proceedings of the House of Commons, and the present Ministry to the People. These are the Persons pointed at in the Title of his Book, which he calls, *England's Enemies Expos'd, and its true Friends and Patriots Defended*. If he shew no better Judgment in discovering who deserve to be called the *Enemies*, who the *Friends* of *England*, than in laying the Charge of *Babbling* and *Nonsense*, he will do as little Service to *England* in helping her to make any useful Discovery of her real Friends and Enemies, as he has done to his

Friends

Friends by his poor, his paltry, and palpable Flatteries. The Prince of Darkness, when he goes up and down to do Mischief, and destroy the Kingdoms of the Earth, as he turns himself into an Angel of Light, so has he Enemies, *qui nigra in candida vertunt*, little Hirelings, whose Task it is to call *Evil Good, and Good Evil*; to deceive with false Colours. that he may be the better able to destroy. To give People a little taste of this Panegyrist's Impositions, and the Judgment he has made of Men, I will only take notice here that he commends the *Fair Character* of Mr. *J--n H--w*, and calls him (who most certainly call'd the Treaty made by the King a *Felonious Conspiracy*) *A Zealous Patriot, and one who will not exceed his Duty*; that he represents the Spe-er as a Person deserving *the honourable Character of an honest English Gentleman, a Champion for Liberty, and a true Patriot, without Disguise, Collusion, or Self-Interest*; that *they whose long Experience in Publick Affairs gave them knowledge of the Methods employ'd by France in former Reigns, to enslave Europe, are best able to prevent his Designs in this*; that *tearing up our Constitution by the Roots is the Work of the late Ministry*; that *they have betray'd the King, and carry on Purposes destructive to the Nation*; that if we have a *Porto-Carero* in the Nation, 'tis He who has done his utmost to deliver us up to France, by investing the *Most Christian King* with a *Power to seize us*; that 'tis He (meaning *L--d Hall-ax*) to whom *French Gold* is given. Strange Effrontery! Had Sir *Bar-----w Sh--er* spoken this, I should not wonder at it; he, we know, when the Lords were voted Guilty of High Crimes and Misdemeanours for the Treaty of Partition, and an Impeachment was ordered, did not blush to say openly in the House, That the News of it would be very unwelcom at *Verfailles*.

Answ. *As for his Reflections on the Pamphleteer that answer'd The present Disposition of England consider'd, &c. they are foreign to the purpose, and would almost persuade one that it came from the same Hand. Had not I some knowledge of the Author, who is so far from being a Jacobite, Papist, or of the French Party, that he is hated by 'em, as a Person that has been all along employed by the Creatures of this Government, to make Discoveries of their Proceedings, and prevent their Designs. To my knowledge his Pamphlet owes its birth to his Circumstances; and had the Court made better Provision for him, he would scarce have fallen out with the Courtier, and the Lord Hallifax would have had as good a Character from him, as Mr. How and the Speaker, had but his Pension continu'd to come trowling in from the Treasury, and he not found himself under a necessity of taking other Measures. The Author of Legion and He probably might come from the same place of Instruction, since their Language is equally foul and ungentleman-like: But for the Reflection on Sir Bartholomew Shower, by such a mean Comparison, the Author of this very Pamphlet shews that he knows how to join in Consort with the two Scribes before-mention'd, who blended together would make an admirable sort of a Triumvirate.*

But to return from this Digression to the matter in hand. Those who cannot deny that the Subject has a Right to Petition, yet justify the Proceedings against those who deliver'd the Petition, because of its reproaching the honourable House, and prescribing Rules to our Legislators. The Resolution of the House of Commons concerning it was, that 'twas scandalous, insolent, and seditious, tending to destroy the Constitution of Parliament, and to subvert the Established Government of this Realm. Before I come to a particular Examination

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nation of this Resolution, I must crave leave to make this Remark upon it, That this very Censure, and the severe Treatment of the Petitioners, shew us plainly into what hands we are fallen. We remember very well when it was, that Sir Edward Seymour, then a Privy-Councillor, and some others now in Power, learned the Trick of giving hard Names to Petitions. What I here hint at, I will endeavour to represent in the shortest View I can, because the matter will be pertinent to the Subject I am treating of, and will give true *English*-men an opportunity of making some Reflections which will be useful to us in the present Circumstances of our Affairs. We cannot forget what great Concern the Commons of *England* above Twenty Years since shewed for the Protestant Religion; that their Zeal to preserve it was seen in Four Parliaments, which were dissolv'd in a little more than the space of Two Years, by reason of their Warmth in prosecuting Popish Conspirators, and labouring to exclude the Duke of York, whose Succession to the Crown rais'd the hopes of Papists, and gave birth to all their Plots.

Answer.

*A Digression indeed! and which I am glad to see him own, after having spent his Venom to no purpose. The Resolution of the House of Commons was Honourable, and it shews plainly that we are fallen into such Hands as we may rely upon for Defence, without the Assistance of such Intermeddlers. Sir Edward Seymour keeps up to his Old Loyal Principles; and tho' he does not officiate as Privy-Councillor to His present Majesty, is zealous for the Good of the Nation as a Senator, and continues firm to his Old Principles of having an Abhorrence for Mutinous Assemblies, and Designs against the Government, which such restless Malecontents as our Author (who so zealously*



*lously stands up in Vindication of Injustice in the Bill of Exclusion against His late Majesty when Duke of York, and Presumptive Heir of the Crown) are perpetually contriving.*

The first was the long Parliament, which consisted of Members so devoted to the Crown, that they would have gratified it in any Demand whatsoever, had not the Measures taken to destroy *Holland*, the great Friendship contracted with *France* by Mediation of the Duke of York, and the Growth of Popery sour'd their Tempers, and given their Inclinations quite another Bias. After their Prorogation on the 28<sup>th</sup> of December, 1678. which was soon followed by a *Dissolution*, the next Parliament which begun at *Westminster* on the 6<sup>th</sup> of March, 1679. pursu'd the same Measures to secure the Religion and Laws of *England*, and were for that reason prorogu'd on the 26<sup>th</sup> of May following.

The People of *England* alarm'd at this, and growing into greater Fears of the Conspiracy which the Parliament endeavour'd to prevent, sent Petitions to the King from several Places, wherein they represented the Grievances of the Nation, and pray'd for the sitting of the Parliament to redress them. I shall take notice of the Stile of one for all, *viz.* That of the City of *London*, wherein they set forth that there is a most damnable and helish Popish PLOT, BRANCH'D FORTH INTO THE MOST HORRID VILLANIES, against his Majesty's most Sacred Person, the Protestant Religion, and the well establish'd Government of his Realm, for which several of the principal Conspirators stand impeach'd by Parliament. Therefore in such a time when his Majesty's Royal Person, as also the Protestant Religion, and the Government of the Nation are in most eminent Danger, they most humbly and earnestly pray that the Parliamen-

ment which is prorogu'd until the 26th Day of January may then sit, to try the Offenders, and to redress all the most important Grievances, no otherwise to be redress'd. This Petition, which was a Roll of above 100 Yards in length, was presented by Sir Gilbert Gerrard, and eight other Gentlemen of good note. They all fail'd of the desir'd effect, for the Parliament was dissolv'd, and none other fate till October following.

### Answer.

How could the Members of the Long Parliament be said to be devoted to the Crown, when they were for altering the Succession, and striking at the very Foundation of Monarchy it self, under the specious pretence of Securing the Protestant Religion? As for the City of London's Petition, those who remember their Practices at that time, can account for the Effects of it; and those who have any knowledge of their Proceedings even at this time, and how they had like to have been guilty of the same Premunire with the Kentish men, but for one single Common-Council-Man's Vote, cannot but be satisfied they are as ripe for Mutiny, as they were for Rebellion at Edgehill-Fight.

The Men now in Power have not, it seems, forgotten how they resented those Petitions at that time. Their Measures then are the very Precedents they copy after now. Tho' 'twas then the Subject's Right to petition, as I have shewn it is now; tho' the Petitioners took care to keep within the Bounds of the Law, yet a Proclamation issued out on the 12th of December, 1679. to prohibit such illegal and tumultuous Petitioning, as tending to Sedition and Rebellion. Besides, care was taken to prevail upon their Friends to procure Counter-Addresses, wherein the Subscribers express their Abhorrence of Petitioning.

Answer