

SAMUEL JOHNSON

THE WORKS OF SAMUEL
JOHNSON, LL.D.
VOLUME 11

Samuel Johnson

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Samuel Johnson

The Works of Samuel Johnson, LL.D.

Volume 11. / Parlimentary Debates II

REFERENCES TO THE SPEAKERS

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Aylesford, Lord,
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Bathurst, Lord,
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Chesterfield, Lord,
Cholmondeley, Lord,
Cholmondeley, Col.
Cornwall, Mr.
Delaware, Lord,
Fowkes, Mr.
Fox, Mr.
Grenville, Mr.
Gybbon, Mr.
Hardwicke, Lord,
Herbert, Mr. H.A.
Hervey, Lord,
Islay, Lord,
Limerick, Lord,
Littleton, Mr.
Lonsdale, Lord,
Montfort, Lord,
Mordaunt, Col.
Newcastle, Duke of,
Nugent, Mr.
Orford, Earl of,
Orford, Bishop of,
Pelham, Mr.
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Phillips, Mr.
Pitt, Mr.
Powlett, Lord,
Pulteney, Mr.
Quarendon, Lord,
Raymond, Lord,
Sandwich, Lord,
Sarum, Bishop of,
St. Aubin, Sir John,

Shippen, Mr.
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Stanhope, Earl of,
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Walpole, Sir Robert,
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Westmoreland, Lord,
Winchelsea, Earl of,
Yonge, Sir Wm.

IN PARLIAMENT

HOUSE OF COMMONS, DECEMBER 8, 1741

DEBATE ON THE ADDRESS

The commons who attended in the house of lords, having heard his majesty's speech to both houses, returned to their own house, where a copy of it being this day read to them by the speaker, Mr. H.A. HERBERT moved for an address, in words to this effect:

Sir, to address the throne on the present occasion, is a custom which, as it is founded on reason and decency, has always been observed by the commons of Britain; nor do I suspect this house of any intention to omit those forms of respect to his majesty, which our ancestors always preserved even under princes whose conduct and designs gave them no claim to reverence or gratitude.

To continue, therefore, sir, a practice which the nature of government itself makes necessary, and which cannot but be acknowledged to be, in a peculiar degree, proper under a prince whose personal virtues are so generally known, I hope for the indulgence of this house in the liberty which I shall take of proposing an address to this effect:

That we should beg leave to congratulate his majesty, upon his safe and happy return to these his kingdoms, and to return our sincere thanks for his most gracious speech from the throne; and assure him at the same time, that with hearts full of duty and gratitude, we cannot but acknowledge his majesty's regard and attention to the honour and interest of this nation. To observe that the great and impending dangers that threaten Europe, under the present critical and perplexed situation of affairs, have been represented by his majesty to his parliament, for their advice and assistance, with such paternal concern, and such affection to his people, such confidence in his faithful commons, and such anxiety for the general good of Europe, as cannot fail to excite in us a due sense of his majesty's goodness and condescension; and, therefore, to assure his majesty in the strongest manner, that this house will, as often as these momentous affairs shall come under our consideration, give his majesty such advice as becomes dutiful and faithful subjects, and such assistance and support as shall be most conducive to the honour and true interest of his crown and kingdoms.

That we thank his majesty for his royal care in prosecuting the war with Spain; and that in order to answer these necessary purposes, we will grant such effectual supplies, as shall enable his majesty, not only to be in a readiness to support his friends and allies, at such times and in such manner as the exigency and circumstances of affairs shall require, but to oppose and defeat any attempts that shall be made against his majesty, his crown and kingdoms, or against those, who being equally engaged with his majesty by the faith of treaties, or united by common interest and common danger, shall be willing to concert such measures as shall be found necessary and expedient for maintaining the balance of Europe.

This address, which in my opinion, will contain both a proper answer to his majesty's speech, and a decent declaration of our gratitude and duty, will not, I hope, be opposed. For surely it cannot be charged with asserting any thing that is either false or mean, with bestowing any unnecessary panegyrick, or with maintaining any fact that is not generally allowed.

Mr. TREVOR seconded him in the manner following:—Sir, as the necessity of an address to his majesty cannot be disputed, the only question on this occasion must be, whether the address now proposed be such as it may become this house to offer in the present conjuncture of affairs.

In an address, sir, it is necessary to preserve at once the respect due to our sovereign, and the dignity which may justly be assumed by the representatives of the people of Britain, a people whose birthright gives them a claim to approach their sovereign, not, indeed, without the utmost respect, but with language, which absolute monarchs never hear from the slaves by whom they are surrounded.

This respect and dignity appear to me to be very happily united in the address now proposed, in which we join with our professions of duty, our offers of advice, and assert our claim to the direction of the national expenses by our promise to grant the necessary supplies.

As there cannot, therefore, in my opinion, sir, be any thing added to the address now offered, and there appears to me no necessity of any alteration or omission, I second the motion.

Lord Noel SOMERSET spoke next, to this effect:—Sir, though I am far from intending to repress, by sophistical cavils, or trifling objections, the zeal which the honourable gentleman who proposed the address has shown for promoting the publick business, yet, as it is very inconsistent with the duty of a senator to prefer civility to truth, and to sacrifice to ceremony or complaisance the interest of his country, I think it necessary to declare my opinion, that though the address proposed may admit of many amendments, which I leave to other gentlemen to make, I think the addition of one clause absolutely necessary; that his majesty may be desired not to engage this nation in a war for the preservation of his foreign dominions; dominions which, as they are in themselves independent on the crown of Britain, and governed by different laws, and a different right, have been separated by an express clause from these kingdoms, in the act to which his majesty owes his title to the throne.

This request, sir, is at this time particularly expedient, when the continent is in confusion, and the territories of Hanover are endangered by the approach of the French forces. Besides, as nothing is more fatal than groundless expectations of assistance, it may contribute to the safety of that people, to show them that they are to depend upon their own strength, to call their forces together, to fortify their towns, and guard their avenues; and that, if they sit indolent and careless, in confidence that the power of Britain will be employed in their defence, they will only give their enemies an easy conquest, and enslave themselves and their posterity to a foreign power: I move, therefore, that his majesty be petitioned in our address, not to engage these kingdoms in a war for the preservation of his foreign dominions.

Mr. SHIPPEN rose and spoke thus:—Sir, I know not with what success I may assert, in this senate, positions, for which I have formerly been censured, and which few other members have hitherto maintained; but I rise with confidence that I shall be at least acknowledged to act consistently with myself in seconding the noble person who spoke last; and I am convinced, that many of those who differ from me in opinion, would gladly be able to boast of resembling me in congruity of principles, and steadiness of conduct.

But steadiness, sir, is the effect only of integrity, and congruity the consequence of conviction: he that speaks always what he thinks, and endeavours by diligent inquiry to think aright before he ventures to declare his sentiments; he that follows, in his searches, no leader but reason, nor expects any reward from them but the advantage of discovering truth, and the pleasure of communicating it, will not easily change his opinion, because it will seldom be easy to show that he who has honestly inquired after truth, has failed to attain it.

For my part, I am not ashamed nor afraid to affirm, that thirty years have made no change in any of my political opinions; I am now grown old in this house, but that experience which is the consequence of age, has only confirmed the principles with which I entered it many years ago; time has verified the predictions which I formerly uttered, and I have seen my conjectures ripened into knowledge.

I should be, therefore, without excuse, if either terrour could affright, or the hope of advantage allure me from the declaration of my opinions; opinions which I was not deterred from asserting, when the prospect of a longer life than I can now expect might have added to the temptations of ambition, or aggravated the terrors of poverty and disgrace; opinions for which I would willingly

have suffered the severest censures, even when I had espoused them only in compliance with reason, without the infallible certainty of experience.

Of truth it has been always observed, sir, that every day adds to its establishment, and that falsehoods, however specious, however supported by power, or established by confederacies, are unable to stand before the stroke of time. Against the inconveniencies and vexations of long life, may be set the pleasure of discovering truth, perhaps the only pleasure that age affords. Nor is it a slight satisfaction to a man not utterly infatuated or depraved, to find opportunities of rectifying his notions, and regulating his conduct by new lights.

But much greater is the happiness of that man to whom every day brings a new proof of the reasonableness of his former determinations, and who finds, by the most unerring test, that his life has been spent in promotion of doctrines beneficial to mankind. This, sir, is the happiness which I now enjoy, and for which those who never shall attain it, must look for an equivalent in lucrative employments, honorary titles, pompous equipages, and splendid palaces.

These, sir, are the advantages which are to be gained by a seasonable variation of principles, and by a ready compliance with the prevailing fashion of opinions; advantages which I, indeed, cannot envy when they are purchased at so high a price, but of which age and observation has too frequently shown me the unbounded influence; and to which I cannot deny that I have always ascribed the instability of conduct, and inconsistency of assertions, which I have discovered in many men, whose abilities I have no reason to depreciate, and of whom I cannot but believe they would easily distinguish truth, were not falsehood recommended to them by the ornaments of wealth.

If there are in this new senate any men devoted to their private interest, any who prefer the gratification of their passions to the safety and happiness of their country, who can riot without remorse in the plunder of their constituents, who can forget the anguish of guilt in the noise of a feast, the pomp of a drawing-room, or the arms of a strumpet, and think expensive wickedness and the gaieties of folly equivalent to the fair fame of fidelity and the peace of virtue, to them I shall speak to no purpose; for I am far from imagining any power in my language to gain those to truth who have resigned their hearts to avarice or ambition, or to prevail upon men to change opinions, which they have indeed never believed, though they are hired to assert them. There is a degree of wickedness which reproof or argument cannot reclaim, as there is a degree of stupidity which instruction cannot enlighten.

If my country, sir, has been so unfortunate as, once more, to commit her interest to those who propose to themselves no advantage from their trust, but that of selling it, I may perhaps fall, once more, under censure for declaring my opinion, and be, once more, treated as a criminal for asserting what they who punish me cannot deny; for maintaining the inconsistency of Hanover maxims with the happiness of this nation, and for preserving the caution which was so strongly inculcated by the patriots that drew up the act of settlement, and gave the present imperial family their title to the throne.

These men, sir, whose wisdom cannot be disputed, and whose zeal for his majesty's family was equal to their knowledge, thought it requisite to provide some security against the prejudices of birth and education. They were far from imagining, that they were calling to the throne a race of beings exalted above the frailties of humanity, or exempted by any peculiar privileges from error or from ignorance.

They knew that every man was habitually, if not naturally, fond of his own nation, and that he was inclined to enrich it and defend it at the expense of another, even, perhaps, of that to which he is indebted, for much higher degrees of greatness, wealth and power; for every thing which makes one state of life preferable to another; and which, therefore, if reason could prevail over prejudice, and every action were regulated by strict justice, might claim more regard than that corner of the earth in which he only happened to be born.

They knew, sir, that confidence was not always returned, that we most willingly trust those whom we have longest known, and caress those with most fondness, whose inclinations we find by

experience to correspond with our own, without regard to particular circumstances which may entitle others to greater regard, or higher degrees of credit, or of kindness.

Against these prejudices, which their sagacity enabled them to foresee, their integrity incited them to secure us, by provisions which every man then thought equitable and wise, because no man was then hired to espouse a contrary opinion.

To obviate the disposition which a foreign race of princes might have to trust their original subjects, it was enacted that none of them should be capable of any place of trust or profit in these kingdoms. And to hinder our monarchs from transferring the revenues of Britain to Hanover, and enriching it with the commerce of our traders, and the labours of our husbandmen; from raising taxes to augment the splendour of a petty court, and increasing the garrisons of their mountains by misapplying that money which this nation should raise for its own defence, it was provided that the emperor of Britain should never return to his native dominions, but reside always in this kingdom, without any other care than that of gaining the affections of his British subjects, preserving their rights, and increasing their power.

It was imagined by that senate, that the electorate of Hanover, a subordinate dignity, held by custom of homage to a greater power, ought to be thought below the regard of the emperor of Britain, and that the sovereign of a nation like this ought to remember a lower state only to heighten his gratitude to the people by whom he was exalted. They were far from imagining that Britain and Hanover would in time be considered as of equal importance, and that their sovereign would divide his years between one country and the other, and please himself with exhibiting in Hanover the annual show of the pomp and dignity of a British emperor.

This clause, sir, however, a later senate readily repealed; upon what motives I am not able to declare, having never heard the arguments which prevailed upon their predecessors to enact it, confuted or invalidated; nor have I found that the event has produced any justification of their conduct, or that the nation has received any remarkable advantage from the travels of our emperours.

There is another clause in that important act which yet the senate has not ventured to repeal, by which it is provided, that this nation shall not be engaged in war for the defence of the Hanoverian dominions; dominions of which we can have no interest in the protection or preservation; dominions, perhaps, of no great value, into whatever hands chance and negligence may throw them, which their situation has made entirely useless to a naval power; but which, though they cannot benefit, may injure us, by diverting the attention of our sovereign, or withholding his affections.

Whether this clause, sir, has not sometimes been eluded, whether the six thousand Hessians, which we once supported, were of use to any of the British dominions, and whether a double number of the same nation, now paid with our money for the defence of the queen of Hungary, have not been stationed only where they might defend Hanover, without the least advantage to our confederates; whether the nation has not been condemned to double expenses in the support of this alliance, by raising, for the queen's service, troops, which were only employed in the protection of Hanover, and then in succouring her with pecuniary supplies, it is, perhaps, at present unnecessary, though, I hope, not yet too late, to inquire.

It is at present unnecessary, because the clause which is proposed cannot be denied to be equally proper, whether the act of settlement has been hitherto observed or violated; for the violation of it ought to engage us in some measures that may secure us for the future from the like injury; and the observation of it is a manifest proof how much it is approved by all parties, since, in so many deviations from this settlement, and an inconstancy of conduct of which an example is scarcely to be found, this law has been esteemed sacred, the bulwark of our rights, and the boundary which the sovereign power has not dared to overleap.

As his majesty, sir, has, in a very solemn manner, called upon us for our advice and assistance, what can be more proper than to lay before him our opinion on this important question? War is, next

to slavery, one of the greatest calamities; and an unnecessary war, therefore, the greatest error of government, an error which cannot be too cautiously obviated, or too speedily reformed.

If we consider, sir, the present state of the continent, there is nothing more probable than that the subjects of the elector of Hanover may solicit the assistance of the emperor of Britain, and, therefore, it is necessary to inform them, that their solicitations will be vain. If we inquire into the suspicions of our fellow-subjects, we shall find them generally disturbed with fears that they shall be sacrificed to the security of foreign dominions, and, therefore, it is necessary to recall their affection to his majesty where it is impaired, and confirm their confidence where it has been hitherto preserved, by showing, in the most publick manner, how vainly they have been disquieted, and how grossly they have been mistaken.

It is certainly our duty, sir, to give such advice as may most truly inform his majesty of the sentiments of his people, and most effectually establish in the people an adherence to his majesty; as it is certain that no advice will be seconded by greater numbers than that which is proposed, nor can his majesty, by any act of goodness, so much endear his government, as by a ready promise to this nation of an exemption from any war in defence of Hanover.

I hope, sir, it will not be objected, that by such request a suspicion will be insinuated of designs detrimental to the British nation, and repugnant to the conditions on which his majesty ascended the throne, because an objection of equal force may rise against any advice whatever that shall be offered by the senate.

It may be always urged, sir, that to recommend any measures, is to suppose that they would not have been suggested to his majesty by his own wisdom, and, by consequence, that he is defective either in knowledge or in goodness, that he either mistakes or neglects the interest of his people.

Thus, sir, may the most laudable conduct be charged with sedition, and the most awful regard be accused of disrespect, by forced consequences, and exaggerated language; thus may senates become useless, lest they should appear to be wiser than their sovereign, and the sovereign be condemned to act only by the information of servile ministers, because no publick advice can safely be given him.

That kings must act upon the information of others, that they can see little with their own eyes through the mists which flattery is continually employed in raising before them, and that they are, therefore, most happy who have, by the constitution of the country which they govern, an opportunity of knowing the opinions of their people without disguise, has yet never been denied by any who do not separate the interest of the king from that of the people, and leave mankind no political distinction but that of tyrants and slaves.

This, sir, is the happiness of the emperour of Britain beyond other monarchs, an advantage by which he may be always enabled to contemplate the happy and flourishing state of his subjects, and to receive the blessings and acclamations of millions, that owe to his care their wealth and their security.

Of this advantage he cannot be deprived, but by the cowardice or the treachery of those men who are delegated by the people, as the guardians of their liberties; and surely it requires no uncommon penetration to discover, that no act of treason can be equal in malignity to that perfidy which deprives the king of the affections of his subjects, by concealing from him their sentiments and petitions. He that makes his monarch hated, must, undoubtedly, make him unhappy; and he that destroys his happiness, might more innocently take away his life.

To exempt myself, therefore, from such guilt, to discharge the trust conferred on me by my country, and to perform the duty which I owe to my king, I stand up to second this motion.

Mr. GYBBON spoke next, to the following purpose:—Sir, as it is not easy to remember all the parts of an address by only once hearing it, and hearing it in a form different from that in which it is to be presented, I think it necessary to a more accurate consideration of it, that it should be read distinctly to the house. We may otherwise waste our time in debates, to which only our own forgetfulness gives occasion; we may raise objections without reason, and propose amendments where there is no defect. [The address was accordingly read, and Mr. GYBBON proceeded.]

Having now heard the address, I find by experience the propriety of my proposal; having remarked a clause, which, in my opinion, is necessary to be amended, and which I had not observed when it was repeated before.

It is well known, that the speeches from the throne, though pronounced by the king, are always considered as the compositions of the ministry, upon whom any false assertions would be charged, as the informers and counsellors of the crown.

It is well known, likewise, that whenever this house returns thanks to the king for any measures that have been pursued, those measures are supposed to be approved by them; and that approbation may be pleaded by the minister in his defence, whenever he shall be required to answer for the event of his counsels.

It is, therefore, in my opinion, extremely unreasonable to propose, that *thanks should be returned to his majesty for his royal care in prosecuting the war against Spain*; for what has been the consequence of that care, for which our thanks are to be, with so much solemnity, returned, but defeats, disgrace, and losses, the ruin of our merchants, the imprisonment of our sailors, idle shows of armaments, and useless expenses?

What are the events which are to be recorded in an impartial account of this war; a war provoked by so long a train of insults and injuries, and carried on with so apparent an inequality of forces? Have we destroyed the fleets of our enemies, fired their towns, and laid their fortresses in ruins? Have we conquered their colonies, and plundered their cities, and reduced them to a necessity of receding from their unjust claims, and repaying the plunder of our merchants? Are their ambassadors now soliciting peace at the court of Britain, or applying to the neighbouring princes to moderate the resentment of their victorious enemies?

I am afraid that the effects of our preparations, however formidable, are very different; they have only raised discontent among our countrymen, and contempt among our enemies. We have shown that we are strong indeed, but that our force is made ineffectual by our cowardice; that when we threaten most loudly, we perform nothing; that we draw our swords but to brandish them, and only wait an opportunity to sheath them in such a manner, as not plainly to confess that we dare not strike.

If we consider, therefore, what effect our thanks for conduct like this must naturally produce, it will appear that they can only encourage our enemies, and dispirit our fellow-subjects. It will be imagined that the Spaniards are a powerful nation, which it was the highest degree of temerity to attack; a nation by whom it is honour sufficient not to be overcome, and from whom we cannot be defended without the most vigilant caution, and the most extensive knowledge both of politicks and war.

It will readily be perceived by the proud Spaniards, that it is only necessary to prosecute their views a little longer, to intimidate us with new demands, and amuse us with new preparations; and that we, who are always satisfied with our success, shall soon be weary of a war from which it is plain that we never expected any advantage, and therefore shall, in a short time, willingly receive such terms as our conquerors will grant us.

It is always to be remembered, how much all human affairs depend upon opinion, how often reputation supplies the want of real power, by making those afraid who cannot be hurt, and by producing confidence where there is no superiority. The opinion of which the senate ought to endeavour the promotion, is confidence in their steadiness, honesty, and wisdom. Confidence which will not be much advanced by an address of thanks for the conduct of the war against Spain.

How justly may it be asked, when this address is spread over the world, what were the views with which the senate of Britain petitioned their sovereign to declare war against Spain?

If their design was, as they then asserted, to procure security for the commerce of America, and reparation for the injuries which their merchants had received, by what fluctuation of counsels, by what prevalence of new opinions, have they now abandoned it? For that they have no longer the

same intentions, that they now no more either propose security, or demand recompense, is evident; since though they have obtained neither, yet are they thankful for the conduct of the war.

To what can this apparent instability be imputed, but to the want either of wisdom to balance their own power with that of their enemies, and discern the true interest of their country, or to a mean compliance with the clamours of the people, to whom they durst not refuse the appearance of a war, though they had no expectation of honour or success?

But in far other terms, sir, will the Spaniards speak of the address which is now proposed. "Behold, say our boasting enemies, the spirit and wisdom of that assembly, whose counsels hold the continent in suspense, and whose determinations change the fate of kingdoms; whose vote transfers sovereignty, covers the ocean with fleets, prescribes the operation of distant wars, and fixes the balance of the world. Behold them amused with idle preparations, levying money for mockeries of war, and returning thanks for the pleasure of the show. Behold them looking with wonderful tranquillity on the loss of a great number of their ships, which have been seized upon their own coasts by our privateers, and congratulating themselves and their monarch that any have been preserved. How great would have been the exultation, and how loud the applauses, had they succeeded in any of their designs; had they obstructed the departure of our fleets, or hindered our descent upon the dominions of the queen of Hungary; had they confined our privateers in our harbours, defeated any of our troops, or overrun any of our colonies! In what terms would they have expressed their gratitude for victory, who are thus thankful for disappointments and disgrace?"

Such, sir, must be the remarks of our enemies upon an address like that which is now proposed; remarks which we and our allies must be condemned to hear, without attempting a reply. For what can be urged to extenuate the ridicule of returning thanks where we ought either to express resentment, offer consolations, and propose the means of better success, or cover our grief and shame with perpetual silence?

When it shall be told in foreign nations, that the senate of Britain had returned thanks for the escape of the Spaniards from Ferrol, their uninterrupted expedition to Italy, the embarrassment of their own trade, the captivity of their sailors, and the destruction of their troops, what can they conclude, but that the senate of Britain is a collection of madmen, whom madmen have deputed to transact the publick affairs? And what must be the influence of such a people, and such a senate, will be easily conceived.

If I have given way, sir, in these observations, to any wanton hyperbole, or exaggerated assertions, they will, I hope, be pardoned by those who shall reflect upon the real absurdity of the proposal, which I am endeavouring to show in its true state, and by all who shall consider, that to return thanks for the management of the war, is to return thanks for the carnage of Carthagera, for the ruin of our merchants, for the loss of our reputation, and for the exaltation of the family of Bourbon.

I hope no man will be so unjust, or can be so ignorant, as to insinuate or believe, that I impute any part of our miscarriages to the personal conduct of his majesty, or that I think his majesty's concern for the prosperity of his people unworthy of the warmest and sincerest gratitude. If the address were confined to the inspection of our sovereign alone, I should be very far from censuring or ridiculing it; for his majesty has not the event of war in his power, nor can confer upon his ministers or generals that knowledge which they have neglected to acquire, or that capacity which nature has denied them. He may perform more than we have a right to expect, and yet be unsuccessful; he may deserve the utmost gratitude, even when, by the misconduct of his servants, the nation is distressed.

But, sir, in drawing up an address, we should remember that we are declaring our sentiments not only to his majesty, but to all Europe; to our allies, our enemies, and our posterity; that this address will be understood, like all others; that thanks offered in this manner, by custom, signify approbation; and that, therefore, we must at present repress our gratitude, because it can only bring into contempt our sovereign and ourselves.

Sir Robert WALPOLE spoke next, to this effect:—Sir, I am very far from thinking that the war against Spain has been so unsuccessful as some gentlemen have represented it; that the losses which we have suffered have been more frequent than we had reason to expect from the situation of our enemies, and the course of our trade; or our defeats, such as the common chance of war does not often produce, even when the inequality of the contending powers is incontestable, and the ultimate event as near to certainty, as the nature of human affairs ever can admit.

Nor am I convinced, sir, even though it should be allowed that no exaggeration had been made of our miscarriages, that the impropriety of an address of thanks to his majesty for his regal care in the management of the war, is gross or flagrant. For if it be allowed that his majesty may be innocent of all the misconduct that has produced our defeats, that he may have formed schemes wisely, which were unskilfully prosecuted; that even valour and knowledge concurring, will not always obtain success; and that, therefore, some losses may be suffered, and some defeats received, though not only his majesty gave the wisest direction, but his officers executed them with the utmost diligence and fidelity; how will it appear from our ill success, that our sovereign does not deserve our gratitude? And if it shall appear to us that our thanks are merited, who shall restrain us from offering them in the most publick and solemn manner?

For my part, I think no consideration worthy of regard in competition with truth and justice, and, therefore, shall never forbear any expression of duty to my sovereign, for fear of the ridicule of our secret, or the reproaches of our publick enemies.

With regard to the address under our consideration, if it be allowed either that we have not been unsuccessful in any opprobrious degree, or that ill success does not necessarily imply any defect in the conduct of his majesty, or debar us from the right of acknowledging his goodness and his wisdom, I think, sir, no objection can be made to the form of expression now proposed, in which all sounding and pompous language, all declamatory exaggeration, and studied figures of speech, all appearance of exultation, and all the farce of rhetorick are carefully avoided, and nothing inserted that may disgust the most delicate, or raise scruples in the most sincere.

Yet, sir, that we may not waste our time upon trivial disputes, when the nation expects relief from our counsels, that we may not suspend the prosecution of the war by complaints of past defeats, or retard that assistance and advice which our sovereign demands, by inquiring whether it may be more proper to thank, or to counsel him, I am willing, for the sake of unanimity, that this clause should be omitted; and hope that no other part of the address can give any opportunity for criticism, or for objections.

Sir, it is no wonder that the right honourable gentleman willingly consents to the omission of this clause, which could be inserted for no other purpose than that he might sacrifice it to the resentment which it must naturally produce, and by an appearance of modesty and compliance, pass easily through the first day and obviate any severe inquiries that might be designed.

He is too well acquainted with the opinion of many whom the nation has chosen to represent them, and with the universal clamours of the people, too accurately informed of the state of our enemies, and too conscious how much his secret machinations have hindered our success, to expect or hope that we should meet here to return thanks for the management of the war; of a war in which nothing has been attempted by his direction that was likely to succeed, and in which no advantage has been gained, but by acting without orders, and against his hopes.

That I do not charge him, sir, without reason, or invent accusations only to obstruct his measures, or to gratify my own resentment; that I do not eagerly catch flying calumnies, prolong the date of casual reproaches, encourage the malignity of the envious, or adopt the suspicions of the melancholy; that I do not impose upon myself by a warm imagination, and endeavour to communicate to others impressions which I have only received myself from prejudice and malignity, will be proved from the review of his conduct since the beginning of our dispute with Spain, in which it will be found that he has been guilty, not of single errors, but of deliberate treachery; that he has always

cooperated with our enemies, and sacrificed to his private interest the happiness and the honour of the British nation.

How long our merchants were plundered, our sailors enslaved, and our colonies intimidated without resentment; how long the Spaniards usurped the dominion of the seas, searched our ships at pleasure, confiscated the cargoes without control, and tortured our fellow-subjects with impunity, cannot but be remembered. Not only every gentleman in this house, but every man in the nation, however indolent, ignorant, or obscure, can tell what barbarities were exercised, what ravages were committed, what complaints were made, and how they were received. It is universally known that this gentleman, and those whom he has seduced by pensions and employments, treated the lamentations of ruined families, and the outcries of tortured Britons, as the clamours of sedition, and the murmurs of malignity suborned to inflame the people, and embarrass the government.

It is known, sir, that our losses were at one time ridiculed as below the consideration of the legislature, and the distress of the most useful and honest part of mankind was made the subject of merriment and laughter; the awkward wit of all the hirelings of the town was exerted to divert the attention of the publick, and all their art was employed to introduce other subjects into conversation, or to still the complaints which they heard with a timely jest.

But their wit was not more successful on this, than on other occasions; their imaginations were soon exhausted, and they found, as at other times, that they must have recourse to new expedients. The first artifice of shallow courtiers is to elude with promises those complaints which they cannot confute, a practice that requires no understanding or knowledge, and therefore has been generally followed by the administration. This artifice they quickly made use of, when they found that neither the merchants nor the nation were to be silenced by an affectation of negligence, or the sallies of mirth; that it was no longer safe to jest upon the miseries of their countrymen, the destruction of our trade, and the violation of our rights, they condescended, therefore, to some appearances of compassion, and promised to exert all their influence to procure redress and security.

That they might not appear, sir, to have made this promise only to free themselves from present importunity, they set negotiations on foot, despatched memorials, remonstrances, propositions, and computations, and with an air of gravity and importance, assembled at proper times to peruse the intelligence which they received, and to concert new instructions for their ministers.

While this farce was acted, sir, innumerable artifices were made use of to reconcile the nation to suspense and delay. Sometimes the distance of the Spanish dominions in America retarded the decision of our claims. Sometimes the dilatory disposition of the Spaniards, and the established methods of their courts, made it impossible to procure a more speedy determination. Sometimes orders were despatched to America in favour of our trade, and sometimes those orders were neglected by the captains of the Spanish ships, and the governours of their provinces; and when it was inquired why those captains and governours were not punished or recalled, we were treated with contempt, for not knowing what had been so lately told us of the dilatory proceedings of the Spanish courts.

In the mean time our merchants were plundered, and our sailors thrown into dungeons; our flag was insulted, and our navigation restrained, by men acting under the commission of the king of Spain; we perceived no effect of our negotiations but the expense, and our enemies not only insisted on their former claims, but prosecuted them with the utmost rigour, insolence, and cruelty.

It must, indeed, sir, be urged in favour of our minister, that he did not refuse any act of submission, or omit any method of supplication by which he might hope to soften the Spaniards; he solicited their favour at their own court, he sent commissaries into their country, he assisted them in taking possession of dominions, to which neither we nor they have proved a right; and he employed the navies of Britain to transport into Italy the prince on whom the new-erected kingdom was to be conferred.

Well might he expect that the Spaniards would be softened by so much kindness and forbearance, and that gratitude would at length induce them to spare those whom no injuries or

contempt had been able to alienate from them, and to allow those a free course through the seas of America, to whom they had been indebted for an uninterrupted passage to the possession of a kingdom.

He might likewise urge, sir, that when he was obliged to make war upon them, he was so tender of their interest, that the British admiral was sent out with orders rather to destroy his own fleet than the galleons, which, in appearance, he was sent to take, and to perish by the inclemency of the climate, rather than enter the Spanish ports, terrify their colonies, or plunder their towns.

But to little purpose, sir, did our minister implore the compassion of the Spaniards, and represent the benefits by which we might claim it; for his compliance was by the subtle Spaniards attributed, not to kindness, but to fear; and it was therefore determined to reduce him to absolute slavery, by the same practices which had already sunk him to so abject a state.

They therefore treated our remonstrances with contempt, continued their insolence and their oppressions, and while our agent was cringing at their court with fresh instructions in his hand, while he was hurrying with busy looks from one grandee to another, and, perhaps, dismissed without an audience one day, and sent back in the midst of his harangue on another, the guardships of the Spaniards continued their havock, our merchants were ruined, and our sailors tortured.

At length, sir, the nation was too much inflamed to be any longer amused with idle negotiations, or trifling expedients; the streets echoed with the clamours of the populace, and this house was crowded with petitions from the merchants. The honourable person, with all his art, found himself unable any longer to elude a determination of this affair. Those whom he had hitherto persuaded that he had failed merely for want of abilities, began now to suspect that he had no desire of better success; and those who had hitherto cheerfully merited their pensions by an unshaken adherence to all his measures, who had extolled his wisdom and his integrity with all the confidence of security, began now to be shaken by the universality of the censures which the open support of perfidy brought upon them. They were afraid any longer to assert what they neither believed themselves, nor could persuade others to admit. The most indolent were alarmed, the most obstinate convinced, and the most profligate ashamed.

What could now be done, sir, to gain a few months, to secure a short interval of quiet, in which his agents might be employed to disseminate some new falsehood, bribe to his party some new vindicators, or lull the people with the opiate of another expedient, with an account of concessions from the court of Spain, or a congress to compute the losses, and adjust the claims of our merchants?

Something was necessarily to be attempted, and orders were therefore despatched by our minister, to his slave at the court of Spain, to procure some stipulations that might have at least the appearance of a step towards the conclusion of the debate. His agent obeyed him with his usual alacrity and address, and in time sent him, for the satisfaction of the British people, the celebrated convention.

The convention, sir, has been so lately discussed, is so particularly remembered, and so universally condemned, that it would be an unjustifiable prodigality of time to expatiate upon it. There were but few in the last senate, and I hope there are none in this, who did not see the meanness of suffering incontestable claims to be disputed by commissaries, the injustice of the demand which was made upon the South-sea company, and the contemptuous insolence of amusing us with the shadow of a stipulation, which was to vanish into nothing, unless we purchased a ratification of it, by paying what we did not owe.

The convention, therefore, sir, was so far from pacifying, that it only exasperated the nation, and took from our minister the power of acting any longer openly in favour of the Spaniards; of whom it must be confessed, that their wisdom was overpowered by their pride, and that, for the sake of showing to all the powers of Europe the dependence in which they held the court of Britain, they took from their friends the power of serving them any longer, and made it unsafe for them to pay that submission to which they were inclined.

The Spaniards did not sufficiently distinguish between the nation and the ministry of Britain, nor suspected that their interests, inclinations, and opinions were directly opposite; and that those who were caressed, feared, and revered by the ministry, were by the people hated, despised, and ridiculed.

By enslaving our ministry, they weakly imagined that they had conquered our nation; nor, perhaps, sir, would they quickly have discovered their mistake, had they used their victory with greater moderation, condescended to govern their new province with less rigour, and sent us laws in any other form than that of the convention.

But the security which success excites, produced in them the same effects as it has often done in others, and destroyed, in some degree, the advantages of the conquest by which it was inspired. The last proof of their contempt of our sovereign and our nation, was too flagrant to be palliated, and too publick not to be resented. The cries of the nation were redoubled, the solicitations of the merchants renewed, the absurdity of our past conduct exposed, the meanness of our forbearance reproached, and the necessity of more vigorous measures evidently proved.

The friends of Spain discovered, sir, at length, that war was necessarily to be proclaimed, and that it would be no longer their interest to act in open opposition to justice and reason, to the policy of all ages, and remonstrances of the whole nation.

The minister, therefore, after long delays, after having run round the circle of all his artifices, and endeavouring to intimidate the nation by false representations of the power of our enemies, and the danger of an invasion from them, at length suffered war to be proclaimed, though not till he had taken all precautions that might disappoint us of success.

He knew that the state of the Spanish dominions exposed them in a particular manner to sudden incursions by small parties, and that in former wars against them, our chief advantage had been gained by the boldness and subtilty of private adventurers, who by hovering over their coasts in small vessels, without raising the alarms which the sight of a royal navy necessarily produces, had discovered opportunities of landing unexpectedly, and entering their towns by surprise, of plundering their wealthy ships, or enriching themselves by ransoms and compositions; he knew what inconsiderable bodies of men, incited by private advantage, selected with care for particular expeditions, instructed by secret intelligence, and concealed by the smallness of their numbers, had found means to march up into the country, through ways which would never have been attempted by regular forces, and have brought upon the Spaniards more terror and distress than could have been produced by a powerful army, however carefully disciplined or however skilfully commanded.

It was, therefore, sir, his first care to secure his darling Spaniards from the pernicious designs of private adventurers; he knew not but some of Elizabeth's heroes might unfortunately revive, and terrify, with an unexpected invasion, the remotest corners of the Spanish colonies, or appear before their ports with his nimble sloops, and bid defiance to their navies and their garrisons. When, therefore, a bill was introduced into this house, by which encouragement was given to the subjects of this kingdom to fit out privateers, and by which those who should conquer any of the colonies of the Spaniards, were confirmed in the possession of them for ever, it cannot be forgotten with what zeal he opposed, and with what steadiness he rejected it, though it is not possible to assign any disadvantage which could have been produced by passing it, and the utmost that could be urged against it was, that it was unnecessary and useless.

Having thus discouraged that method of war which was most to be dreaded by our enemies, and left them little to fear but from national forces and publick preparations, his next care was to secure them from any destructive blow, by giving them time to equip their fleets, collect their forces, repair their fortifications, garrison their towns, and regulate their trade; for this purpose he delayed, as long as it was possible, the despatch of our navies, embarrassed our levies of sailors by the violence of impresses; violence, which proper encouragement and regulations might have made unnecessary;

and suffered the privateers of the enemy to plunder our merchants without control, under pretence that ships of war could not be stationed, nor convoys provided for their protection.

At length several fleets were fitted out, Vernon was sent to America, and Haddock into the Mediterranean, with what coqsequences it is well known; nor should I mention them at this time, had I not been awakened to the remembrance of them by a proposal of thanks for the conduct of the war.

The behaviour of the two admirals was very different; though it has not yet appeared but that their orders were the same. Vernon with six ships destroyed those fortifications, before which Hosier formerly perished, in obedience to the commands of our ministry. How this success was received by the minister and his adherents, how much they were offended at the exultations of the populace, how evidently they appeared to consider it as a breach of their scheme, and a deviation from their directions, the whole nation can relate.

Nor is it to be forgotten, sir, how invidiously the minister himself endeavoured to extenuate the honour of that action, by attempting to procure in the address, which was on that occasion presented to his majesty, a suppression of the number of the ships with which he performed it.

In the mean time, sir, the nation expected accounts of the same kind from the Mediterranean, where Haddock was stationed with a very considerable force; but instead of relations of ports bombarded, and towns plundered, of navies destroyed, and villages laid in ashes, we were daily informed of the losses of our merchants, whose ships were taken almost within sight of our squadrons.

We had, indeed, once the satisfaction of hearing that the fleet of Spain was confined in the port of Cadiz, unprovided with provisions, and it was rashly reported that means would either be found of destroying them in the harbour, or that they would be shut up in that unfruitful part of the country, till they should be obliged to disband their crews.

We, therefore, sir, bore with patience the daily havock of our trade, in expectation of the entire destruction of the royal navy of Spain, which would reduce them to despair of resistance, and compel them to implore peace. But while we were flattering ourselves with those pleasing dreams, we were wakened on a sudden with an astonishing account that the Spaniards had left Cadiz, and, without any interruption from the Britons, were taking in provisions at Ferrol.

This disappointment of our expectations did, indeed, discourage us, but not deprive us of hope; we knew that the most politick are sometimes deceived, and that the most vigilant may sometimes relax their attention; we did not expect in our commanders any exemption from human errors, and required only that they should endeavour to repair their failures, and correct their mistakes; and, therefore, waited without clamour, in expectation that what was omitted at Cadiz would be performed at Ferrol.

But no sooner, sir, had the Spaniards stored their fleet, than we were surprised with a revolution of affairs yet more wonderful. Haddock, instead of remaining before Ferrol, was drawn off by some chimerical alarm to protect Minorca, and the Spaniards in the mean time sailed away to America, in conjunction with the French squadron that had been for some time ready for the voyage.

If we consider the absurdity of this conduct, it cannot but be imagined that our minister must send Haddock false intelligence and treacherous directions, on purpose that the Spanish fleet might escape without interruption. For how can it be conceived that the Spaniards could have formed any real design of besieging port Mahon? Was it probable that they would have sent an army, in defenceless transports, into the jaws of the British fleet? and it was well known that they had no ships of war to protect them. It was not very agreeable to common policy to land an army upon an island, an island wholly destitute of provisions for their support, while an hostile navy was in possession of the sea, by which the fortress which their troops were destined to besiege might be daily supplied with necessaries, and the garrison augmented with new forces, while their army would be itself besieged in a barren island, without provisions, without recruits, without hope of succour, or possibility of success.

But such was the solicitude of our admiral for the preservation of Minorca, that he abandoned his station, and suffered the Spaniards to join their confederates of France, and prosecute their voyage to America without hinderance or pursuit.

In America they remained for some time masters of the sea, and confined Vernon to the ports; but want of provisions obliging the French to return, no invasion of our colonies was attempted, nor any of those destructive measures pursued which we had reason to fear, and of which our minister, notwithstanding his wonderful sagacity, could not have foretold that they would have been defeated by an unexpected scarcity of victuals.

The Spaniards, however, gained, by this expedient, time to repair their fortifications, strengthen their garrisons, and dispose their forces in the most advantageous manner; and therefore, though they were not enabled to attack our dominions, had at least an opportunity of securing their own.

At length, sir, lest it should be indisputably evident that our minister was in confederacy with the Spaniards, it was determined, that their American territories should be invaded; but care was taken to disappoint the success of the expedition by employing new-raised troops, and officers without experience, and to make it burdensome to the nation by a double number of officers, of which no use could be discovered, but that of increasing the influence, and multiplying the dependants of the ministry.

It was not thought sufficient, sir, to favour the designs of the Spaniards by the delay which the levy of new troops necessarily produced, and to encourage them by the probability of an easy resistance against raw forces; nor was the nation, in the opinion of the minister, punished for its rebellion against him with adequate severity, by being condemned to support a double number of troops. Some other methods were to be used for embarrassing our preparations and protracting the war.

The troops, therefore, sir, being, by the accident of a hard winter, more speedily raised than it was reasonable to expect, were detained in this island for several months, upon trivial pretences; and were at length suffered to embark at a time when it was well known that they would have much more formidable enemies than the Spaniards to encounter; when the unhealthy season of the American climate must necessarily destroy them by thousands; when the air itself was poison, and to be wounded certainly death.

These were the hardships to which part of our fellow-subjects have been exposed by the tyranny of the minister; hardships which caution could not obviate, nor bravery surmount; they were sent to combat with nature, to encounter with the blasts of disease, and to make war against the elements. They were sent to feed the vultures of America, and to gratify the Spaniards with an easy conquest.

In the passage the general died, and the command devolved upon a man who had never seen an enemy, and was, therefore, only a speculative warrior; an accident, which, as it was not unlikely to happen, would have been provided against by any minister who wished for success. The melancholy event of this expedition I need not mention, it was such as might be reasonably expected; when our troops were sent out without discipline, without commanders, into a country where even the dews are fatal, against enemies informed of their approach, secured by fortifications, inured to the climate, well provided, and skilfully commanded.

In the mean time, sir, it is not to be forgotten what depredations were made upon our trading vessels, with what insolence ships of very little force approached our coasts, and seized our merchants in sight of our fortifications; it is not to be forgotten that the conduct of some of those who owed their revenues and power to the minister, gave yet stronger proofs of a combination.

It is not to be forgotten with what effrontery the losses of our merchants were ridiculed, with what contemptuous triumph of revenge they were charged with the guilt of this fatal war, and how publicly they were condemned to suffer for their folly.

For this reason, sir, they were either denied the security of convoys, or forsaken in the most dangerous parts of the sea, by those to whose protection they were, in appearance, committed. For

this reason, they were either hindered from engaging in their voyage by the loss of those men who were detained unactive in the ships of war, or deprived of their crews upon the high seas, or suffered to proceed only to become a prey to the Spaniards.

But it was not, sir, a sufficient gratification of our implacable minister, that the merchants were distressed for alarming the nation; it was thought, likewise, necessary to punish the people for believing too easily the reports of the merchants, and to warn them for ever against daring to imagine themselves able to discern their own interest, or to prescribe other measures to the ministers, than they should be themselves inclined to pursue; our minister was resolved to show them, by a master-stroke, that it was in his power to disappoint their desires, by seeming to comply, and to destroy their commerce and their happiness, by the very means by which they hoped to secure them.

For this purpose, sir, did this great man summon all his politicks together, and call to council all his confidants and all his dependants; and it was, at length, after mature deliberation, determined, by their united wisdom, to put more ships into commission, to aggravate the terrors of the impress by new violence and severity, to draw the sailors by the promise of large rewards from the service of the merchants, to collect a mighty fleet, and to despatch it on a *secret expedition*.

A secret expedition, sir, is a new term of ministerial art, a term which may have been, perhaps, formerly made use of by soldiers, for a design to be executed without giving the enemy an opportunity of providing for their defence; but is now used for a design with which the enemy is better acquainted than those to whom the execution of it is committed. A secret expedition is now an expedition of which every one knows the design, but those at whose expense it is undertaken. It is a kind of naval review, which excels those of the park in magnificence and expense, but is equally useless, and equally ridiculous.

Upon these secret expeditions, however, were fixed for a long time the expectations of the people; they saw all the appearances of preparation for real war; they were informed, that the workmen in the docks were retained by uncommon wages to do double duty; they saw the most specious encouragement offered to the sailors; they saw naval stores accumulated with the utmost industry, heard of nothing but the proof of new cannon, and new contracts for provision; and how much reason soever they had to question the sincerity of the great man who had so long engrossed the management of all affairs, they did not imagine that he was yet so abandoned to levy forces only to exhaust their money, and equip fleets only to expose them to ridicule.

When, therefore, sir, after the usual delays, the papers had informed the people that the great fleet was sailed, they no longer doubted that the Spaniards were to be reduced to our own terms; they expected to be told, in a few days, of the destruction of fleets, the demolition of castles, and the plunder of cities; and everyone envied the fortune of those who, by being admitted into their formidable fleet, were entitled to the treasures of such wealthy enemies.

When they had for some time indulged these expectations, an account was brought, that the fleet was returned without the least action, or the least attempt, and that new provisions were to be taken in, that they might set out upon another *secret expedition*.

But, sir, this wonder-working term had now lost its efficacy, and it was discovered, that *secret expeditions*, like all other *secret services*, were only expedients to drain the money of the people, and to conceal the ignorance or villany of the minister.

Such has been the conduct for which we are desired to return thanks in an humble and dutiful address, such are the transactions which we are to recommend to the approbation of our constituents, and such the triumphs upon which we must congratulate our sovereign.

For my part, sir, I cannot but think that silence is a censure too gentle of that wickedness which no language can exaggerate, and for which, as it has, perhaps, no example, human kind have not yet provided a name. Murder, parricide, and treason, are modest appellations when referred to that conduct by which a king is betrayed, and a nation ruined, under pretence of promoting its interest, by a man trusted with the administration of publick affairs.

Let us, therefore, sir, if it be thought not proper to lay before his majesty the sentiments of his people in their full extent, at least not endeavour to conceal them from him; let us, at least, address him in such a manner as may give him some occasion to inquire into the late transactions, which have for many years been such, that to inquire into them is to condemn them.

Sir Robert WALPOLE rose again, and spoke to this effect:—Sir, though I am far from being either confounded or intimidated by this atrocious charge; though I am confident, that all the measures which have been so clamorously censured, will admit of a very easy vindication, and that whenever they are explained they will be approved; yet as an accusation so complicated cannot be confuted without a long recapitulation of past events, and a deduction of many particular circumstances, some of which may require evidence, and some a very minute and prolix explication, I cannot think this a proper day for engaging in the controversy, because it is my interest that it may be accurately discussed.

At present, sir, I shall content myself with bare assertions, like those of him by whom I am accused, and hope they will not be heard with less attention, or received with less belief. For surely it was never denied to any man to defend himself with the same weapons with which he is attacked.

I shall, therefore, sir, make no scruple to assert, that the treasure of the publick has been employed with the utmost frugality, to promote the purposes for which it was granted; that our foreign affairs have been transacted with the utmost fidelity, in pursuance of long consultations; and shall venture to add, that our success has not been such as ought to produce any suspicion of negligence or treachery.

That our design against Carthagera was defeated, cannot be denied; but what war has been one continued series of success? In the late war with France, of which the conduct has been so lavishly celebrated, did no designs miscarry? If we conquered at Ramillies, were we not in our turn beaten at Almanza? If we destroyed the French ships, was it not always with some loss of our own? And since the sufferings of our merchants have been mentioned with so much acrimony, do not the lists of the ships taken in that war, prove that the depredations of privateers cannot be entirely prevented?

The disappointment, sir, of the publick expectation by the return of the fleets, has been charged upon the administration, as a crime too enormous to be mentioned without horror and detestation. That the ministry have not the elements in their power, that they do not prescribe the course of the wind, is a sufficient proof of their negligence and weakness: with as much justice is it charged upon them, that the expectations of the populace, which they did not raise, and to which, perhaps, the conquest of a kingdom had not been equal, failed of being gratified.

I am very far from hoping or desiring that the house should be satisfied with a defence like this; I know, by observing the practice of the opponents of the ministry, what fallacy may be concealed in general assertions, and am so far from wishing to evade a more exact inquiry, that if the gentleman who has thus publicly and confidently accused the ministry, will name a day for examining the state of the nation, I will second his motion.

[The address was at length agreed to, without a division.]

Mr. PULTENEY then moved, that the state of the nation should be considered six weeks hence; sir Robert WALPOLE seconded the motion, and it was unanimously agreed, that this house will, on the 21st of next month, resolve itself into a committee of the whole house, to consider of the state of the nation. But when that day came, sir Robert WALPOLE having been able to defeat a motion which was to refer some papers to a secret committee, the consideration of the state of the nation was put off for a fortnight; but on the eve of that day, both houses adjourned for fourteen days, during which, sir Robert WALPOLE resigned his employments of first lord of the treasury, and chancellor and under treasurer of his majesty's exchequer; and was created a peer, by the title of lord WALPOLE, and earl of ORFORD.

HOUSE OF COMMONS, MARCH 9, 1741-2

ON A MOTION FOR INQUIRING INTO THE CONDUCT OF AFFAIRS AT HOME AND ABROAD, DURING THE LAST TWENTY YEARS

Lord LIMERICK rose, and spoke in the following manner:—Sir, as I am about to offer to the house a motion of the highest importance to the honour and happiness of our country, to the preservation of our privileges, and the continuance of our constitution, I make no doubt of a candid attention from this assembly, and hope for such a determination as shall be the result not of external influence, but of real conviction.

I cannot but congratulate myself and all lovers of their country, that we are arrived at a time, in which such hopes may be rationally indulged, that we shall soon see the triumph of liberty, and the renovation of senatorial freedom. It is not without the highest satisfaction, that I find my life protracted to that happy day, in which the yoke of dependence has been shaken off, and the shackles of oppression have been broken; in which truth and justice have once more raised up their heads, and obtained that regard which had so long been paid to splendid wickedness and successful rapine.

The time is now past, in which it was meritorious to harden the heart against pity, and the forehead against shame; to plunder the people by needless taxes, and insult them by displaying their spoils before their eyes, in luxurious riot, and boundless magnificence; when the certain method of obtaining what the greatest part, even of good men, cannot but sometimes wish to acquire, interest, affluence, and honour, was an implicit resignation to authority, a desertion of all principles, defiance of all censure, and an open declaration against any other motives of action, than the sole pleasure of an arbitrary minister.

It is now, sir, no longer considered as an instance of disaffection to the government, to represent the miseries and declare the opinions of the people; to propose their interest as the great basis of government, the general end of society, and the parent of law. It is now no longer criminal to affirm, that they have a right to complain when they are, in their own opinion, injured, and to be heard when they complain. It may now be with safety asserted, that those who swell with the pride of office, and glitter with the magnificence of a court, however they may display their affluence, or boast their titles; with whatever contempt they may have learned of late to look upon their fellow-subjects, who have no possessions but what they have obtained by their industry, nor any honours but what are voluntarily paid to their understanding and their virtue; with whatever authority they may dictate to their dependants, or whatever reverence they may exact from a long subordination of hirelings, are, amidst all their pomp and influence, only the servants of the people, intrusted by them with the administration of their affairs, and accountable to them for the abuse of trust.

That trusts of the highest importance have been long abused, that the servants of the people, having long thought themselves out of the reach of justice, and above examination, have very ill discharged the offices in which they have been engaged, that the publick advantage has been wholly disregarded, that treaties have been concluded without any regard to the interest of Britain, and that our foreign and domestick affairs have been managed with equal ignorance, negligence, or wickedness, the present state of Europe, and the calamities of this country, will sufficiently inform us.

If we survey the condition of foreign nations, we shall find, that the power and dominions of the family of Bourbon, a family which has never had any other designs than the extirpation of true religion, and the universal slavery of mankind, have been daily increased. We shall find that they have increased by the declension of the house of Austria, which treaties and our interest engage us to support.

But had their acquisitions been made only by the force of arms, had they grown stronger only by victories, and more wealthy only by plunder, our ministers might, with some appearance of reason, have imputed their success to accident, and informed us, that we gained, in the mean time, a sufficient counterbalance to those advantages, by an uninterrupted commerce, and by the felicity of peace; peace, which, in every nation, has been found to produce affluence, and of which the wisest men have thought that it could scarcely be too dearly purchased.

But peace has, in this nation, by the wonderful artifices of our ministers, been the parent of poverty and misery; we have been so far from finding our commerce extended by it, that we have enjoyed it only by a contemptible patience of the most open depredations, by a long connivance at piracy, and by a continued submission to insults, which no other nation would have borne.

We have been so far from seeing any part of our taxes remitted, that we have been loaded with more rigorous exactions to support the expenses of peace, than were found necessary to defray the charges of a war against those, whose opulence and power had incited them to aspire to the dominion of the world.

How these taxes have been employed, and why our trade has been neglected, why our allies have been betrayed, and why the ancient enemies of our country have been suffered to grow powerful by our connivances, it is now time to examine; and therefore I move, that a committee be appointed to inquire into the conduct of affairs at home and abroad during the last twenty years.

Sir John ST. AUBIN then spoke as follows:—Sir, I rise up to second this motion; and, as the noble lord has opened it in so full and proper a manner, and as I do not doubt but that other gentlemen are ready to support it, more practised in speaking, of greater abilities and authority than myself, I am the less anxious about the injury it may receive from the part I bear in it. I think the proposition is so evident, that it wants no enforcement; it comes to you from the voice of the nation, which, thank God, has at last found admittance within these walls.

Innocence is of so delicate a nature, that it cannot bear suspicion, and therefore will desire inquiry; because it will always be justified by it. Guilt, from its own consciousness, will use subterfuges, and fly to concealment; and the more righteous and authoritative the inquiry, the more it will be avoided; because the greater will be the dread of punishment.

In private life, I am contented with men's virtues only, without seeking for opportunities of blame. In a publick character, when national grievances cry aloud for inquiry and justice, it is our duty to pursue all the footsteps of guilt; and the loud, the pathetick appeal of my constituents, is more forcibly persuasive than any motive of private tenderness. This appeal is not the clamour of faction, artfully raised to disturb the operation of government, violent for a while, and soon to be appeased. It is the complaint of long and patient sufferings, a complaint not to be silenced; and which all endeavours to suppress it, would only make more importunate and clamorous. It is the solemn appeal of the whole people, of the united body of our constituents, in this time of national calamity, earnestly beseeching you, in a legal parliamentary way, to redress their grievances, to revive your ancient right of inquiry, to explore the most remote and hidden sources of iniquity, to detect the bold authors of their distress, that they may be made examples of national justice.

It is to you they appeal, the true, the genuine representatives of the people. Not like former parliaments, an instrument of state, the property of a minister, purchased by the missionaries of corruption, who have been dispersed through the kingdom, and furnished with the publick money to invade all natural interest, by poisoning the morals of the people. Upon this rotten foundation has been erected a towering fabrick of corruption: a most dangerous conspiracy has been carried on against the very essence of our constitution, a formidable system of ministerial power has been formed, fallaciously assuming, under constitutional appearances, the name of legal government.

In this system we have seen the several offices of administration meanly resolving themselves under the direction and control of one man: while this scheme was pursued, the nation has been ingloriously patient of foreign indignities; our trade has been most shamefully neglected, or basely

betrayed; a war with an impotent enemy, most amply provided for, unsuccessfully carried on; the faith of treaties broke; our natural allies deserted, and weakened even by that power, which we now dread for want of their assistance.

It is not the bare removal from office that will satisfy the nation, especially if such removal is dignified with the highest marks of royal favour. This only gives mankind a reasonable fear that his majesty has rather condescended to the importunities, than adopted the opinion of his people. It is, indeed, a most gracious condescension, a very high instance of his majesty's just intentions to remove any of his servants upon national suspicion; but it will give his majesty a most unfavourable opinion of his people, if he is not satisfied that this suspicion was just. It is the unfortunate situation of arbitrary kings, that they know the sentiments of their people only from whisperers in their closet. Our monarchy has securer establishments. Our sovereign is always sure of knowing the true sense of his people, because he may see it through the proper, the constitutional medium: but then this medium must be pure, it must transmit every object in its real form and its natural colours. This is all that is now contended for. You are called to the exercise of your just right of inquiry, that his majesty may see what reason there is for this general inquietude.

This motion is of a general nature; whom it may more particularly affect, I shall not determine. But there is a great person, lately at the head of the administration, who stands foremost, the principal object of national suspicion. He surely will not decline this inquiry, it is his own proposition; he has frequently, in the name of the whole administration, thrown down his gauntlet here; has desired your inquiries, and has rested his fate on your justice. The nation accepts the challenge, they join issue with him, they are now desirous to bring this great cause in judgment before you.

It must be imputed to the long intermission of this right of inquiry, that the people have now this cause of complaint; had the administration of this great person been submitted to the constitutional controls, had his conduct undergone strict and frequent inquiries, he had parts and abilities to have done great honour and service to this country. But the will, uncontrouled, for ever must and will produce security and wantonness; nor can moderation and despotick power subsist long together.

In vain do we admire the outlines of our constitution, in vain do we boast of those wise and salutary restraints, which our ancestors, at the expense of their blood and treasure, have wisely imposed upon monarchy itself, if it is to be a constitution in theory only, if this evasive doctrine is to be admitted, that a fellow-subject of our own, perhaps of the lowest rank among us, may be delegated by the crown to exercise the administration of government, with absolute, uncontroulable dominion over us; which must be the case, if ministerial conduct is not liable to parliamentary inquiries.

If I did not think this motion agreeable to the rules and proceedings of the senate; if I thought it was meant to introduce any procedure which was not strictly consonant to the laws and constitution of my country, I do most solemnly protest I would be against, it. But as I apprehend it to arise from the nature and spirit of our constitution, as it will defend the innocent, and can be detrimental only to the guilty, I do most heartily second the motion.

The hon. Henry PELHAM opposed the motion to the following effect:—Sir, if it was not daily to be observed, how much the minds of the wisest and most moderate men are elated with success, and how often those, who have been able to surmount the strongest obstacles with unwearied diligence, and to preserve their fortitude unshaken amidst hourly disappointments, have been betrayed by slight advantages into indecent exultations, unreasonable confidence, and chimerical hopes; had I not long remarked the infatuation of prosperity, and the pride of triumph, I should not have heard the motion which has been now made without, astonishment.

It has been long the business or the amusement of the gentlemen, who, having for some time conferred upon themselves the venerable titles of patriots, advocates for the people, and defenders of the constitution, have at length persuaded part of the nation to dignify them with the same appellation, to display in the most pathetick language, and aggravate with the most hyperbolical exaggerations, the wantonness with which the late ministry exercised their power, the exorbitance of their demands,

and the violence of their measures. They have indulged their imaginations, which have always been sufficiently fruitful in satire and invective, by representing them as men in whom all regard to decency or reputation was extinguished, men who no longer submitted to wear the mask of hypocrisy, or thought the esteem of mankind worth their care; who had ceased to profess any regard to the welfare of their country, or any desire of advancing the publick happiness; and who no longer desired any other effects of their power, than the security of themselves and the conquest of their opponents.

Such, sir, has been the character of the ministry, which, by the incessant endeavours of these disinterested patriots, has been carried to the remotest corners of the empire, and disseminated through all the degrees of the people. Every man, whom they could enlist among their pupils, whom they could persuade to see with their eyes, rather than his own, and who was not so stubborn as to require proofs of their assertions, and reasons of their conduct; every man who, having no sentiments of his own, hoped to become important by echoing those of his instructors, was taught to think and to say, that the court was filled with open corruption; that the greatest and the wisest men of the kingdom set themselves publickly to sale, and held an open traffick for votes and places; that whoever engaged in the party of the minister, declared himself ready to support his cause against truth, and reason, and conviction, and was no longer under the restraint of shame or virtue.

These assertions, hardy as they were, they endeavoured to support by instances of measures, which they described as having no other tendency, than to advance the court to absolute authority, to enslave the nation, or to betray it: and more happily would they have propagated their system, and much sooner would they have obtained a general declaration of the people in their favour, had they been able to have produced a motion like this.

Should the influence of these men increase, should they grow secure in the possession of their power, by any new methods of deluding the people, what wonderful expedients, what unheard-of methods of government may not be expected from them? What degrees of violence may they not be supposed to practise, who have flushed their new authority by a motion which was never projected since the first existence of our government, or offered by the most arbitrary minister in all the confidence of an established majority.

It may, perhaps, be imagined by many of those who are unacquainted with senatorial affairs, as many of the members of this house may without any reproach be supposed to be, that I have made use of those arts against the patriots which they have so long practised against the court; that I have exaggerated the enormity of the motion by unjust comparisons, or rhetorical flights; and that there will be neither danger nor inconvenience in complying with it to any but those who have betrayed their trust, or neglected their duty.

I doubt not, but many of those with whom this motion has been concerted, have approved it without seeing all its consequences; and have been betrayed into that approbation by a laudable zeal for their country, and an honest indignation against corruption and treachery, by a virtuous desire of detecting wickedness, and of securing our constitution from any future dangers or attacks.

For the sake, therefore, of these gentlemen, whom I cannot but suppose willing to follow the dictates of their own consciences, and to act upon just motives, I shall endeavour to lay open the nature of this extraordinary motion, and doubt not but that when they find it, as it will unquestionably appear, unreasonable in itself, and dangerous to posterity, they will change their opinion for the same reasons as they embraced it, and prefer the happiness of their country to the prosperity of their party.

Against an inquiry into the conduct of all foreign and domestick affairs for *twenty* years past, it is no weak argument that it is without precedent; that neither the zeal of patriotism, nor the rage of faction, ever produced such a motion in any former age. It cannot be doubted by those who have read our histories, that formerly our country has produced men equally desirous of detecting wickedness, and securing liberty, with those who are now congratulating their constituents on the success of their labours; and that faction has swelled in former times to a height, at which it may reasonably be hoped it will never arrive again, is too evident to be controverted.

What then can we suppose was the reason, that neither indignation, nor integrity, nor resentment, ever before directed a motion like this? Was it not, because it neither will serve the purposes of honesty, nor wickedness; that it would have defeated the designs of good, and betrayed those of bad men; that it would have given patriotism an appearance of faction, rather than have vested faction with the disguise of patriotism.

It cannot be supposed, that the sagacity of these gentlemen, however great, has enabled them to discover a method of proceeding which escaped the penetration of our ancestors, so long celebrated for the strength of their understanding, and the extent of their knowledge. For it is evident, that without any uncommon effort of the intellectual faculties, he that proposes an inquiry for a year past, might have made the same proposal with regard to a longer time; and it is therefore probable, that the limitation of the term is the effect of his knowledge, rather than of his ignorance.

And, indeed, the absurdity of an universal inquiry for twenty years past is such, that no man, whose station has given him opportunities of being acquainted with publick business, could have proposed it, had he not been misled by the vehemence of resentment, or biassed by the secret operation of some motives different from publick good; for it is no less than a proposal for an attempt impossible to be executed, and of which the execution, if it could be effected would be detrimental to the publick.

Were our nation, sir, like some of the inland kingdoms of the continent, or the barbarous empire of Japan, without commerce, without alliances, without taxes, and without competition with other nations; did we depend only on the product of our own soil to support us, and the strength of our own arms to defend us, without any intercourse with distant empire, or any solicitude about foreign affairs, were the same measures uniformly pursued, the government supported by the same revenues, and administered with the same views, it might not be impracticable to examine the conduct of affairs, both foreign and domestick, for twenty years; because every year would afford only a transcript of the accounts of the last.

But how different is the state of Britain, a nation whose traffick is extended over the earth, whose revenues are every year different, or differently applied, which is daily engaging in new treaties of alliance, or forming new regulations of trade with almost every nation, however distant, which has undertaken the arduous and intricate employments of superintending the interests of all foreign empires, and maintaining the equipoise of the French powers, which receives ambassadors from all the neighbouring princes, and extends its regard to the limits of the world.

In such a nation, every year produces negotiations of peace, or preparations for war, new schemes and different measures, by which expenses are sometimes increased, and sometimes retrenched. In such a nation, every thing is in a state of perpetual vicissitude; because its measures are seldom the effects of choice, but of necessity, arising from the change of conduct in other powers.

Nor is the multiplicity and intricacy of our domestick affairs less remarkable or particular. It is too well known that our debts are great, and our taxes numerous; that our funds, appropriated to particular purposes, are at some times deficient, and at others redundant; and that therefore the money arising from the same imposts, is differently applied in different years. To assert that this fluctuation produces intricacy, may be imagined a censure of those to whose care our accounts are committed; but surely it must be owned, that our accounts are made necessarily less uniform and regular, and such as must require a longer time for a complete examination.

Whoever shall set his foot in our offices, and observe the number of papers with which the transactions of the last twenty years have filled them, will not need any arguments against this motion. When he sees the number of writings which such an inquiry will make necessary to be perused, compared, and extracted, the accounts which must be examined and opposed to others, the intelligence from foreign courts which must be considered, and the estimates of domestick expenses which must be discussed; he will own, that whoever is doomed to the task of this inquiry, would be happy in exchanging his condition with that of the miners of America; and that the most resolute

industry, however excited by ambition, or animated by patriotism, must sink under the weight of endless labour.

If it be considered how many are employed in the publick offices, it must be confessed, either that the national treasure is squandered in salaries upon men who have no employment, or that twenty years may be reasonably supposed to produce more papers than a committee can examine; and, indeed, if the committee of inquiry be not more numerous than has ever been appointed, it may be asserted, without exaggeration, that the inquiry into our affairs for twenty years past, will not be accurately performed in less than twenty years to come; in which time those whose conduct is now supposed to have given the chief occasion to this motion, may be expected to be removed for ever from the malice of calumny, and the rage of persecution.

But if it should be imagined by those who, having never been engaged in publick affairs, cannot properly judge of their intricacy and extent, that such an inquiry is in reality so far from being impossible, that it is only the work of a few months, and that the labour of it will be amply recompensed by the discoveries which it will produce, let them but so long suspend the gratification of their curiosity, as to consider the nature of that demand by which they are about to satisfy it. A demand, by which nothing less is required than that all the secrets of our government should be made publick.

It is known in general to every man, whose employment or amusement it has been to consider the state of the French kingdoms, that the last twenty years have been a time not of war, but of negotiations; a period crowned with projects, and machinations often more dangerous than violence and invasions; and that these projects have been counteracted by opposite schemes, that treaties have been defeated by treaties, and one alliance overbalanced by another.

Such a train of transactions, in which almost every court of France has been engaged, must have given occasion to many private conferences, and secret negotiations; many designs must have been discovered by informers who gave their intelligence at the hazard of their lives, and been defeated, sometimes by secret stipulations, and sometimes by a judicious distribution of money to those who presided in senates or councils.

Every man must immediately be convinced, that by the inquiry now proposed, all these secrets will be brought to light; that one prince will be informed of the treachery of his servants, and another see his own cowardice or venality exposed to the world. It is plain, that the channels of intelligence will be for ever stopped, and that no prince will enter into private treaties with a monarch who is denied by the constitution of his empire, the privilege of concealing his own measures. It is evident, that our enemies may hereafter plot our ruin in full security, and that our allies will no longer treat us with confidence.

Since, therefore, the inquiry now demanded is impossible, the motion ought to be rejected, as it can have no other tendency than to expose the senate and the nation to ridicule; and since, if it could be performed, it would produce consequences fatal to our government, as it would expose our most secret measures to our enemies, and weaken the confidence of our allies. I hope every man who regards either his own reputation, or that of the senate, or professes any solicitude for the publick good, will oppose the motion.

Lord QUARENDON spoke to this effect:—Sir, I am always inclined to suspect a man who endeavours rather to terrify than persuade. Exaggerations and hyperboles are seldom made use of by him who has any real arguments to produce. The reasonableness of this motion (of which I was convinced when I first heard it, and of which, I believe, no man can doubt who is not afraid of the inquiry proposed by it) is now, in my opinion, evinced by, the weak opposition which has been made by the honourable gentleman, to whose abilities I cannot deny this attestation, that the cause which he cannot defend, has very little to hope from any other advocate.

And surely he cannot, even by those who, whenever he speaks, stand prepared to applaud him, be thought to have produced any formidable argument against the inquiry, who has advanced little more than that it is impossible to be performed.

Impossibility is a formidable sound to ignorance and cowardice; but experience has often discovered, that it is only a sound uttered by those who have nothing else to say; and courage readily surmounts those obstacles that sink the lazy and timorous into despair.

That there are, indeed, impossibilities in nature, cannot be denied. There may be schemes formed which no wise man will attempt to execute, because he will know that they cannot succeed; but, surely, the examination of arithmetical deductions, or the consideration of treaties and conferences, cannot be admitted into the number of impossible designs; unless, as it may sometimes happen, the treaties and calculations are unintelligible.

The only difficulty that can arise, must be produced by the confusion and perplexity of our publick transactions, the inconsistency of our treaties, and the fallaciousness of our estimates; but I hope no man will urge these as arguments against the motion. An inquiry ought to be promoted, that confusion may be reduced to order, and that the distribution of the publick money may be regulated. If the examination be difficult, it ought to be speedily performed, because those difficulties are daily increasing; if it be impossible, it ought to be attempted, that those methods of forming calculations may be changed, which make them impossible to be examined.

Mr. FOWKES replied in the manner following:—Sir, to treat with contempt those arguments which cannot readily be answered, is the common practice of disputants; but as it is contrary to that candour and ingenuity which is inseparable from zeal for justice and love of truth, it always raises a suspicion of private views, and of designs, which, however they may be concealed by specious appearances, and vehement professions of integrity and sincerity, tend in reality to the promotion of some secret interest, or the gratification of some darling passion. It is reasonable to imagine, that he, who in the examination of publick questions, calls in the assistance of artifice and sophistry, is actuated rather by the rage of persecution, than the ardour of patriotism; that he is pursuing an enemy, rather than detecting a criminal; and that he declaims against the abuse of power in another, only that he may more easily obtain it himself.

In senatorial debates, I have often known this method of easy confutation practised, sometimes with more success, and sometimes with less. I have often known ridicule of use, when reason has been baffled, and seen those affect to despise their opponents, who have been able to produce nothing against them but artful allusions to past debates, satirical insinuations of dependence, or hardy assertions unsupported by proofs. By these arts I have known the young and unexperienced kept in suspense; I have seen the cautious and diffident taught to doubt of the plainest truths; and the bold and sanguine persuaded to join in the cry, and hunt down reason, after the example of their leaders.

But a bolder attempt to disarm argument of its force, and to perplex the understanding, has not often been made, than this which I am now endeavouring to oppose. A motion has been made and seconded for an inquiry, to which it is objected, not that it is illegal, not that it is inconvenient, not that it is unnecessary, but that it is *impossible*. An objection more formidable cannot, in my opinion, easily be made; nor can it be imagined that those men would think any other worthy of an attentive examination, who can pass over this as below their regard; yet even this has produced no answer, but contemptuous raillery, and violent exclamation.

What arguments these gentlemen require, it is not easy to conjecture; or how those who disapprove their measures, may with any hope of success dispute against them. Those impetuous spirits that break so easily through the bars of impossibility, will scarcely suffer their career to be stopped by any other restraint; and it may be reasonably feared, that arguments from justice, or law, or policy, will have little force upon these daring minds, who in the transports of their newly acquired victory, trample impossibility under their feet, and imagine that to those who have vanquished the ministry, every thing is practicable.

That this inquiry would be the work of years; that it will employ greater numbers than were ever deputed by this house on such an occasion before; that it would deprive the nation of the counsels of the wisest and most experienced members of this house, (for such only ought to be chosen,) at a time when all Europe is in arms, when our allies are threatened not only with subjection, but annihilation; when the French are reviving their ancient schemes, and projecting the conquest of the continent; and that it will, therefore, interrupt our attention to more important affairs, and disable us from rescuing our confederates, is incontestably evident; nor can the wisest or the most experienced determine how far its consequences may extend, or inform us, whether it may not expose our commerce to be destroyed by the Spaniards, and the liberties of all the nations round us to be infringed by the French; whether it may not terminate in the loss of our independence, and the destruction of our religion.

Such are the effects which may be expected from an attempt to make the inquiry proposed; effects, to which no proportionate advantages can be expected from it, since it has been already shown, that it can never be completed; and to which, though the indefatigable industry of curiosity or malice should at length break through all obstacles, and lay all the transactions of twenty years open to the world, no discoveries would be equivalent.

That any real discoveries of misconduct would be made, that the interest of our country would be found ever to have been lazily neglected, or treacherously betrayed, that any of our rights have been either yielded by cowardice, or sold by avarice, or that our enemies have gained any advantage over us by the connivance or ignorance of our ministers, I am indeed very far from believing; but as I am now endeavouring to convince those of the impropriety of this motion, who have long declared themselves of a different opinion, it may not be improper to ask, what advantage they propose by detecting errors of twenty years, which are now irretrievable; of inquiring into fraudulent practices, of which the authors and the agents are now probably in their graves; and exposing measures, of which all the inconveniencies have been already felt, and which have now ceased to affect us.

If it be wise to neglect our present interest for the sake of inquiring into past miscarriages, and the inquiry now proposed be in itself possible, I have no objections to the present motion; but as I think the confused state of Europe demands our utmost attention, and the prosecution of the war against Spain is in itself of far more importance than the examination of all past transactions, I cannot but think, that the duty which I owe to my country requires that I should declare myself unwilling to concur in any proposal, that may unnecessarily divert our thoughts or distract our councils.

Lord PERCIVAL then rose and spoke to the following purpose:—Sir, to discourage good designs by representations of the danger of attempting, and the difficulty of executing them, has been, at all times, the practice of those whose interest has been threatened by them. A pirate never fails to intimidate his pursuers by exaggerating the number and resolution of his crew, the strength of his vessels, and the security of his retreats. A cheat discourages a prosecution by dwelling upon his knowledge of all the arts and subterfuges of the law, the steadiness of his witnesses, and the experience of his agents.

To raise false terrors by artful appearances is part of the art of war, nor can the general be denied praise, who by an artful disposition of a small body, discourages those enemies from attacking him by whom he would certainly be overcome; but then, surely the appearance ought to be such as may reasonably be expected to deceive; for a stratagem too gross only produces contempt and confidence, and adds the vexation of being ridiculous to the calamity of being defeated.

Whether this will be the fate of the advocates for the ministry, I am not able to determine; but surely they have forgot the resolution with which their enemies bore up for many years against their superiority, and the conduct by which at last they defeated the united influence of power and money; if they hope to discourage them from an attack, by representing the bulk and strength of their paper fortifications. They have lost all memory of the excise and the convention, who can believe their eloquence sufficiently powerful to evince, that the inquiry now proposed ought to be numbered among impossibilities.

Whoever, sir, is acquainted with their methods of negotiation, will, indeed, easily believe the papers sufficiently numerous, and the task of examining them such as no man would willingly undertake; for it does not appear for what end the immense sums which late senates have granted, were expended, except for the payment of secretaries, and ministers, and couriers. But whatever care has been employed to perplex every transaction with useless circumstances, and to crowd every office with needless papers, it will be long before they convince us, that it is impossible to examine them. They may, doubtless, be in time perused, though, perhaps, they can never be understood.

The utmost inconvenience, sir, that can be feared, is the necessity of engaging a greater number of hands than on former occasions; and it will be no disagreeable method to the publick, if we employ some of the clerks which have been retained only for the sake of gratifying the leaders of boroughs, or advancing the distant relations of the defenders of the ministry, in unravelling those proceedings which they have been hitherto hired only to embarrass, and in detecting some of those abuses to which the will of their masters has made them instrumental; that they may at last deserve, in some degree, the salaries which they have enjoyed, may requite the publick for their part of its spoils, by contributing to the punishment of the principal plunderers, and leave their offices, of which I hope the number will be quickly diminished, with the satisfaction of having deserved at last the thanks of their country.

By this expedient, sir, the inquiry will be made at least possible, and I hope, though it should still remain difficult, those who have so long struggled for the preservation of their country, and who have at last seen their labours rewarded with success, will not be discouraged from pursuing it.

The necessity of such an inquiry will grow every day more urgent; because wicked men will be hardened in confidence of impunity, and the difficulty, such as it is, will be increased by every delay; for what now makes an inquiry difficult, or in the style of these mighty politicians impossible, but the length of time that has elapsed since the last exertion of this right of the senate, and the multitude of transactions which are necessarily to be examined?

What is this year an irksome and tedious task, will in another year require still more patience and labour; and though I cannot believe that it will ever become impossible, it will undoubtedly in time be sufficient to weary the most active industry, and to discourage the most ardent zeal.

The chief argument, therefore, that has been hitherto employed to discourage us from an inquiry, ought rather, in my opinion, to incite us to it. We ought to remember, that while the enemies of our country are fortifying themselves behind an endless multiplicity of negotiations and accounts, every day adds new strength to their intrenchments, and that we ought to force them while they are yet unable to resist or escape us.

Sir William YONGE then spoke to the following effect:—Sir, however I may be convinced in my own opinion of the impracticability of the inquiry now proposed, whatever confidence I may repose in the extensive knowledge and long experience of those, by whom it has been openly pronounced not only difficult but impossible, I think there are arguments against the motion, which though, perhaps, not stronger in themselves, (for what objection can be stronger than impossibility,) ought at least more powerfully to incite us to oppose it.

Of the impossibility of executing this inquiry, those who have proposed it well deserve to be convinced, not by arguments but experience; they deserve not to be diverted by persuasions from engaging in a task, which they have voluntarily determined to undergo; a task, which neither honour, nor virtue, nor necessity has imposed upon them, and to which it may justly be suspected, that they would not have submitted upon any other motives, than those by which their conduct has hitherto been generally directed, ambition and resentment.

Men who, upon such principles, condemn themselves to labours which they cannot support, surely deserve to perish in the execution of their own projects, to be overwhelmed by the burdens which they have laid upon themselves, and to suffer the disgrace which always attends the undertakers

of impossibilities; and from which the powers of raillery and ridicule, which they have so successfully displayed on this occasion, will not be sufficient to defend them.

They have, indeed, sir, with great copiousness of language, and great fertility of imagination, shown the weakness of supposing this inquiry impossible; they have proposed a method of performing it, which they hope will at once confute and irritate their opponents; but all their raillery and all their arguments have in reality been thrown away upon an attempt to confute what never was advanced. They have first mistaken the assertion which they oppose, and then exposed its absurdity; they have introduced a bugbear, and then attempted to signalize their courage and their abilities, by showing that it cannot fright them.

The honourable gentleman, sir, who first mentioned to you the impossibility of this inquiry, spoke only according to the common acceptation of words, and was far from intending to imply natural and philosophical impossibility. He was far from intending to insinuate, that to examine any series of transactions, or peruse any number of papers, implied an absurdity, or contrariety to the established order of nature; he did not intend to rank this design with those of building in the air, or pumping out the ocean; he intended only to assert a moral or popular impossibility, to show that the scheme was not practicable but by greater numbers than could be conveniently employed upon it, or in a longer space of time than it was rational to assign to it; as we say it is impossible to raise groves upon rocks, or build cities in deserts; by which we mean only to imply, that there is no proportion between the importance of the effect, and the force of the causes which must operate to produce it; that the toil will be great, and the advantage little.

In this sense, sir, and nothing but malice or perverseness could have discovered any other, the motion may be truly said to be impossible; but its impossibility ought to be rather the care of those who make, than of those that oppose it; and, therefore, I shall lay before the house other reasons, which, unless they can be answered, will determine me to vote against it.

It cannot be doubted, but the papers which must on this occasion be examined, contain a great number of private transactions, which the interest of the nation, and the honour of our sovereign require to be concealed. The system of policy which the French have, within the last century, introduced into the world, has made negotiation more necessary than in any preceding time. What was formerly performed by fleets and armies, by invasions, sieges, and battles, has been of late accomplished by more silent methods. Empires have been enlarged without bloodshed, and nations reduced to distress without the ravages of hostile armies, by the diminution of their commerce, and the alienation of their allies.

For this reason, sir, it has been necessary frequently to engage in private treaties, to obviate designs sometimes justly, and at other times, perhaps, unreasonably suspected. It has been proper to act upon remote suppositions, and to conclude alliances which were only to be publicly owned, in consequence of measures taken by some other powers, which measures were sometimes laid aside, and the treaty, therefore, was without effect. In some of these provisional contracts, it is easy to conceive, that designs were formed not to the advantage of some powers, whom yet we do not treat as enemies, which were only to be made publick by the execution of them: in others, perhaps, some concessions were made to us, in consideration of the assistance that we promised, by which the weakness of our allies may be discovered, and which we cannot disclose without making their enemies more insolent, and increasing that danger from which they apply to us for security and protection.

If to this representation of the nature of the papers, with which our offices have been filled by the negotiations of the last twenty years, any thing were necessary to be added, it may be farther alleged, that it has long been the practice of every nation on this side of the globe, to procure private intelligence of the designs and expectations of the neighbouring powers, to penetrate into the councils of princes and the closets of ministers, to discover the instructions of ambassadours, and the orders of generals, to learn the intention of fleets before they are equipped, and of armies before they are

levied, and to provide not only against immediate and visible hostilities, but to obviate remote and probable dangers.

It need not be declared in this assembly, that this cannot always be done without employing men who abuse the confidence reposed in them, a practice on which I shall not at this time trouble the house with my opinion, nor interrupt the present debate, by any attempt to justify or condemn it. This, I think, may be very reasonably alleged; that whether the employment of such persons be defensible by the reciprocal practice of nations, or not, it becomes at least those that corrupt them and pay them for their treachery, not to expose them to vengeance, to torture, or to ruin; not to betray those crimes which they have hired them to commit, or give them up to punishment, to which they have made themselves liable only by their instigation, and for their advantage.

That private compacts between nations and sovereigns ought to be kept inviolably secret, cannot be doubted by any man who considers, that secrecy is one of the conditions of those treaties, without which they had not been concluded; and, therefore, that to discover them is to violate them, to break down the securities of human society, to destroy mutual trust, and introduce into the world universal confusion. For nothing less can be produced by a disregard of those ties which link nations in confederacies, and produce confidence and security, and which enable the weak, by union, to resist the attacks of powerful ambition.

How much it would injure the honour of our sovereign to be charged with the dissolution of concord, and the subversion of the general bulwarks of publick faith, it is superfluous to explain. To know the condition to which a compliance with this motion would reduce the British nation, we need only turn our eyes downwards upon the hourly scenes of common life; we need only attend to the occurrences which crowd perpetually upon our view, and consider the calamitous state of that man, of whom it is generally known that he cannot be trusted, and that secrets communicated to him are in reality scattered among mankind.

Every one knows that such a man can expect none of the advantages or pleasures of friendship, that he cannot transact affairs with others upon terms of equality, that he must purchase the favours of those that are more powerful than himself, and frighten those into compliance with his designs who have any thing to fear from him; that he must give uncommon security for the performance of his covenants, that he can have no influence but that of money, which will probably become every day less, that his success will multiply his enemies, and that in misfortunes he will be without refuge.

The condition of nations collectively considered is not different from that of private men, their prosperity is produced by the same conduct, and their calamities drawn upon them by the same errors, negligences, or crimes; and therefore, since he that betrays secrets in private life, indisputably forfeits his claim to trust, and since he that can be no longer trusted is on the brink of ruin, I cannot but conclude that, as by this motion all the secrets of our government must be inevitably betrayed, my duty to his majesty, my love of my country, and my obligations to discharge with fidelity the trust which my constituents have conferred upon me, oblige me to oppose it.

Mr. LITTLETON then rose, and spoke to this effect:—Sir, it always portends well to those who dispute on the side of truth and reason, when their opponents appear not wholly to be hardened against the force of argument, when they seem desirous to gain the victory, not by superiority of numbers but of reason, and attempt rather to convince, than to terrify or bribe. For though men are not in quest of truth themselves, nor desirous to point it out to others; yet, while they are obliged to speak with an appearance of sincerity, they must necessarily afford the unprejudiced and attentive an opportunity of discovering the right. While they think themselves under a necessity of reasoning, they cannot but show the force of a just argument, by the unsuccessfulness of their endeavours to confute it, and the propriety of an useful and salutary motion, by the slight objections which they raise against it. They cannot but find themselves sometimes forced to discover what they can never be expected to acknowledge, the weakness of their own reasons, by deserting them when they are pressed with contrary assertions, and seeking a subterfuge in new arguments equally inconclusive and

contemptible. They show the superiority of their opponents, like other troops, by retreating before them, and forming one fortification behind another, in hopes of wearying those whom they cannot hope to repulse.

Of this conduct we have had already an instance in the present debate; a debate managed with such vigour, order, and resolution, as sufficiently shows the advantage of regular discipline long continued, and proves, that troops may retain their skill and spirit, even when they are deprived of that leader, to whose instructions and example they were indebted for them. When first this motion was offered, it seems to have been their chief hope to divert us from it by outcries of impossibility, by representing it as the demand of men unacquainted with the state of our offices, or the multiplicity of transactions, in which the indefatigable industry of our ministers has been employed; and they have therefore endeavoured to persuade us, that they are only discouraging us from an insuperable labour, and advising us to desist from measures which we cannot live to accomplish.

But when they found, sir, that their exaggerations produced merriment instead of terrour, that their opponents were determined to try their strength against impossibility, that they were resolved to launch out into this boundless ocean of inquiry; an ocean of which they have been boldly told, that it has neither shore nor bottom, and that whoever ventures into it must be tost about for life; when they discovered that this was not able to shake our resolution, or move us to any other disposition, they thought it proper to explain away their assertion of impossibility, by making a kind of distinction between things impossible, and things which cannot be performed; and finding it necessary to enlarge their plea, they have now asserted, that this inquiry is both impossible and inexpedient.

Its impossibility, sir, has been already sufficiently discussed, and shown to mean only a difficulty which the unskilfulness of our ministers has produced; for transactions can only produce difficulties to the inquirer, when they are confused; and confusion can only be the effect of ignorance or neglect.

Artifice is, indeed, one more source of perplexity: it is the interest of that man whose cause is bad to speak unintelligibly in the defence of it, and of him whose actions cannot bear to be examined, to hide them in disorder, to engage his pursuers in a labyrinth, that they may not trace his steps and discover his retreat; and what intricacies may be produced by fraud cooperating with subtilty, it is not possible to tell.

I do not, however, believe, that all the art of wickedness can elude the inquiries of a British senate, quickened by zeal for the publick happiness. The sagacity of our predecessors has often detected crimes concealed with more policy than can be ascribed to those whose conduct is now to be examined, and dragged the authors of national calamities to punishment from their darkest retreats. The expediency, therefore, of this motion, is now to be considered, and surely it will not require long reflection to prove that it is proper, when the nation is oppressed with calamities, to inquire by what misconduct they were brought upon it; when immense sums have been raised by the most oppressive methods of exaction, to ask why they were demanded, and how they were expended; when penal laws have been partially executed, to examine by what authority they were suspended, and by what they were enforced; and when the senate has for twenty years implicitly obeyed the direction of one man, when it has been known throughout the nation, before any question was proposed, how it would be decided, to search out the motive of that regular compliance, and to examine whether the minister was revered for his wisdom and virtue, or feared for his power, or courted for the publick money; whether he owed his prevalence to the confidence or corruption of his followers?

It cannot surely be thought inexpedient, to inquire into the reasons for which our merchants were for many years suffered to be plundered, or for which a war, solicited by the general voice of the whole nation, was delayed; into the reasons for which our fleets were fitted out only to coast upon the ocean, and connive at the departure of squadrons and the transportation of armies, to suffer our allies to be invaded, and our traders ruined and enslaved.

It is, in my opinion, convenient to examine with the utmost rigour, why time was granted to our enemies to fortify themselves against us, while a standing army preyed upon our people? Why forces unacquainted with the use of arms were sent against them, under the command of leaders equally ignorant? And why we have suffered their privateers in the mean time to rove at large over the ocean, and insult us upon our own coasts? Why we did not rescue our sailors from captivity, when opportunities of exchange were in our power? And why we robbed our merchants of their crews by rigorous impresses, without employing them either to guard our trade, or subdue our enemies?

If the senate is not to be suffered to inquire into affairs like these, it is no longer any security to the people, that they have the right of electing representatives; and unless they may carry their inquiries back as far as they shall think it necessary, the most acute sagacity may be easily eluded; causes may be very remote from their consequences, the original motives of a long train of wicked measures may lie hid in some private transaction of former years, and those advantages which our enemies have been of late suffered to obtain, were perhaps sold them at some forgotten congress by some secret article.

Such are, probably, the private transactions which the honourable gentleman is so much afraid of exposing to the light; transactions in which the interest of this nation has been meanly yielded up by cowardice, or sold by treachery; in which Britain has been considered as a province subordinate to some other country, or in which the minister has enriched himself by the sacrifice of the publick rights.

It has been, indeed, alleged with some degree of candour, that many of our treaties were provisions against invasions which perhaps were never intended, and calculated to defeat measures which only our own cowardice disposed us to fear. That such treaties have, indeed, been made, Hanover is a sufficient witness; but however frequently they may occur, they may surely be discovered with very little disadvantage to the nation; they will prove only the weakness of those that made them, who were at one time intimidated by chimerical terrors, and at another, lulled into confidence by airy security.

The concessions from foreign powers, which have been likewise mentioned, ought surely not to be produced as arguments against the motion; for what could more excite the curiosity of the nation, if, indeed, this motion were in reality produced by malevolence or resentment; if none were expected to concur in it but those who envied the abilities, or had felt the power of the late minister, it might be, perhaps, defeated by such insinuations; for nothing could more certainly regain his reputation, or exalt him to more absolute authority, than proofs that he had obtained for us any concessions from foreign powers.

If any advantageous terms have been granted us, he must be confessed to have so far discharged his trust to his allies, that he has kept them with the utmost caution from the knowledge of the people, who have heard, during all his administration, of nothing but subsidies, submission, and compliances paid to almost every prince on the continent who has had the confidence to demand them; and if by this inquiry any discovery to the disadvantage of our allies should be struck out, he may with great sincerity allege, that it was made without his consent.

Another objection to this inquiry is, that the spies which are retained in foreign courts may be detected by it, that the canals of our intelligence will be for ever stopped, and that we shall henceforth have no knowledge of the designs of foreign powers, but what may be honestly attained by penetration and experience. Spies are, indeed, a generation for whose security I have not much regard, but for whom I am on this occasion less solicitous, as I believe very few of them will be affected by this motion.

The conduct of our ministers has never discovered such an acquaintance with the designs of neighbouring princes, as could be suspected to be obtained by any uncommon methods, or they have very little improved the opportunities which early information put into their power; for they have always been baffled and deceived. Either they have employed no spies, or their spies have been

directed to elude them by false intelligence, or true intelligence has been of no use; and if any of these assertions be true, the publick will not suffer by the motion.

It was justly observed, by the honourable gentleman, that a parallel may be properly drawn between a nation and a private man, and, by consequence, between a trading nation and a trader. Let us, therefore, consider what must be the state of that trader who shall never inspect or state his accounts, who shall suffer his servants to traffick in the dark with his stock, and on his credit, and who shall permit them to transact bargains in his name, without inquiring whether they are advantageous, or whether they are performed.

Every man immediately marks out a trader thus infatuated, as on the brink of bankruptcy and ruin; every one will easily foresee, that his servants will take advantage of his credulity, and proceed hourly to grosser frauds; that they will grow rich by betraying his interest, that they will neglect his affairs to promote their own, that they will plunder him till he has nothing left, and seek then for employment among those to whom they have recommended themselves by selling their trust. His neighbours, who easily foresee his approaching misery, retire from him by degrees, disunite their business from his, and leave him to fall, without involving others in his ruin.

Such must be the fate of a trader whom idleness, or a blind confidence in the integrity of others, hinders from attending to his own affairs, unless he rouses from his slumber, and recovers from his infatuation. And what is to be done by the man who, having for more than twenty years neglected so necessary an employment, finds, what must necessarily be found in much less time, his accounts perplexed, his credit depressed, and his affairs disordered? What remains, but that he suffer that disorder to proceed no farther, that he resolutely examine all the transactions which he has hitherto overlooked, that he repair those errors which are yet retrievable, and reduce his trade into method; that he doom those servants, by whom he has been robbed or deceived, to the punishment which they deserve, and recover from them that wealth which they have accumulated by rapacity and fraud.

By this method only can the credit of the trader or the nation be repaired, and this is the method which the motion recommends; a motion with which, therefore, every man may be expected to comply, who desires that his country should once more recover its influence and power, who wishes to see Britain again courted and feared, and her monarch considered as the arbiter of the world, the protector of the true religion, and the defender of the liberties of mankind.

Mr. PHILLIPS spoke in substance as follows:—Sir, I am so far from believing that there is danger of exposing the spies of the government to the resentment of foreign princes, by complying with this motion, that I suspect the opposition to be produced chiefly from a consciousness, that no spies will be discovered to have been employed, and that the secret service for which such large sums have been required, will appear to have been rather for the service of domestick than of foreign traitors, and to have been performed rather in this house than in foreign courts.

Secret service has been long a term of great use to the ministers of this nation; a term of art to which such uncommon efficacy has been hitherto annexed, that the people have been influenced by it to pay taxes, without expecting to be informed how they were applied, having been content with being told, when they inquired after their properties, that they were exhausted and dissipated in secret service.

Secret service I conceive to have originally implied transactions, of which the agents were secret, though the effects were visible. When MARLBOROUGH defeated the French, when he counteracted all their stratagems, obviated all their designs, and deceived all their expectations, he charged the nation with large sums for secret service, which were, indeed, cheerfully allowed, because the importance and reality of the service were apparent from its effects. But what advantages can our ministers boast of having obtained in twenty years by the means of their intelligence? Or by whom have they, within that period, not been deceived by false appearances? When we purchase secret service at so dear a rate, let it appear that we really obtain what we pay for, though the means by which it is obtained are kept impenetrably secret. Wherever the usefulness of the intelligence is

not discoverable, it is surely just to inquire, whether our money is not demanded for other purposes, whether we are not in reality hiring with our own money armies to enslave, or senators to betray us; or enriching an avaricious minister, while we imagine ourselves contributing to the publick security?

Colonel CHOLMONDELEY replied to the following effect:—Sir, it has been in all foregoing ages the custom for men to speak of the government with reverence, even when they opposed its measures, or projected its dissolution; nor has it been thought, in any time before our own, decent or senatorial, to give way to satire or invective, or indulge a petulant imagination, to endeavour to level all orders by contemptuous reflections, or to court the populace, by echoing their language, or adopting their sentiments.

This method of gaining the reputation of patriotism, has been unknown till the present age, and reserved for the present leaders of the people, who will have the honour to stand recorded as the original authors of anarchy, the great subverters of order, and the first men who dared to pronounce, that all the secrets of government ought to be made publick.

It has been hitherto understood in all nations, that those who were intrusted with authority, had likewise a claim to respect and confidence; that they were chosen for the superiority of their abilities, or the reputation of their virtue; and that, therefore, it was reasonable to consign to their management, the direction of such affairs as by their own nature require secrecy.

But this ancient doctrine, by which subordination has been so long preserved, is now to be set aside for new principles, which may flatter the pride, and incite the passions of the people; we are now to be told, that affairs are only kept secret, because they will not bear examination; that men conceal not those transactions in which they have succeeded, but those in which they have failed; that they are only inclined to hide their follies or their crimes, and that to examine their conduct in the most open manner, is only to secure the interest of the publick.

Thus has the nation been taught to expect, that the counsels of the cabinet should be dispersed in the publick papers; that their governours should declare the motives of their measures, and discover the demands of our allies, and the scheme of our policy; and that the people should be consulted upon every emergence, and enjoy the right of instructing not only their own representatives, but the ministers of the crown.

In this debate, the mention of secret treaties has been received with contempt and ridicule; the ministers have been upbraided with chimerical fears, and unnecessary provisions against attacks which never were designed; they have been alleged to have no other interest in view than their own, when they endeavour to mislead inquirers, and to have in reality nothing to keep from publick view but their own ignorance or wickedness.

It cannot surely be seriously asserted by men of knowledge and experience, that there are no designs formed by wise governments, of which the success depends upon secrecy; nor can it be asserted, that the inquiry now proposed will betray nothing from which our enemies may receive advantage.

If we should suppose, that all our schemes are either fully accomplished, or irretrievably defeated, it will not even then be prudent to discover them, since they will enable our enemies to form conjectures of the future from the past, and to obviate, hereafter, the same designs, when it shall be thought necessary to resume them.

But, in reality, nothing is more irrational than to suppose this a safer time than any other for such general discoveries; for why should it be imagined, that our engagements are not still depending, and our treaties yet in force? And what can be more dishonourable or imprudent, than to destroy at once the whole scheme of foreign policy, to dissolve our alliances, and destroy the effects of such long and such expensive negotiations, without first examining whether they will be beneficial or detrimental to us?

Nor is it only with respect to foreign affairs that secrecy is necessary; there are, undoubtedly, many domestick transactions which it is not proper to communicate to the whole nation. There is still a

faction among us, which openly desires the subversion of our present establishment; a faction, indeed, not powerful, and which grows, I hope, every day weaker, but which is favoured, or at least imagines itself favoured, by those who have so long distinguished themselves by opposing the measures of the government. Against these men, whose hopes are revived by every commotion, who studiously heighten every subject of discontent, and add their outcries to every clamour, it is not doubted but measures are formed, by which their designs are discovered, and their measures broken; nor can it be supposed, that this is done without the assistance of some who are received with confidence amongst them, and who probably pass for the most zealous of their party.

Many other domestick occasions of expense might be mentioned; of expense which operates in private, and produces benefits which are only not acknowledged, because they are not known, but which could no longer be applied to the same useful purposes, if the channels through which it passes were laid open. I cannot, therefore, forbear to offer my opinion, that this motion, by which all the secrets of our government will be discovered, will tend to the confusion of the present system of Europe, to the absolute ruin of our interest in foreign courts, and to the embarrassment of our domestick affairs. I cannot, therefore, conceive how any advantages can be expected by the most eager persecutors of the late ministry, which can, even in their opinion, deserve to be purchased at so dear a rate.

Mr. PITT then spoke to the following purpose:—Sir, I know not by what fatality the adversaries of the motion are impelled to assist their adversaries, and contribute to their own overthrow, by suggesting, whenever they attempt to oppose it, new arguments against themselves.

It has been long observed, that when men are drawing near to destruction, they are apparently deprived of their understanding, and contribute by their own folly to those calamities with which they are threatened, but which might, by a different conduct, be sometimes delayed. This has surely now happened to the veteran advocates for an absolute and unaccountable ministry, who have discovered on this occasion, by the weakness of their resistance, that their abilities are declining; and I cannot but hope, that the omen will be fulfilled, and that their infatuation will be quickly followed by their ruin.

To touch in this debate on our domestick affairs, to mention the distribution of the publick money, and to discover their fears, lest the ways in which it has been disbursed, should by this inquiry be discovered; to recall to the minds of their opponents the immense sums which have been annually demanded, and of which no account has been yet given, is surely the lowest degree of weakness and imprudence.

I am so far from being convinced that any danger can arise from this inquiry, that I believe the nation can only be injured by a long neglect of such examinations; and that a minister is easily formidable, when he has exempted himself by a kind of prescription from exposing his accounts, and has long had an opportunity of employing the publick money in multiplying his dependants, enriching his hirelings, enslaving boroughs, and corrupting senates.

That those have been, in reality, the purposes for which the taxes of many years have been squandered, is sufficiently apparent without an inquiry. We have wasted sums with which the French, in pursuance of their new scheme of increasing their influence, would have been able to purchase the submission of half the nations of the earth, and with which the monarchs of Europe might have been held dependant on a nod; these they have wasted only to sink our country into disgrace, to heighten the spirit of impotent enemies, to destroy our commerce, and distress our colonies. We have patiently suffered, during a peace of twenty years, those taxes to be extorted from us, by which a war might have been supported against the most powerful nation, and have seen them ingulfed in the boundless expenses of the government, without being able to discover any other effect from them than the establishment of ministerial tyranny.

There has, indeed, been among the followers of the court a regular subordination, and exact obedience; nor has any man been found hardy enough to reject the dictates of the grand vizier. Every man who has received his pay, has with great cheerfulness complied with his commands; and every

man who has held any post or office under the crown, has evidently considered himself as enlisted by the minister.

But the visible influence of places, however destructive to the constitution, is not the chief motive of an inquiry; an inquiry implies something secret, and is intended to discover the private methods of extending dependence, and propagating corruption; the methods by which the people have been influenced to choose those men for representatives whose principles they detest, and whose conduct they condemn; and by which those whom their country has chosen for the guardians of its liberties, have been induced to support, in this house, measures, which in every other place they have made no scruple to censure.

When we shall examine the distribution of the publick treasure, when we shall inquire by what conduct we have been debarred from the honours of war, and at the same time deprived of the blessings of peace, to what causes it is to be imputed, that our debts have continued during the long-continued tranquillity of Europe, nearly in the state to which they were raised by fighting, at our own expense, the general quarrel of mankind; and why the sinking fund, a kind of inviolable deposit appropriated to the payment of our creditors, and the mitigation of our taxes, has been from year to year diverted to very different uses; we shall find that our treasure has been exhausted, not to humble foreign enemies, or obviate domestick insurrections; not to support our allies, or suppress our factions; but for ends which no man, who feels the love of his country yet unextinguished, can name without horror, the purchase of alliances, and the hire of votes, the corruption of the people, and the exaltation of France.

Such are the discoveries which I am not afraid to declare that I expect from the inquiry, and therefore, I cannot but think it necessary. If those to whom the administration of affairs has been for twenty years committed, have betrayed their trust, if they have invaded the publick rights with the publick treasure, and made use of the dignities which their country has conferred upon them, only to enslave it, who will not confess, that they ought to be delivered up to speedy justice? That they ought to be set as landmarks to posterity, to warn those who shall hereafter launch out on the ocean of affluence and power, not to be too confident of a prosperous gale, but to remember, that there are rocks on which whoever rushes must inevitably perish? If they are innocent, and far be it from me to declare them guilty without examination, whom will this inquiry injure? Or what effects will it produce, but that which every man appears to desire, the reestablishment of the publick tranquillity, a firm confidence in the justice and wisdom of the government, and a general reconciliation of the people to the ministers.

Colonel MORDAUNT spoke then, in substance as follows:—Sir, notwithstanding the zeal with which the honourable gentleman has urged the necessity of this inquiry, a zeal of which, I think, it may at least be said, that it is too vehement and acrimonious to be the mere result of publick spirit, unmixed with interest or resentment; he has yet been so far unsuccessful in his reasoning, that he has not produced in me any conviction, or weakened any of the impressions which the arguments of those whom he opposes had made upon me.

He has contented himself with recapitulating some of the benefits which may be hoped for from the inquiry; he has represented in the strongest terms, the supposed misconduct of the ministry; he has aggravated all the appearances of wickedness or negligence, and then has inferred the usefulness of a general inquiry for the punishment of past offences, and the prevention of the like practices in future times.

That he has discovered great qualifications for invective, and that his declamation was well calculated to inflame those who have already determined their opinion, and who are, therefore, only restrained from such measures as are now recommended by natural caution and sedateness, I do not deny; but, surely he does not expect to gain proselytes by assertions without proof, or to produce any alteration of sentiments, without attempting to answer the arguments which have been offered against his opinion.

It has been urged with great appearance of reason, that an inquiry, such as is now proposed, with whatever prospects of vengeance, of justice, or of advantage, it may flatter us at a distance, will be in reality detrimental to the publick; because it will discover all the secrets of our government, lay all our negotiations open to the world, will show what powers we most fear, or most trust, and furnish our enemies with means of defeating all our schemes, and counteracting all our measures.

This appears to me, sir, the chief argument against the motion, an argument of which the force cannot but be discovered by those whose interest it is to confute it, and of which, therefore, by appearing to neglect it, they seem to confess that it is unanswerable; and therefore, since I cannot find the motion justified otherwise than by loud declarations of its propriety, and violent invectives against the ministry, I hope that I shall escape at least the censure of the calm and impartial, though I venture to declare, that I cannot approve it; and with regard to the clamorous and the turbulent, I have long learned to despise their menaces, because I have hitherto found them only the boasts of impotence.

Mr. CORNWALL made answer to the following purport:—Sir, if to obtain the important approbation of the gentleman that spoke last, it be necessary only to answer the argument on which he has insisted, and nothing be necessary to produce an inquiry but his approbation, I shall not despair that this debate may be concluded according to the wishes of the nation, that secret wickedness may be detected, and that our posterity may be secured from any invasion of their liberty, by examples of the vengeance of an injured people.

[The house divided.—The yeas went forth.—For the question, 242; against it, 244: so that it passed in the negative, by a majority of two.]

HOUSE OF LORDS, MAY 20, 1742

Debate On A Motion For Indemnifying Evidence Relating To The Conduct Of The Earl Of ORFORD

The following debate having been produced by an occasion very uncommon and important, it is necessary to give an account of such transactions as may contribute to illustrate it.

The prime minister being driven out of the house of commons, by the prevalence of those who, from their opposition to the measures of the court, were termed the country party, it was proposed that a committee should be appointed, "to inquire into the conduct of publick affairs, at home and abroad, during the last twenty years;" but the motion was rejected.

It was afterwards moved, "that a committee should be appointed to inquire into the conduct of Robert, earl of ORFORD, during the last ten years in which he was first commissioner of the treasury, and chancellor and under treasurer of the exchequer," which was carried by 252 to 245.

A committee of one-and-twenty being chosen by ballot, and entering upon the inquiry, called before them Mr. Gibbon, who declared himself agent to J. Botteler, and said, that Botteler, being a candidate for Wendover, and finding that no success was to be expected without five hundred pounds, sent a friend to N. Paxton, with a letter, and that he saw him return with a great number of papers, in which he said were bills for five hundred pounds.

Botteler and his friend being examined, confirmed the testimony of Gibbon; and Botteler added, that he sent to Paxton as an officer of the treasury, acquainted with those who had the disposal of money; that his claim to the favour which he asked arose from a disappointment in a former election; that he never gave for the money any security or acknowledgment, nor considered himself indebted for it to Paxton or any other person.

Paxton being then examined, refused to return any answer to the question of the committee, because the answer might tend to accuse himself. Which reason was alleged by others for a like refusal.

The committee finding their inquiries eluded, by this plea for secrecy, which the laws of Britain allow to be valid, reported to the commons the obstacles that they met with; for the removal of which a bill was brought in like that of indemnity; which, having passed the commons, produced, in the house of lords, a debate, in which the greatest men of each party exerted the utmost force of their reason and eloquence.

The bill being read a second time, and a motion made for its being referred to a committee.

Lord CARTERET spoke to this effect:—My lords, as the question now before us is of the highest importance both to the present age and to posterity, as it may direct the proceedings of the courts of justice, prescribe the course of publick inquiries, and, by consequence, affect the property or life of every lord in this assembly; I hope it will be debated amongst us without the acrimony which arises from the prejudice of party, or the violence which is produced by the desire of victory, and that the controversy will be animated by no other passion than zeal for justice, and love of truth.

For my part, my lords, I have reason to believe, that many professions of my sincerity will not be necessary on this occasion, because I shall not be easily suspected of any partiality in favour of the noble lord to whom this bill immediately relates. It is well known to your lordships how freely I have censured his conduct, and how invariably I have opposed those measures by which the nation has been so far exasperated, that the bill, now under our consideration, has been thought necessary by the commons, to pacify the general discontent, to restore the publick tranquillity, and to recover that confidence in the government, without which no happiness is to be expected, without which the

best measures will always be obstructed by the people, and the justest remonstrances disregarded by the court.

But however laudable may be the end proposed by the commons, I cannot, my lords, be so far dazzled by the prospect of obtaining it, as not to examine the means to which we are invited to concur, and inquire with that attention which the honour of sitting in this house has made my duty, whether they are such as have been practised by our ancestors, such as are prescribed by the law, or warranted by prudence.

The caution, my lords, with which our ancestors have always proceeded in inquiries by which life or death, property or reputation, was endangered; the certainty, or at least the high degree of probability, which they required in evidence, to make it a sufficient ground of conviction, is universally known; nor is it necessary to show their opinion by particular examples, because, being no less solicitous for the welfare of their posterity than for their own, they were careful to record their sentiments in laws and statutes, and to prescribe, with the strongest sanctions, to succeeding governments, what they had discovered by their own reflections, or been taught by their predecessors.

They considered, my lords, not only how great was the hardship of being unjustly condemned, but likewise how much a man might suffer by being falsely accused; how much he might be harassed by a prosecution, and how sensibly he might feel the disgrace of a trial. They knew that to be charged with guilt implied some degree of reproach, and that it gave room, at least, for an inference that the known conduct of the person accused was such as made it probable that he was still more wicked than he appeared; they knew that the credulity of some might admit the charge upon evidence that was rejected by the court, and that difference of party, or private quarrels, might provoke others to propagate reports once published, even when in their own opinion they were sufficiently confuted; and that, therefore, an innocent man might languish in infamy by a groundless charge, though he should escape any legal penalty.

It has, therefore, my lords, been immemorially established in this nation, that no man can be apprehended, or called into question for any crime till there shall be proof.

First, that there is a *corpus delicti*, a crime really and visibly committed; thus before a process can be issued out for inquiring after a murderer, it must be apparent that a murder has been perpetrated, the dead body must be exposed to a jury, and it must appear to them that he died by violence. It is not sufficient that a man is lost, and that it is probable that he is murdered, because no other reason of his absence can be assigned; he must be found with the marks of force upon him, or some circumstances that may make it credible, that he did not perish by accident, or his own hand.

It is required, secondly, my lords, that he who apprehends any person as guilty of the fact thus apparently committed, must suspect him to be the criminal; for he is not to take an opportunity, afforded him by the commission of an illegal act, to gratify any secret malice, or wanton curiosity; or to drag to a solemn examination, those against whom he cannot support an accusation.

And, my lords, that suspicion may not ravage the reputation of Britons without control; that men may not give way to the mere suggestions of malevolence, and load the characters of those with atrocious wickedness, whom, perhaps, they have no real reason to believe more depraved than the bulk of mankind, and whose failings may have been exaggerated in their eyes by contrariety of opinion, or accidental competition, it is required in the third place, my lords, that whoever apprehends or molests another on suspicion of a crime, shall be able to give the reasons of his suspicion, and to prove them by competent evidence.

These, my lords, are three essentials which the wisdom of our ancestors has made indispensable previous to the arrest or imprisonment of the meanest Briton; it must appear, that there is a crime committed, that the person to be seized is suspected of having committed it, and that the suspicion is founded upon probability. Requisites so reasonable in their own nature, so necessary to the protection of every man's quiet and reputation, and, by consequence, so useful to the security and happiness of society, that, I suppose, they will need no support or vindication. Every man is interested in

the continuance of this method of proceeding, because no man is secure from suffering by the interruption or abolition of it.

Such, my lords, is the care and caution which the law directs in the first part of any criminal process, the detainment of the person supposed guilty; nor is the method of trial prescribed with less regard to the security of innocence.

It is an established maxim, that no man can be obliged to accuse himself, or to answer any questions which may have any tendency to discover what the nature of his defence requires to be concealed. His guilt must appear either by a voluntary and unconstrained confession, which the terrors of conscience have sometimes extorted, and the notoriety of the crime has at other times produced, or by the deposition of such witnesses as the jury shall think worthy of belief.

To the credibility of any witness it is always requisite that he be disinterested, that his own cause be not involved in that of the person who stands at the bar, that he has no prospect of advancing his fortune, clearing his reputation, or securing his life. For it is made too plain by daily examples, that interest will prevail over the virtue of most men, and that it is not safe to believe those who are strongly tempted to deceive.

There are cases, my lords, where the interest of the person offering his evidence is so apparent, that he is not even admitted to be heard; and any benefit which may possibly be proposed, is admitted as an objection to evidence, and weakens it in a measure proportionate to the distance of the prospect and the degree of profit.

Such are the rules hitherto followed in criminal proceedings, the violation of which has been always censured as cruelty and oppression, and perhaps always been repented even by those who proposed and defended it, when the commotions of party have subsided, and the heat of opposition and resentment has given way to unprejudiced reflection.

Of these rules, my lords, it is not necessary to produce any defence from the practice of distant nations, because it is sufficient in the present case, that they are established by the constitution of this country, to which every Briton has a right to appeal; for how can any man defend his conduct, if having acted under one law, he is to be tried by another?

Let us, therefore, my lords, apply these rules to the present bill, and inquire what regard appears to have been paid to them by the commons, and how well we shall observe them by concurring in their design.

With respect to the first, by which it is required, that there be a known and manifest crime, it does not appear to have engaged the least attention in the other house; for no fact is specified in the bill, upon which a prosecution can be founded, and, therefore, to inquire after evidence is somewhat preposterous; it is nothing less than to invite men to give their opinion without a subject, and to answer without a question.

It may be urged, indeed, that there is a universal discontent over the whole nation; that the clamour against the person mentioned in the bill, has been continued for many years; that the influence of the nation is impaired in foreign countries; that our treasury is exhausted; that our liberties have been attacked, our properties invaded, and our morals corrupted; but these are yet only rumours, without proof, and without legal certainty; which may, indeed, with great propriety give occasion to an inquiry, and, perhaps, by that inquiry some facts may be ascertained which may afford sufficient reasons for farther procedure.

But such, my lords, is the form of the bill now before us, that if it should pass into a statute, it would, in my opinion, put a stop to all future inquiry, by making those incapable of giving evidence, who have had most opportunities of knowing those transactions, which have given the chief occasion of suspicion, and from whom, therefore, the most important information must naturally be expected.

The first requisite qualification of a witness, whether we consult natural equity and reason, or the common law of our own country, is disinterestedness; an indifference, with regard to all outward

circumstances, about the event of the trial at which his testimony is required. For he that is called as a witness where he is interested, is in reality giving evidence in his own cause.

But this qualification, my lords, the bill now before us manifestly takes away; for every man who shall appear against the person into whose conduct the commons are inquiring, evidently promotes, in the highest degree, his own interest by his evidence, as he may preclude all examination of his own behaviour, and secure the possession of that wealth which he has accumulated by fraud and oppression, or, perhaps, preserve that life which the justice of the nation might take away.

Nothing, my lords, is more obvious, than that this offer of indemnity may produce perjury and false accusation; nothing is more probable, than that he who is conscious of any atrocious villanies, which he cannot certainly secure from discovery, will snatch this opportunity of committing one crime more, to set himself free from the dread of punishment, and blot out his own guilt for ever, by charging lord ORFORD as one of his accomplices.

It may be urged, my lords, that he who shall give false evidence, forfeits the indemnity to which the honest witness is entitled; but let us consider why this should be now, rather than in any former time, accounted a sufficient security against falsehood and perjury. It is at all times criminal, and at all times punishable, to commit perjury; and yet it has been hitherto thought necessary, not only to deter it by subsequent penalties, but to take away all previous temptations; no man's oath will be admitted in his own cause, though offered at the hazard of the punishment inflicted upon perjury. To offer indemnity to invite evidence, and to deter them from false accusations by the forfeiture of it, even though we should allow to the penal clause all the efficacy which can be expected by those who proposed it, is only to set one part of the bill at variance with the other, to erect and demolish at the same time.

But it may be proved, my lords, that the reward will have more influence than the penalty; and that every man who can reason upon the condition in which he is placed by this bill, will be more incited to accuse lord ORFORD, however unjustly, by the prospect of security, than intimidated by the forfeiture incurred by perjury.

For, let us suppose, my lords, a man whose conduct exposes him to punishment, and who knows that he shall not long be able to conceal it; what can be more apparently his interest, than to contrive such an accusation as may complicate his own wickedness with some transactions of the person to whom this bill relates? He may, indeed, be possibly confuted, and lose the benefit offered by the state; but the loss of it will not place him in a condition more dangerous than that which he was in before; he has already deserved all the severity to which perjury will expose him, and by forging a bold and well-connected calumny, he has at least a chance of escaping.

Let us suppose, my lords, that the bill now under our consideration, assigned a pecuniary reward to any man who should appear against this person, with a clause by which he that should accuse him falsely should be dismissed without his pay; would not this appear a method of prosecution contrary to law, and reason, and justice? Would not every man immediately discover, that the witnesses were bribed, and therefore they would deserve no credit? And what is the difference between the advantage now offered and any other consideration, except that scarcely any other reward can be offered so great, and consequently so likely to influence?

It is to be remembered, that the patrons of this bill evidently call for testimony from the abandoned and the profligate, from men whom they suppose necessarily to confess their own crimes in their depositions; and surely wretches like these ought not to be solicited to perjury by the offer of a reward.

How cruel must all impartial spectators of the publick transactions account a prosecution like this? What would be your lordships' judgment, should you read, that in any distant age, or remote country, a man was condemned upon the evidence of persons publicly hired to accuse him, and who, by their own confession, were traitors to their country?

That wickedness, my lords, should be extirpated by severity, and justice rigorously exercised upon publick offenders, is the uncontroverted interest of every country; and therefore it is not to be doubted, that in all ages the reflections of the wisest men have been employed upon the most proper methods of detecting offences; and since the scheme now proposed has never been practised, or never but by the most oppressive tyrants, in the most flagitious times, it is evident, that it has been thought inconsistent with equity, and of a tendency contrary to publick happiness.

I am very far, my lords, from desiring that any breach of national trust should escape detection, or that a publick office should afford security to bribery, extortion, or corruption. I am far from intending to patronise the conduct of the person mentioned in the present bill. Let the commons proceed with the utmost severity, but let them not deviate from justice. If he has forfeited his fortune, his honours, or his life, let them by a legal process be taken from him; but let it always be considered, that he, like every other man, is to be allowed the common methods of self-defence; that he is to stand or fall by the laws of his country, and to retain the privileges of a Briton, till it shall appear that he has forfeited them by his crimes.

To censure guilt, my lords, is undoubtedly necessary, and to inquire into the conduct of men in power, incontestably just; but by the laws both of heaven and earth, the means as well as the end are prescribed, *rectum recte, legitimum legitime faciendum*; we must not only propose a good end in our conduct, but must attain it by that method which equity directs, and the law prescribes.

How well, my lords, the law has been observed hitherto, on this occasion, I cannot but propose that your lordships should consider. It is well known, that the commons cannot claim a right to administer an oath, and therefore can only examine witnesses by simple interrogatories. That they cannot confer upon a committee the power which they have not themselves, is indubitably certain; and therefore it is evident, that they have exceeded their privileges, and proceeded in their inquiry by methods which the laws of this nation will not support.

That they cannot, my lords, in their own right administer an oath, they apparently confess, by the practice of calling in, on that occasion, a justice of the peace, who, as soon as he has performed his office, is expected to retire. This, my lords, is an evident elusion; for it is always intended, that he who gives an oath, gives it in consequence of his right to take the examination; but in this case the witness takes an oath, *coram non judice*, before a magistrate that has no power to interrogate him, and is interrogated by those who have no right to require his oath.

Such, my lords, is my opinion of the conduct of the committee of the house of commons, of whom I cannot but conclude that they have assumed a right which the constitution of our government confers only on your lordships, as a house of senate, a court of judicature; and therefore cannot think it prudent to confirm their proceedings by an approbation of this bill.

The commons may indeed imagine that the present state of affairs makes it necessary to proceed by extraordinary methods; they may believe that the nation will not be satisfied without a discovery of those frauds which have been so long practised, and the punishment of those men by whom they have so long thought themselves betrayed and oppressed; but let us consider, that clamour is not evidence, and that we ought not either to recede from justice, or from our own rights, to satisfy the expectations of the people.

To remonstrate against this invasion of our privileges, my lords, might be at this juncture improper; the dispute might, in this time of commotion and vicissitude, distract the attention of those to whom the publick affairs are committed, retard the business of the nation, and give our enemies those advantages which they can never hope from their own courage, or policy, or strength. It may, therefore, be prudent on this occasion, only not to admit the right which they have assumed, to satisfy ourselves with retaining our privileges, without requiring any farther confirmation of them, and only defeat the invasion of them by rejecting the bill, which is, indeed, of such a kind, as cannot be confirmed without hazarding not only our own rights, but those of every Briton.

For here is a species of testimony invited, which is hitherto unknown to our law, and from which it may be difficult to tell who can be secure; the witnesses are required to disclose all matters relating to the conduct of *lord ORFORD, according to the best of their knowledge, remembrance, or belief!* A form of deposition, my lords, of great latitude; a man's belief may be influenced by the report of others who may deceive him, by his observation of circumstances, either remote in themselves, or imperfectly discovered, or by his own reasonings, which must be just or fallacious according to his abilities; but which must yet have the same effect upon his belief, which they will influence, not in proportion to their real strength, but to the confidence placed in them by himself.

There is only one case, my lords, in which, by the common course of proceedings, any regard is had to mere belief; and this evidence is only accepted on that occasion, because no other can possibly be obtained. When any claim is to be determined by written evidences, of which, in order to prove their validity, it is necessary to inquire by whom they were drawn or signed; those who are acquainted with the writing of a dead person, are admitted to deliver, upon oath, their *belief* that the writing ascribed to him, was or was not his; but such secondary witnesses are never called, when the person can be produced whose hand is to be proved.

There is yet another reason for which it is improper to admit such evidence as this bill has a tendency to promote. It is well known, that in all the courts of common law, the person accused is in some degree secured from the danger of being overborne by false accusations, by the penalty which may be inflicted upon witnesses discovered to be perjured; but in the method of examination now proposed, a method unknown to the constitution, no such security can be obtained, for there is no provision made by the laws for the punishment of a man who shall give false evidence before a committee of the house of commons.

It may likewise be observed, that this bill wants one of the most essential properties of a law, perspicuity and determinate meaning; here is an indemnity promised to those who shall discover *all* that they *know, remember, or believe*. A very extensive demand, and which may, therefore, be liable to more fallacies and evasions than can be immediately enumerated or detected. For how can any one prove that he has a claim to the indemnity? He may, indeed, make some discoveries, but whether he does not conceal something, who can determine? May not such reserves be suspected, when his answers shall not satisfy the expectations of his interrogators? And may not that suspicion deprive him of the benefit of the act? May not a man, from want of memory, or presence of mind, omit something at his examination which he may appear afterwards to have known? And since no human being has the power of distinguishing exactly between faults and frailties, may not the defect of his memory be charged on him as a criminal suppression of a known fact? And may not he be left to suffer the consequences of his own confession? Will not the bill give an apparent opportunity for partiality? And will not life and death, liberty and imprisonment, be placed in the hands of a committee of the commons? May they not be easily satisfied with informations of one man, and incessantly press another to farther discoveries? May they not call some men, notoriously criminal, to examination, only to secure them from punishment, and set them out of the reach of justice; and extort from others such answers as may best promote their views, by declaring themselves unsatisfied with the extent of their testimony? And will not this be an extortion of evidence equivalent to the methods practised in the most despotick governments, and the most barbarous nations?

It has always been the praise of this house to pay an equal regard to justice and to mercy, and to follow, without partiality, the direction of reason, and the light of truth; and how consistently with this character, which it ought to be our highest ambition to maintain, we can ratify the present bill, your lordships are this day to consider. It is to be inquired, whether to suppose a man guilty, only because some guilt is suspected, be agreeable to justice; and whether it be rational before there is any proof of a crime, to point out the criminal.

We are to consider, my lords, whether it is not unjust to hear, against any man, an evidence who is hired to accuse him, and hired with a reward which he cannot receive without confessing himself

a man unworthy of belief. It is to be inquired, whether the evidence of a man who declares only what he *believes*, ought to be admitted, when the nature of the crimes allows stronger proof; and whether any man ought to be examined where he cannot be punished if he be found perjured.

A natural and just regard to our own rights, on the preservation of which the continuance of the constitution must depend, ought to, alarm us at the appearance of any attempt to invade them; and the necessity of known forms of justice, ought to incite us to the prevention of any innovation in the methods of prosecuting offenders.

For my own part, my lords, I cannot approve either the principles or form of the bill. I think it necessary to proceed by known precedents, when there is no immediate danger that requires extraordinary measures, of which I am far from being convinced that they are necessary on the present occasion. I think that the certainty of a crime ought to precede the prosecution of a criminal, and I see that there is, in the present case, no crime attempted to be proved. The commons have, in my opinion, already exceeded their privileges, and I would not willingly confirm their new claims. For these reasons, my lords, I openly declare, that I cannot agree to the bill's being read a second time.

Lord TALBOT spoke next, to this effect:—My lords, so high is my veneration for this great assembly, that it is never without the utmost efforts of resolution that I can prevail upon myself to give my sentiments upon any question that is the subject of debate, however strong may be my conviction, or however ardent my zeal.

But in a very particular degree do I distrust my own abilities, when I find my opinion contrary to that of the noble lord who has now spoken; and it is no common perplexity to be reduced to the difficult choice of either suppressing my thoughts, or exposing them to so disadvantageous a contrast.

Yet, since such is my present state, that I cannot avoid a declaration of my thoughts on this question, without being condemned in my own breast as a deserter of my country, nor utter them without the danger of becoming contemptible in the eyes of your lordships; I will, however, follow my conscience, rather than my interest; and though I should lose any part of my little reputation, I shall find an ample recompense from the consciousness that I lost it in the discharge of my duty, on an occasion which requires from every good man the hazard of his life.

The arguments of the noble lord have had upon me an effect which they never, perhaps, produced on any part of his audience before; they have confirmed me in the contrary opinion to that which he has endeavoured to maintain. It has been remarked, that in some encounters, not to be put to flight is to obtain the victory; and, in a controversy with the noble lord, not to be convinced by him, is to receive a sufficient proof that the cause in which he is engaged is not to be defended by wit, eloquence, or learning.

On the present question, my lords, as on all others, he has produced all that can be urged, either from the knowledge of past ages, or experience of the present; all that the scholar or the statesman can supply has been accumulated, one argument has been added to another, and all the powers of a great capacity have been employed, only to show that right and wrong cannot be confounded, and that fallacy can never strike with the force of truth.

When I survey the arguments of the noble lord, disrobed of those ornaments which his imagination has so liberally bestowed upon them, I am surprised at the momentary effect which they had upon my mind, and which they could not have produced had they been clothed in the language of any other person.

For when I recollect, singly, the particular positions upon which his opinion seems to be founded, I do not find them by any means uncontrovertible; some of them seem at best uncertain, and some evidently mistaken.

That there is no apparent crime committed, and that, therefore, no legal inquiry can be made after the criminal, I cannot hear without astonishment. Is our commerce ruined, are our troops destroyed, are the morals of the people vitiated, is the senate crowded with dependants, are our fleets disarmed, our allies betrayed, and our enemies supported without a crime? Was there no certainty

of any crime committed, when it was moved to petition his majesty to dismiss this person from his councils for ever.

It has been observed, my lords, that nothing but a sight of the dead body can warrant a pursuit after the murderer; but this is a concession sufficient for the present purpose; for if, upon the sight of a murdered person, the murderer may lawfully be inquired after, and those who are reasonably suspected detained and examined; with equal reason, my lords, may the survey of a ruined nation, a nation oppressed with burdensome taxes, devoured by the caterpillars of a standing army, sunk into contempt in every foreign court, and repining at the daily decay of its commerce, and the daily multiplication of its oppressors, incite us to an inquiry after the author of its miseries.

It is asserted, that no man ought to be called into question for any crime, who is not suspected of having committed it. This, my lords, is a rule not only reasonable in itself, but so naturally observed, that I believe it was never yet broken; and am certain, no man will be charged with the violation of it, for accusing this person as an enemy to his country.

But he that declares his suspicion, may be called upon to discover upon what facts it is founded; nor will this part of the law produce any difficulty in the present case; for as every man in the nation suspects this person of the most enormous crimes, every man can produce sufficient arguments to justify his opinion.

On all other occasions, my lords, publick fame is allowed some weight: that any man is universally accounted wicked, will add strength to the testimony brought against him for any particular offence; and it is at least a sufficient reason for calling any man to examination, that a crime is committed, and he is generally reported to be the author of it.

That this is the state of the person into whose conduct the commons are now inquiring; that he is censured by every man in the kingdom, whose sentiments are not repressed by visible influence; that he has no friends but those who have sold their integrity for the plunder of the publick; and that all who are not enemies to their country, have, for many years, incessantly struggled to drag him down from the pinnacle of power, and expose him to that punishment which he has so long deserved, and so long defied, is evident beyond contradiction.

Let it not, therefore, be urged, my lords, that there is no certainty of a crime which is proved to the conviction of every honest mind; let it not be said that it is unreasonable to suspect this man, whom the voice of the people, a voice always to be revered, has so long condemned.

The method of procuring evidence against him by an act of indemnity has been represented by the noble lord as not agreeable to justice or to law: in the knowledge of the law I am far from imagining myself able to contend with him; but I think it may not be improper to observe, that a person of the highest eminence in that profession, whose long study and great abilities give his decisions an uncommon claim to authority and veneration, and who was always considered in this house with the highest regard, appears to have entertained a very different opinion.

It was declared by him, without the least restriction, that all means were lawful which tended to the discovery of truth; and, therefore, the publick may justly expect that extraordinary methods should be used upon occasions of uncommon importance.

Nor does this expedient appear to me very remote from the daily practice of promising pardon to thieves, on condition that they will make discoveries by which their confederates may be brought to justice.

If we examine only the equity of this procedure, without regard to the examples of former times, it appears to me easily defensible; for what can be more rational than to break a confederacy of wretches combined for the destruction of the happiness of mankind, by dividing their interest, and making use, for the publick good, of that regard for their own safety, which has swallowed up every other principle of action?

It is admitted that wickedness ought to be punished, and it is universally known that punishment must be preceded by detection; any method, therefore, that promotes the discovery of crimes may be considered as advantageous to the publick.

As there is no wickedness of which the pernicious consequences are more extensive, there is none which ought more diligently to be prevented, or more severely punished, than that of those men who have dared to abuse the power which their country has put into their hands; but how they can be convicted by any other means than those which are now proposed, I confess myself unable to discover; for by a very small degree of artifice, a man invested with power may make every witness a partner of his guilt, and no man will be able to accuse him, without betraying himself. In the present case it is evident, that the person of whose actions the bill now before us is designed to produce a more perfect discovery, has been combined with others in illegal measures, in measures which their own security obliges them to conceal, and which, therefore, the interest of the publick demands to be divulged.

That Paxton has distributed large sums for purposes which he dares not discover, we are informed by the reports of the secret committee; and I suppose every body suspects that they were distributed as rewards for services which the nation thinks not very meritorious, and I believe no man will ask what reason can be alleged for such suspicions.

But since it may be possibly suggested that Paxton expended these sums contrary to his master's direction, or without his knowledge, it may be demanded, whether such an assertion would not be an apparent proof of a very criminal degree of negligence in a man intrusted with the care of the publick treasure?

Thus, my lords, it appears in my opinion evident, that either he has concurred in measures which his servile agent, the mercenary tool of wickedness, is afraid to confess, or that he has stood by, negligent of his trust, and suffered the treasure of the nation to be squandered by the meanest wretches without account.

That the latter part of the accusation is undoubtedly just, the report of the commons cannot but convince us. It appears that for near eight years, Paxton was so high in confidence, that no account was demanded from him; he bestowed pensions at pleasure; he was surrounded, like his master, by his idolaters; and after the fatigue of cringing in one place, had an opportunity of purchasing the taxes of the nation, the gratification of tyranny in another.

I presume, my lords, that no man dares assert such a flagrant neglect of so important an office, to be not criminal in a very high degree; to steal in private houses that which is received in trust, is felony by the statutes of our country; and surely the wealth of the publick ought not to be less secured than that of individuals, nor ought he that connives at robbery to be treated with more lenity than the robber.

Therefore, my lords, as I cannot but approve of the bill, I move that it may be read a second time; and I hope the reasons which I have offered, when joined with others, which I expect to hear from lords of a greater experience, knowledge, and capacity, will induce your lordships to be of the same opinion.

Lord HERVEY spoke next, to this effect:—My lords, as the bill now before us is of a new kind, upon an occasion no less new, I have endeavoured to bestow upon it a proportionate degree of attention, and have considered it in all the lights in which I could place it; I have, in my imagination, connected with it all the circumstances with which it is accompanied, and all the consequences that it may produce either to the present age, or to futurity; but the longer I reflect upon it, the more firmly am I determined to oppose it; nor has deliberation any other effect, than to crowd my thoughts with new arguments against it, and to heighten dislike to detestation.

It must, my lords, immediately occur to every man, at the first mention of the method of proceeding now proposed, that it is such as nothing but extreme necessity can vindicate; that the noble person against whom it is contrived, must be a monster burdensome to the world; that his crimes must be at once publick and enormous, and that he has been already condemned by all maxims of justice,

though he has had the subtilty to escape by some unforeseen defect in the forms of law. It might be imagined, my lords, that there were the most evident marks of guilt in the conduct of the man thus censured, that he fled from the justice of his country, that he had openly suborned witnesses in his favour, or had, by some artifice certainly known, obstructed the evidence that was to have been brought against him. It might at least be reasonably conceived, that his crimes were of such a kind as might in their own nature easily be concealed, and that, therefore, some extraordinary measures were necessary for the discovery of wickedness which lay out of the reach of common inquiry.

But, my lords, none of these circumstances can be now alleged; for there is no certainty of any crime committed, nor any appearance of consciousness or fear in the person accused, who sets his enemies at defiance in full security, and declines no legal trial of his past actions; of which it ought to be observed, that they have, by the nature of his employments, been so publick, that they may easily be examined without recourse to a new law to facilitate discoveries.

The bill, therefore, is, my lords, at least unnecessary, and an innovation not necessary ought always to be rejected, because no man can foresee all the consequences of new measures, or can know what evils they may create, or what subsequent changes they may introduce. The alteration of one part of a system naturally requires the alteration of another.

But, my lords, that there is no necessity for this law now proposed, is not the strongest argument that may be brought against it, for there is in reality a necessity that it should be rejected. Justice and humanity are necessarily to be supported, without which no society can subsist, nor the life or property of any man be enjoyed with security: and neither justice nor humanity can truly be said to reside, where a law like this has met with approbation.

My lords, to prosecute any man by such methods, is to overbear him by the violence of power, to take from him all the securities of innocence, and divest him of all the means of self-defence. It is to hire against him those whose testimonies ought not to be admitted, if they were voluntarily produced, and of which, surely, nothing will be farther necessary to annihilate the validity, than to observe that they are the depositions of men who are villains by their own confession, and of whom the nation sees, that they may save their lives by a bold accusation, whether true or false.

That the bill will, indeed, be effectual to the purposes designed, that it will crowd the courts of justice with evidence, and open scenes of wickedness never discovered before, I can readily believe; for I cannot imagine that any man who has exposed his life by any flagrant crime, will miss so fair an opportunity of saving it by another. I shall expect, my lords, that villains of all denominations, who are now skulking in private retreats, who are eluding the officers of justice, or flying before the publick pursuit of the country, will secure themselves by this easy expedient; and that housebreakers, highwaymen, and pickpockets, will come up in crowds to the bar, charge the earl of ORFORD as their accomplice, and plead this bill as a security against all inquiry.

That this supposition, however wild and exaggerated it may seem, may not be thought altogether chimerical; that it may appear with how little consideration this bill has been drawn, and how easily it may be perverted to the patronage of wickedness, I will lay before your lordships such a plea as may probably be produced by it.

A man whom the consciousness of murder has for some time kept in continual terrors, may clear himself for ever, by alleging, that he was commissioned by the earl of ORFORD to engage, with any certain sum, the vote or interest of the murdered person; that he took the opportunity of a solitary place to offer him the bribe, and prevail upon him to comply with his proposals; but that finding him obstinate and perverse, filled with prejudices against a wise and just administration, and inclined to obstruct the measures of the government, he for some time expostulated with him; and being provoked by his contumelious representations of the state of affairs, he could no longer restrain the ardour of his loyalty, but thought it proper to remove from the world a man so much inclined to spread sedition among the people; and that, therefore, finding the place convenient, he suddenly rushed upon him and cut his throat.

Thus, my lords, might the murderer represent his case, perhaps, without any possibility of a legal confutation; thus might the most atrocious villanies escape censure, by the assistance of impudence and cunning.

A bill like this, my lords, is nothing less than a proscription; the head of a citizen is apparently set to sale, and evidence is hired, by which the innocent and the guilty may be destroyed with equal facility.

It is apparent, my lords, that they by whom this bill is proposed, act upon the supposition that the noble person mentioned in it, is guilty of all those crimes of which he is suspected; a supposition, my lords, which it is unjust to make, and to which neither reason, nor the laws of our country, will give countenance or support.

I, my lords, will much more equitably suppose him innocent; I will suppose that he has, throughout all the years of his administration, steadily prosecuted the best ends, by the best means; that if he has sometimes been mistaken or disappointed, it has been neither by his negligence nor ignorance, but by false intelligence, or accidents not to be foreseen; and that he has never either sacrificed his country to private interest, or procured, by any illegal methods, the assistance and support of the legislature; and I will ask your lordships, whether, if this character be just, the bill ought to be passed, and doubt not but every man's conscience will inform him, that it ought to be rejected with the utmost indignation.

The reason, my lords, for which it ought to be rejected, is evidently this, that it may bring innocence into danger. But, my lords, every man before his trial is to be supposed innocent, and, therefore, no man ought to be exposed to the hazards of a trial, by which virtue and wickedness are reduced to a level. A bill like this ought to be marked out as the utmost effort of malice, as a species of cruelty never known before, and as a method of prosecution which this house has censured.

I did not, indeed, expect from those who have so long clamoured with incessant vehemence against the measures of the ministry, such an open confession of their own weakness. Nothing, my lords, was so frequently urged, or so warmly exaggerated, as the impossibility of procuring evidence against a man in power; nothing was more confidently asserted, than that his guilt would be easily proved when his authority was at an end; and that even his own agents would readily detect him, when they were no longer dependant upon his favour.

The time, my lords, so long expected, and so ardently desired, is at length come; this noble person whom they have so long pursued with declamations, invectives, and general reproaches, has at length resigned those offices which set him above punishment or trial; he is now without any other security than that by which every other man is sheltered from oppression, the publick protection of the laws of his country; but he is yet found impregnable, he is yet able to set his enemies at defiance; and they have, therefore, now, with great sagacity, contrived a method by which he may be divested of the common privileges of a social being, and may be hunted like a wild beast, without defence, and without pity.

Where, my lords, can it be expected that malice like this will find an end? Is it not reasonable to imagine that if they should be gratified in this demand, and should find even this expedient baffled by the abilities which they have so often encountered without success, they would proceed to measures yet more atrocious, and punish him without evidence, whom they call to a trial without a crime.

It has been observed by the noble lord who spoke last, that there are crimes mentioned in the report of the secret committee of the house of commons, or that at least such facts are asserted in it, that an accusation may, by easy deductions, be formed from them. The report of that committee, my lords, with whatever veneration it may be mentioned, by those whose purposes it happens to favour, or of whatever importance it may be in the other house, is here nothing but a pamphlet, not to be regarded as an evidence, or quoted as a writing of authority. It is only an account of facts of which we know not how they were collected, and which every one may admit or reject at his own choice, till

they are ascertained by proper evidence at our own bar, and which, therefore, ought not to influence our opinion in the present debate.

Nor is the bill, my lords, only founded upon principles inconsistent with the constitution of this nation, apparently tending to the introduction of a new species of oppression, but is in itself such as cannot be ratified without injury to the honour of this great assembly.

In examining the bill, my lords, I think it not necessary to dwell upon the more minute and trivial defects of the orthography and expression, though they are such as might justly give occasion for suspecting that they by whom it was written, were no less strangers to our language than to our constitution. There are errors or falsehoods which it more nearly concerns us to detect, and to which we cannot give any sanction, without an evident diminution of our own authority.

It declares, my lords, that there is now an inquiry depending before the senate, an assertion evidently false, for the inquiry is only before the commons. Whether this was inserted by mistake or design, whether it was intended to insinuate that the whole senatorial power was comprised in the house of commons, or to persuade the nation that your lordships concurred with them in this inquiry, it is not possible to determine; but since it is false in either sense, it ought not to receive our confirmation.

If we should pass the bill in its present state, we should not only declare our approbation of the measures hitherto pursued by the commons, by which it has been already proved, by the noble and learned lord who spoke first against the bill, that they have not only violated the law, but invaded the privileges of this house. We should not only establish for ever in a committee of the house of commons, the power of examining upon oath, by an elusive and equivocal expedient, but we should in effect vote away our own existence, give up at once all authority in the government, and grant them an unlimited power, by acknowledging them the senate, an acknowledgment which might, in a very short time, be quoted against us, and from which it would not be easy for us to extricate ourselves.

It has, indeed, been remarked, that there is a large sum of money disbursed without account, and the publick is represented as apparently injured, either by fraud or negligence; but it is not remembered that none but his majesty has a right to inquire into the distribution of the revenue appropriated to the support of his family and dignity, and the payment of his servants, and which, therefore, cannot, in any degree, be called publick money, or fall under the cognizance of those whom it concerns to inspect the national accounts. Either the civil list must be exempt from inquiries, or his majesty must be reduced to a state below that of the meanest of his subjects; he can enjoy neither freedom nor property, and must be debarred for ever from those blessings which he is incessantly labouring to secure to others.

There is, likewise, another consideration, which my regard for the honour of this assembly suggested to me, and of which I doubt not but that all your lordships will allow the importance. The noble person who is pointed out in this bill as a publick criminal, and whom all the villains of the kingdom are invited to accuse, is invested with the same honours as ourselves, and has a son who has for many years possessed a seat amongst us; let us not, therefore, concur with the commons to load our own house with infamy, and to propagate reproach, which will at last fix upon ourselves.

Innumerable are the objections, my lords, which might yet be urged, and urged without any possibility of reply; but as I have already been heard with so much patience, I think what has been already mentioned sufficient to determine the question: and as I doubt not but the other defects and absurdities will be observed, if it be necessary, by some other lords, I shall presume only to add, that as the bill appears to me contrary to the laws of this nation, to the common justice of society, and to the general reason of mankind, as it must naturally establish a precedent of oppression, and confirm a species of authority in the other house which was either never claimed before, or always denied; as I think the most notorious and publick criminal ought not to be deprived of that method of defence which the established customs of our country allow him, and believe the person mentioned in this

bill to deserve rather applauses and rewards, than censures and punishments, I think myself obliged to oppose it, and hope to find your lordships unanimous in the same opinion.

Then the duke of ARGYLE answered, in substance as follows:—My lords, whatever may be the fate of this question, I have little hope that it will be unanimously decided, because I have reason to fear that some lords have conceived prejudices against the bill, which hinder them from discovering either its reasonableness or its necessity; and am convinced that others who approve the bill, can support their opinion by arguments from which, as they cannot be confuted, they never will recede.

Those arguments which have influenced my opinion, I will lay before your lordships, and doubt not of showing that I am very far from giving way to personal malice, or the prejudices of opposition; and that I regard only the voice of reason, and the call of the nation.

Calmness and impartiality, my lords, have been, with great propriety, recommended to us by the noble lord who spoke first in this debate; and I hope he will discover by the moderation with which I shall deliver my sentiments on this occasion, how much I reverence his precepts, and how willingly I yield to his authority.

I am at least certain, that I have hitherto listened to the arguments that have been offered on either side with an attention void of prejudice; I have repressed no motions of conviction, nor abstracted my mind from any difficulty, to avoid the labour of solving it: I have been solicitous to survey every position in its whole extent, and trace it to its remotest consequences; I have assisted the arguments against the bill by favourable suppositions, and imaginary circumstances, and have endeavoured to divest my own opinion of some appendant and accidental advantages, that I might view it in a state less likely to attract regard; and yet I cannot find any reason by which I could justify myself to my country or my conscience, if I should concur in rejecting this bill, or should not endeavour to promote it. I am not unacquainted, my lords, with the difficulties that obstruct the knowledge of our own hearts, and cannot deny that inclination may be sometimes mistaken for conviction; and men even wise and honest, may imagine themselves to believe what, in reality, they only wish: but this, my lords, can only happen for want of attention, or on sudden emergencies, when it is necessary to determine with little consideration, while the passions have not yet time to subside, and reason is yet struggling with the emotions of desire.

In other circumstances, my lords, I am convinced that no man imposes on himself without conniving at the fraud, without consciousness that he admits an opinion which he has not well examined, and without consulting indolence rather than reason; and, therefore, my lords, I can with confidence affirm, that I now declare my real opinion, and that if I err, I err only for want of abilities to discover the truth; and hope it will appear to your lordships, that I have been misled at least by specious arguments, and deceived by fallacious appearances, which it is no reproach not to have been able to detect.

It will, my lords, be granted, I suppose, without hesitation, that the law is consistent with itself; that it never at the same time commands and prohibits the same action; that it cannot be at once violated and observed. From thence it will inevitably follow, that where the circumstances of any transaction are such, that the principles of that law by which it is cognizable are opposite to each other, some expedients may be found by which these circumstances may be altered. Otherwise a subtle or powerful delinquent will always find shelter in ambiguities, and the law will remain inactive, like a balance loaded equally on each side.

On the present occasion, my lords, I pronounce with the utmost confidence, as a maxim of indubitable certainty, *that the publick has a claim to every man's evidence*, and that no man can plead exemption from this duty to his country. But those whom false gratitude, or contracted notions of their own interest, or fear of being entangled in the snares of examination, prompt to disappoint the justice of the publick, urge with equal vehemence, and, indeed, with equal truth, that *no man is obliged to accuse himself*, and that the constitution of Britain allows no man's evidence to be extorted from him to his own destruction.

Thus, my lords, two of the first principles of the British law, though maxims equally important, equally certain, and equally to be preserved from the least appearance of violation, are contradictory to each other, and neither can be obeyed, because neither can be infringed.

How then, my lords, is this contradiction to be reconciled, and the necessity avoided of breaking the law on one side or the other, but by the method now proposed, of setting those whose evidence is required, free from the danger which they may incur by giving it.

The end of the law is the redress of wrong, the protection of right, and the preservation of happiness; and the law is so far imperfect as it fails to produce the end for which it is instituted; and where any imperfection is discovered, it is the province of the legislature to supply it.

By the experience, my lords, of one generation after another, by the continued application of successive ages, was our law brought to its present accuracy. As new combinations of circumstances, or unforeseen artifices of evasion, discovered to our ancestors the insufficiency of former provisions, new expedients were invented; and as wickedness improved its subtilty, the law multiplied its powers and extended its vigilance.

If I should, therefore, allow, what has been urged, that there is no precedent of a bill like this, what can be inferred from it, but that wickedness has found a shelter that was never discovered before, and which must be forced by a new method of attack? And what then are we required to do more than has been always done by our ancestors, on a thousand occasions of far less importance?

I know not, my lords, whether it be possible to imagine an emergence that can more evidently require the interposition of the legislative power, than this which is now proposed to your consideration. The nation has been betrayed in peace, and disgraced in war; the constitution has been openly invaded, the votes of the commons set publicly to sale, the treasures of the publick have been squandered to purchase security to those by whom it was oppressed, the people are exasperated to madness, the commons have begun the inquiry that has been for more than twenty years demanded and eluded, and justice is on a sudden insuperably retarded by the deficiency of the law.

Surely, my lords, this is an occasion that may justify the exertion of unusual powers, and yet nothing either new or unusual is required; for the bill now proposed may be supported both by precedents of occasional laws, and parallel statutes of lasting obligation.

When frauds have been committed by the agents of trading companies, bills of indemnity to those by whom any discoveries should be made, have been proposed and passed without any of those dreadful consequences which some noble lords have foreseen in this. I have never heard that any man was so stupid as to mistake such a bill for a general act of grace, or that the confession of any crimes was procured by it, except of those which it was intended to detect; I have never been informed, that any murderer was blessed with the acuteness of the noble lord, or thought of flying to such an act as to a common shelter for villany. Such suppositions, my lords, can be intended only to prolong a controversy and weary an opponent; nor can such trifling exaggerations contribute to any other end, than of discovering the fertility of imagination, and the exuberance of eloquence.

For my part, my lords, I think passion and negligence equally culpable in a debate like this; and cannot forbear to recommend seriousness and attention, with the same zeal with which moderation and impartiality have already been inculcated. He that entirely disregards the question in debate, who thinks it too trivial for a serious discussion, and speaks upon it with the same superficial gaiety with which he would relate the change of a fashion, or the incidents of a ball, is not very likely, either to discover or propagate the truth; and is less to be pardoned, than he who is betrayed by passion into absurdities, as it is less criminal to injure our country by zeal than by contempt.

That bills, without any essential difference from that which is now before us, have been passed in favour of private companies, is indisputably certain; it is certain that they never produced any other effect, than such as were expected from them by those who promoted them. It is evident, that the welfare of the nation is more worthy of our regard than any separate company; that the whole, of

more importance than a part; and therefore, the same measures may be now used with far greater justice, and with equal probability of success.

The necessity of the law now proposed, my lords, cannot more plainly appear, than by reflecting on the absurdity of the pleas made use of for refusing it, which, considered in the whole, contain only this assertion, that the security of one man is to be preferred to justice, to truth, to publick felicity; that a precedent is rather to be established, which will for ever shelter every future minister from the laws of our country; and that all our miseries are rather to be borne in silence, or lamented in impotence, than the man, whom the whole nation agrees to accuse as the author of them, should be exposed to the hazard of a trial, even before those whom every tie of interest and long-continued affection has united to him.

It is, indeed, objected, that by passing this bill, we shall transfer the authority of trying him to the other house; that we shall give up our privileges for ever, erect a new court of judicature, and overturn the constitution.

I have long observed, my lords, how vain it is to argue against those whose resolutions are determined by extrinsick motives, and have been long acquainted with the art of disguising obstinacy, by an appearance of reasons that have no weight, even in the opinion of him by whom they are offered, and of raising clouds of objections, which, by the first reply, will certainly be dissipated, but which, at least, fill the mouth for a time, and preserve the disputant from the reproach of adhering to an opinion, in vindication of which he had nothing to say.

Of this kind is the objection which I am now to remove, though I remove it only to make way for another, for those can never be silenced who can satisfy themselves with arguments like this; however, those that offer it expect it should be answered, and if it should be passed over in the debate, will boast of its irrefragability, and imagine that they have gained the victory by the superiority of their abilities, rather than of their numbers.

That we shall, by passing this bill, give the commons a power which they want at present, is unquestionably evident; but we shall only retrieve that which they were never known to want before, the power of producing evidence; evidence which we, my lords, must hear, and of whose testimonies we shall reserve the judgment to ourselves. The commons will only act as prosecutors, a character in which they were never conceived to encroach upon our right. The man whose conduct is the subject of inquiry, must stand his trial at our bar; nor has the bill any other tendency, than to enable the commons to bring him to it.

What can be alleged against this design I know not; because I can discover no objections which do not imply guilt, and guilt we are not yet at liberty to suppose. I am so far from pressing this bill from any motives of personal malevolence, that I am only doing, in the case of the minister, what I should ardently desire to be done in my own, and what no man would wish to obstruct, who was supported by a consciousness of integrity, and stimulated by that honest sense of reputation which I have always found the concomitant of innocence.

I hope I shall be readily believed by your lordships, when I assert, once more, that I should not only forbear all opposition to a bill intended to produce a scrutiny into my conduct, but that I should promote it with all my interest, and solicit all my friends to expedite and support it; for there was once a time, my lords, in which my behaviour was brought to the test, a time when no expedient was forgotten by which I might be oppressed, nor any method untried to procure accusations against me.

Whether the present case in every circumstance will stand exactly parallel to mine, I am very far from presuming to determine. I had served my country with industry, fidelity, and success, and had received the illustrious testimony of my conduct, the publick thanks of this house. I was conscious of no crime, nor had gratified, in my services, any other passion than my zeal for the publick. I saw myself ignominiously discarded, and attacked by every method of calumny and reproach. Nor was the malice of my enemies satisfied with destroying my reputation without impairing my fortune: for this purpose a prosecution was projected, a wretch was found out who engaged to accuse me, and

received his pardon for no other purpose; nor did I make any opposition to it in this house, though I knew the intent with which it was procured, and was informed that part of my estate was allotted him to harden his heart, and strengthen his assertions.

This, my lords, is surely a precedent which I have a right to quote, and which will vindicate me to your lordships from the imputation of partiality and malignity; since it is apparent, that I do only in the case of another, what I willingly submitted to, when an inquiry was making into my conduct.

But, my lords, this is far from being the only precedent which may be pleaded in favour of this bill; a bill which, in reality, concurs with the general and regular practice of the established law, as will appear to every one that compares it with the eighth section of the act for preventing bribery; in which it is established as a perpetual law, that he who, having taken a bribe, shall, within twelve months, inform against him that gave it, shall be received as an evidence, and be indemnified from all the consequences of his discovery.

To these arguments of reason and precedent, I will add one of a more prevalent kind, drawn from motives of interest, which surely would direct our ministers to favour the inquiry, and promote every expedient that might produce a complete discussion of the publick affairs; since they would show, that they are not afraid of the most rigorous scrutiny, and are above any fears that the precedent which they are now establishing may revolve upon themselves.

To elude the ratification of this bill, it was at first urged that there was no proof of any crime; and when it was shown, that there was an apparent misapplication of the publick money, it became necessary to determine upon a more hardy assertion, and to silence malicious reasoners, by showing them how little their arguments would be regarded. It then was denied, with a spirit worthy of the cause in which it was exerted, that the civil list was publick money.

Disputants like these, my lords, are not born to be confuted; it would be to little purpose that any man should ask, whether the money allotted for the civil list was not granted by the publick, and whether publick grants did not produce publick money; it would be without any effect, that the uses for which that grant is made should be enumerated, and the misapplication of it openly proved; a distinction, or at least a negative, would be always at hand, and obstinacy and interest would turn argument aside.

Upon what principles, my lords, we can now call out for a proof of crimes, and proceed in the debate as if no just reason of suspicion had appeared, I am not able to conjecture; here is, in my opinion, if not demonstrative proof, yet the strongest presumption of one of the greatest crimes of which any man can be guilty, the propagation of wickedness, of the most atrocious breach of trust which can be charged upon a British minister, a deliberate traffick for the liberties of his country.

Of these enormous villanies, however difficult it may now seem to disengage him from them, I hope we shall see reason to acquit him at the bar of this house, at which, if he be innocent, he ought to be desirous of appearing; nor do his friends consult his honour, by endeavouring to withhold him from it; if they, indeed, believe him guilty, they may then easily justify their conduct to him, but the world will, perhaps, require a more publick vindication.

These, my lords, are the arguments which have influenced me hitherto to approve the bill now before us, and which will continue their prevalence, till I shall hear them confuted; and, surely, if they are not altogether unanswerable, they are surely of so much importance, that the bill for which they have been produced, must be allowed to deserve, at least, a deliberate examination, and may very justly be referred to a committee, in which ambiguities may be removed, and inadvertencies corrected.

Lord CHOLMONDELEY spoke next, to the following purpose:—My lords, this bill is, in my opinion, so far from deserving approbation, that I am in doubt whether I should retard the determination of the house, by laying before you the reasons which influence me in this debate; nor, indeed, could I prevail upon myself to enter into a formal discussion of a question, on which I should have imagined that all mankind would have been of one opinion, did not my reverence of the abilities

of those noble lords who have spoken in defence of the bill, incline me, even against the conviction of my own reason, to suspect that arguments may be offered in its favour, which I have not yet been able to discover; and that those which have been produced, however inconclusive they have seemed, will operate more powerfully when they are more fully displayed, and better understood.

For this reason I shall lay before your lordships the objections which arose in my mind when the bill was first laid before us, and which have rather been strengthened than invalidated by the subsequent debate.

It appears, my lords, evident to me, that every man has a right to be tried by the known laws of his country; that no man can be justly punished by a law made after the commission of a fact, because he then suffers by a law, against which he never transgressed; nor is any man to be prosecuted by methods invented only to facilitate his condemnation, because he ought to be acquitted, however guilty he may be supposed, whom the established rules of justice cannot convict. The law, my lords, is the measure of political, as conscience of moral right; and he that breaks no law, may indeed be criminal, but is not punishable. The law likewise prescribes the method of prosecuting guilt; and as we, by omitting any crime in our laws, disable ourselves from punishing it, however publick or flagrant, so by regulating the process in our courts of justice, we give security to that guilt, which by that process cannot be detected.

The truth of this assertion, my lords, however paradoxical it may perhaps appear, will become evident, if we suppose a man brought to the bar whose guilt was unquestionable, though it could not be legally proved, because all those were dead who might have appeared against him. It is certain that his good fortune would give him no claim to pardon, and yet he could not be convicted, unless we suppose him weak enough to accuse himself. In this case, my lords, it is not impossible, that some might be prompted by their zeal to propose, that the foreign methods of justice might be introduced, and the rack employed to extort, from his own mouth, a confession of those crimes of which every one believed him guilty.

With what horror, my lords, such a proposal would be heard, how loudly it would be censured, and how universally rejected, I need not say; but must observe, that, in my opinion, the detestation would arise principally from a sense of the injustice of exposing any man to peculiar hardships, and distinguishing him to his disadvantage from the rest of the community.

It will, my lords, not be easy to prove, that it is less agreeable to justice to oblige a man to accuse himself, than to make use of extraordinary methods of procuring evidence against him; because the barriers of security which the law has fixed are equally broken in either case, and the accused is exposed to dangers, from which he had reason to believe himself sheltered by the constitution of his country.

This argument, my lords, I have mentioned, without endeavouring to evince the innocence of the person whom this bill immediately regards; because the intent of it is to show, that no man is to be deprived of the common benefits of the constitution, and that the guilty have a right to all the advantages which the law allows them. For guilt is never to be supposed till it is proved, and it is therefore never to be proved by new methods, merely because it is supposed.

That the method of procuring evidence now proposed, is new, my lords, I think it no temerity to conclude; because the noble lords who have endeavoured to defend it, have produced no instance of a parallel practice, and their knowledge and acuteness is such, that they can only have failed to discover them, because they are indeed nowhere to be found.

In the case of bribery, my lords, the person accused has the privilege, if he be innocent, of prosecuting his accuser for perjury, and is therefore in less danger of being harassed by a false indictment. But, my lords, this is not the only difference between the two cases; for he that discovers a bribe received by himself, has no motives of interest to prompt his evidence; he is only secured from suffering by his own discovery, and might have been equally safe by silence and secrecy; since the law supposes the crime out of the reach of detection, otherwise than by the confession of the criminal.

But far different, my lords, are the circumstances of those who are now invited to throng the courts of justice, and stun us with depositions and discoveries. They are men supposed criminal by the indemnity which is offered them; and by the nature of their crimes it is made at least probable, that they are in daily hazard of discovery and punishment; from which they are summoned to set themselves free for ever, by accusing a man of whom it has not been yet proved that he can legally be called to a trial.

Thus, my lords, in the law which the noble duke has mentioned as a precedent for this bill, the accuser is only placed in a kind of equilibrium, equally secure from punishment, by silence or by information, in hope that the love of truth and justice will turn the balance; in the bill now before us the witness is in continual danger by withholding his evidence, and is restored to perfect safety by becoming an accuser, and from making discoveries, whether true or false, has every thing to hope and nothing to fear.

The necessity of punishing wickedness has been urged with great strength; it has been unanswerably shown, by the advocates for this bill, that vindictive justice is of the highest importance to the happiness of the publick, and that those who may be injured with impunity, are, in reality, denied the benefits of society, and can be said to live in the state of uncivilized nature, in which the strong must prey upon the weak.

This, my lords, has been urged with all the appearance of conviction and sincerity, and yet has been urged by those who are providing a shelter for the most enormous villanies, and enabling men who have violated every precept of law and virtue, to bid defiance to justice, and to sit at ease in the enjoyment of their acquisitions.

And what, my lords, is the condition, upon which wickedness is to be set free from terrour, upon which national justice is to be disarmed, and the betrayers of publick counsels, or the plunderers of publick treasure, qualified for new trusts, and set on a level with untainted fidelity? A condition, my lords, which wretches like these will very readily accept, the easy terms of information and of perjury. They are required only to give evidence against a man marked out for destruction, and the guilt of partaking in his crimes is to be effaced by the merit of concurring in his ruin.

It has, indeed, been a method of detection, frequently employed against housebreakers and highwaymen, to proclaim a pardon for him that shall convict his accomplices; but surely, my lords, this practice will not, in the present question, be mentioned as a precedent. Surely it will not be thought equitable to level with felons, and with thieves, a person distinguished by his rank, his employments, his abilities, and his services; a person, whose loyalty to his sovereign has never been called in question, and whose fidelity to his country has at least never been disproved.

These are measures, my lords, which I hope your lordships will never concur to promote; measures not supported either by law or justice, or enforced by any exigence of affairs, but dictated by persecution, malice, and revenge; measures by which the guilty and the innocent may be destroyed with equal facility, and which must, therefore, tend to encourage wickedness as they destroy the security of virtue.

Lord CARTERET then rose, and spoke to the following effect:—My lords, I have so long honoured the abilities, and so often concurred with the opinion of the noble lord who began the debate, that I cannot, without unusual concern, rise up now to speak in opposition to him; nor could any other principle support me under the apparent disadvantage of a contest so unequal, but the consciousness of upright intentions, and the concurrence of the whole nation.

I cannot but consider myself, on this occasion, my lords, as the advocate of the people of Britain, who, after continued oppressions, losses, and indignities, after having been plundered and ridiculed, harassed and insulted for complaining, have at length flattered themselves that they should have an opportunity of appealing to our bar for justice, and of securing themselves from future injuries, by the punishment of those that had so long triumphed in their guilt, proclaimed their defiance of justice, and declared that the laws were made only for their security.

The expectations of the people have been frustrated by the unexpected obstinacy of the agents of wickedness, by a plea that was never made use of for the same purpose before, against which the known laws of the nation have provided no remedy, and which your lordships are, therefore, now called upon to overthrow.

That the nation calls loudly for an inquiry, that the misapplication of the publick treasure is universally suspected, and that the person mentioned in the bill is believed to be the chief author of that misapplication; that at least those who have squandered it, have acted by his authority, and been admitted to trust by his recommendation, and that he is, therefore, accountable to the publick for their conduct, I shall suppose, cannot be denied.

The nation, my lords, has a right to be gratified in their demands of an inquiry, whatever be the foundation of their suspicions; since it is manifest that it can produce no other effects than those of giving new lustre to innocence, and quieting the clamours of the people, if it should be found that the government has been administered with honesty and ability; and it is not less evident that, if the general opinion is well grounded, if our interest has been betrayed, and that money employed only to corrupt the nation which was raised for the defence of it, the severest punishment ought to be inflicted, that all future ministers may be deterred from the same crimes by exemplary vengeance.

Thus, my lords, an inquiry appears, upon every supposition, useful and necessary; but I cannot comprehend how it can be prosecuted by any other method, than that of proposing an indemnity to those who shall make discoveries. Every wicked measure, my lords, must involve in guilt all who are engaged in it; and how easily it may be concealed from every other person, may be shown by an example of a crime, which no man will deny to have sometimes existed, and which, in the opinion of most, is not very uncommon in this age.

It will be allowed, at least, that on some occasions, when a favourite begins to totter, when strong objections are raised against the continuance of a standing army, when a convention requires the ratification of the legislature, or some fatal address is proposed to be presented to the crown, a pecuniary reward may sometimes be offered, and though that, indeed, be a supposition more difficult to be admitted, sometimes, however rarely, accepted.

In this case, my lords, none but he that gives, and he that receives the bribe can be conscious of it; at most, we can only suppose an intervening agent to have any knowledge of it; and if even he is admitted to the secret, so as to be able to make a legal discovery, there must be some defect of cunning in the principals. Let us consider from which of these any discovery can be probably expected, or what reason can be alleged, for which either should expose himself to punishment for the sake of ruining his associates.

It is, therefore, my lords, plain, from this instance, that without the confession of some guilty person, no discovery can be made of those crimes which are most detrimental to our happiness, and most dangerous to our liberties. It is apparent that no man will discover his own guilt; while there remains any danger of suffering by his confession, it is certain that such crimes will be committed, if they are not discouraged by the fear of punishment, and it cannot, therefore, be denied that a proclamation of indemnity is necessary to their detection.

This, my lords, is not, as it has been alleged, a method unknown to our constitution, as every man that reads the common papers will easily discover. I doubt if there has been, for many years, a single month in which some reward, as well as indemnity, has not been promised to any man, who, having been engaged in a robbery, would discover his confederates; and surely a method that is daily practised for the security of private property, may be very rationally and justly adopted by the legislature for the preservation of the happiness and the property of the publick.

The punishment of wickedness, my lords, is undoubtedly one of the essential parts of good government, and, in reality, the chief purpose for which society is instituted; for how will that society in which any individual may be plundered, enslaved, and murdered, without redress and without

punishment, differ from the state of corrupt nature, in which the strongest must be absolute, and right and power always the same?

That constitution, therefore, which has not provided for the punishment, and previously for the discovery of guilt, is so far in a state of imperfection, and requires to be strengthened by new provisions. This, my lords, is far from being our state, for we have in our hands a method of detecting the most powerful criminals, a method in itself agreeable to reason, recommended by the practice of our predecessors, and now approved, once more, by the sanction of one of the branches of the legislature.

The objections which have, on this occasion, been made against it, are such as no law can escape, and which, therefore, can have no weight; and it is no small confirmation of the expediency of it, that they by whom it has been opposed have not been able to attack it with stronger reasons, from which, if we consider their abilities, we shall be convinced, that nothing has secured it but the power of truth.

It is inquired, by the noble lord, how we shall distinguish true from false evidence; to which it may be very readily answered, that we shall distinguish them by the same means as on any other occasion, by comparing the allegations, and considering how every witness agrees with others and with himself, how far his assertions are in themselves probable, how they are confirmed or weakened by known circumstances, and how far they are invalidated by the contrary evidence.

We shall, my lords, if we add our sanction to this bill, discover when any man's accusation is prompted by his interest, as we might know whether it was dictated by his malice.

It has been asked also, how any man can ascertain his claim to the indemnity? To which it may be easily replied, that by giving his evidence he acquires a right, till that evidence shall be proved to be false.

The noble lord who spoke some time ago, and whose abilities and qualities are such, that I cannot but esteem and admire him, even when conviction obliges me to oppose him, has proposed a case in which he seems to imagine that a murderer might secure himself from punishment, by connecting his crime with some transaction in which the earl of ORFORD should be interested. This case, my lords, is sufficiently improbable, nor is it easy to mention any method of trial in which some inconvenience may not be produced, in the indefinite complications of circumstances, and unforeseen relations of events. It is known to have happened once, and cannot be known not to have happened often, that a person accused of murder, was tried by a jury of which the real murderer was one. Will not this then be an argument against the great privilege of the natives of this empire, *a trial by their equals*?

But, my lords, I am of opinion that the murderer would not be indemnified by this bill, since he did not commit the crime by the direction of the person whom he is supposed to accuse; nor would it have any necessary connexion with his conduct, but might be suppressed in the accusation, without any diminution of the force of the evidence. A man will not be suffered to introduce his accusation with an account of all the villanies of his whole life, but will be required to confine his testimony to the affair upon which he is examined.

The committee, my lords, will distinguish between the crimes perpetrated by the direction of the earl of ORFORD, and those of another kind. And should an enormous criminal give such evidence, as the noble lord was pleased to suppose, he may be indemnified for the bribery, but will be hanged for the murder, notwithstanding any thing in this bill to the contrary.

It has been insisted on by the noble lords, who have spoke against the bill, that no crime is proved, and, therefore, there is no foundation for it. But, my lords, I have always thought that the profusion of the publick money was a crime, and there is evidently a very large sum expended, of which no account has been given; and, what more nearly relates to the present question, of which no account has ever been demanded.

On this occasion, my lords, an assertion has been alleged, which no personal regard shall ever prevail upon me to hear without disputing it, since I think it is of the most dangerous tendency, and

unsupported by reason or by law. It is alleged, my lords, that the civil list is not to be considered as publick money, and that the nation has, therefore, no claim to inquire how it is distributed; that it is given to support the dignity of the crown, and that only his majesty can ask the reason of any failures in the accounts of it.

I have, on the contrary, my lords, hitherto understood, that all was publick money which was given by the publick. The present condition of the crown is very different from that of our ancient monarchs, who supported their dignity by their own estates. I admit, my lords, that they might at pleasure contract or enlarge their expenses, mortgage or alienate their lands, or bestow presents and pensions without control.

It is, indeed, expressed in the act, that the grants of the civil list are without account, by which I have hitherto understood only that the sum total is exempt from account; not that the ministers have a right to employ the civil list to such purposes as they shall think most conducive to their private views. For if it should be granted, not only that the nation has no right to know how the *whole* is expended, which is the utmost that can be allowed, or to direct the application of any part of it, which is very disputable, yet it certainly has a claim to direct in what manner it shall *not* be applied, and to provide that boroughs are not corrupted under pretence of promoting the dignity of the crown.

The corruption of boroughs, my lords, is one of the greatest crimes of which any man under our constitution is capable; it is to corrupt, at once, the fountain and the stream of government, to poison the whole nation at once, and to make the people wicked, that they may infect the house of commons with wicked representatives.

Such, my lords, are the crimes, the suspicion of which incited the commons to a publick inquiry, in which they have been able to proceed so far, as to prove that the publick discontent was not without cause, and that such arts had been practised, as it is absolutely necessary, to the publick security, to detect and punish.

They, therefore, pursued their examination with a degree of ardour proportioned to the importance of the danger in which every man is involved by the violation of the fundamental laws of the constitution; but, they found themselves obstructed by the subtilty of some who confessed only that they were guilty, and determined to be faithful to their accomplices and themselves.

A farther inquiry, my lords, was, by this unforeseen evasion, made impossible; the ultimate and principal agent is sheltered from the law by his guard of mercenaries, wretches who are contented to be infamous, if they can continue to be rich, and value themselves on their adherence to their master, while they are conspiring to ruin their country.

The nation, my lords, in the mean time, justly applies for redress to the power of the legislature, and to its wisdom for methods of procuring it by law. The commons have complied with their importunities, and propose to your lordships the bill before you, a bill for making a publick inquiry possible, and for bringing a minister within reach of the law.

On this occasion, my lords, we are upbraided with our own declarations, that the person mentioned in this bill would quickly find accusers, when he should be divested of his authority. Behold him now, say his advocates, reduced from his envied eminence, and placed on a level with his fellow-subjects! Behold him no longer the distributor of employments, or the disburser of the publick treasure! see him divested of all security, but that of innocence, and yet no accusations are produced!

This, my lords, is a topick so fruitful of panegyrick, and so happily adapted to the imagination of a person long used to celebrate the wisdom and integrity of ministers, that, were not the present question of too great importance to admit of false concessions, I should suffer it to remain without controversy.

But, my lords, this is no time for criminal indulgence; and, therefore, I shall annihilate this short-lived triumph by observing, that to be out of place, is not necessarily to be out of power; a minister may retain his influence, who has resigned his employment; he may still retain the favour of his prince, and possess him with a false opinion, that he can only secure his authority by protecting

him; or, what there is equal reason to suspect, his successors may be afraid of concurring in a law which may hereafter be revived against themselves.

It may be urged farther, my lords, that he cannot with great propriety be said to have no power, who sees the legislature crowded with men that are indebted to his favour for their rank and their fortunes.

Such a man may bid defiance to inquiry, with confidence produced by security very different from that of innocence; he may depend upon the secrecy of those whom he has, perhaps, chosen for no other virtue; he may know that common danger will unite them to him, and that they cannot abandon him without exposing themselves to the same censures.

These securities, my lords, the fortifications of the last retreat of wickedness, remain now to be broken, and the nation expects its fate from our determinations, which will either secure the liberties of our posterity from violation, by showing that no degree of power can shelter those who shall invade them, or that our constitution is arrived at this period, and that all struggles for its continuance will be vain.

Let us not, my lords, combine with the publick enemies, let us not give the nation reason to believe that this house is infected with the contagion of venality, that our honour is become an empty name, and that the examples of our ancestors have no other effect upon us than to raise the price of perfidy, and enable us to sell our country at a higher rate.

Let us remember, my lords, that power is supported by opinion, and that the reverence of the publick cannot be preserved but by rigid justice and active beneficence.

For this reason, I am far from granting that we ought to be cautious of charging those with crimes who have the honour of a seat amongst us. In my opinion, my lords, we ought to be watchful against the least suspicion of wickedness in our own body, we ought to eject pollution from our walls, and preserve that power for which some appear so anxious, by keeping our reputation pure and untainted.

It is, therefore, to little purpose objected, that there is no *corpus delicti*; for even, though it were true, yet while there is a *corpus suspicionis*, then inquiry ought to be made for our own honour, nor can either law or reason be pleaded against it.

I cannot, therefore, doubt, that your lordships will endeavour to do justice; that you will facilitate the production of oral evidence, lest all written proofs should be destroyed; that you will not despise the united petition of the whole people, of which I dread the consequence; nor reject the only expedient by which their fears may be dissipated, and their happiness secured.

Lord HARDWICKE spoke next, in the following manner:—My lords, after having, with an intention uninterrupted by any foreign considerations, and a mind intent only on the discovery of truth, examined every argument which has been urged on either side, I think it my duty to declare, that I have yet discovered no reason, which, in my opinion, ought to prevail upon us to ratify the bill that is now before us.

The noble lords who have defended it, appear to reason more upon maxims of policy, than rules of law, or principles of justice; and seem to imagine, that if they can prove it to be expedient, it is not necessary to show that it is equitable.

How far, my lords, they have succeeded in that argument which they have most laboured, I think it not necessary to examine, because I have hitherto accounted it an incontestable maxim, that whenever interest and virtue are in competition, virtue is always to be preferred.

The noble lord who spoke first in this debate, has proved the unreasonableness and illegality of the methods proposed in this bill, beyond the possibility of confutation; he has shown that they are inconsistent with the law, and—that the law is founded upon reason: he has proved, that the bill supposes a criminal previous to the crime, summons the man to a trial, and then inquires for what offence.

Nor has he, my lords, confined himself to a detection of the original defect, the uncertainty of any crime committed, but has proceeded to prove, that upon whatever supposition we proceed, the bill is unequitable, and of no other tendency than to multiply grievances, and establish a precedent of oppression.

For this purpose he has shown, that no evidence can be procured by this till, because all those who shall, upon the encouragement proposed in it, offer information, must be considered as hired witnesses, to whom no credit can be given, and who, therefore, ought not to be heard.

His lordship also proved, that we cannot pass this bill without diminishing our right, bestowing new powers upon the commons, confirming some of their claims which are most dubious, nor, by consequence, without violating the constitution.

To all these arguments, arguments drawn from the most important considerations, enforced by the strongest reasoning, and explained with the utmost perspicuity, what has been replied? How have any of his assertions been invalidated, or any of his reasons eluded? How has it been shown that there is any foundation for a criminal charge, that witnesses thus procured ought to be heard, or that our rights would not be made disputable by confirming the proceedings of the commons?

It has been answered by a noble lord, that though there is not *corpus delicti*, there is *corpus suspicionis*. What may be the force of this argument, I cannot say, because I am not ashamed to own, that I do not understand the meaning of the words. I very well understand what is meant by *corpus delicti*, and so does every other lord; it is universally known to mean the *body of an offence*; but as to the words *corpus suspicionis*, I do not comprehend what they mean: it is an expression, indeed, which I never before heard, and can signify, in my apprehension, nothing more than the *body of a shadow*, the substance of something which is itself nothing.

Such, my lords, is the principle of this bill, by the confession of its warmest and ablest advocates; it is a bill for summoning a person to a trial, against whom no crime is alleged, and against whom no witness will appear without a bribe.

For that those who should appear in consequence of this bill to offer their evidence, ought to be considered as bribed, will, surely, need no proof to those who consider, that bribes are not confined to money, and that every man who promotes his own interest by his deposition, is swearing, not for truth and justice, but for himself.

It may be urged, and it is, in my opinion, all that the most fruitful imagination can suggest in favour of this bill, that they are not required to accuse the earl of ORFORD, but to give in their evidence concerning his conduct, whether in his favour, or against him.

But this argument, my lords, however specious it may seem, will vanish of itself, if the bill be diligently considered, which is only to confer indemnity on those, who in the course of their evidence shall discover any of their own crimes; on those whose testimony shall tend to fix some charge of wickedness on the earl of ORFORD; for it cannot easily be imagined how those who appear in his favour, should be under a necessity of revealing any actions that require an indemnity.

Thus, my lords, it appears that the bill can produce no other effect than that of multiplying accusations, since it offers rewards only to those who are supposed to have been engaged in unjustifiable practices; and to procure witnesses by this method, is equally unjust as to propose a publick prize to be obtained by swearing against any of your lordships.

If witnesses are to be purchased, we ought, at least, to offer an equal price on each side, that though they may be induced by the reward to offer their depositions, they may not be tempted to accuse rather than to justify.

Should any private man, my lords, offer a reward to any that would give evidence against another, without specifying the crime of which he is accused, doubtless he would be considered by the laws of this nation, as a violator of the rights of society, an open slanderer, and a disturber of mankind; and would immediately, by an indictment or information, be obliged to make satisfaction to the community which he had offended, or to the person whom he had injured.

It has, my lords, I own, been asserted by the noble duke, that the publick has a right to every man's evidence, a maxim which in its proper sense cannot be denied. For it is undoubtedly true, that the publick has a right to all the assistance of every individual; but it is, my lords, upon such terms as have been established for the general advantage of all; on such terms as the majority of each society has prescribed. But, my lords, the majority of a society, which is the true definition of the *publick*, are equally obliged with the smaller number, or with individuals, to the observation of justice, and cannot, therefore, prescribe to different individuals different conditions. They cannot decree that treatment to be just with regard to one which they allow to be cruel with respect to another. The claims of the publick are founded, first upon right, which is invariable; and next upon the law, which, though mutable in its own nature, is, however, to be so far fixed, as that every man may know his own condition, his own property, and his own privileges, or it ceases in effect to be law, it ceases to be the rule of government, or the measure of conduct.

In the present case, my lords, the publick has not a right to hire evidence, because the publick has hitherto subsisted upon this condition, among others, that no man shall swear in his own cause. The publick has not a right to require from any man that he should betray himself, because every man may plead that he is exempted from that demand by the publick faith.

Thus, my lords, the right of the publick is only that right which the publick has established by law, and confirmed by continual claims; nor is the claim of the publick from individuals to be extended beyond its known bounds, except in times of general distress, where a few must necessarily suffer for the preservation of the rest.

This necessity is, indeed, now urged; but surely it ought to be shown, that the present circumstances of affairs differ from those of any former age, before it can with any propriety be asserted, that measures are now necessary, which no other distresses, however urgent, or provocations, however flagrant, have hitherto produced. It ought to be proved, that wickedness had discovered some new shelter from justice, before new engines are invented to force it from its retreat, and new powers applied to drag it out to punishment.

The nation has subsisted, my lords, so many centuries; has often recovered from the lingering disease of inward corruption, and repelled the shocks of outward violence; it has often been endangered by corrupt counsels, and wicked machinations, and surmounted them by the force of its established laws, without the assistance of temporary expedients; at least without expedients like this, which neither law nor justice can support, and which would in itself be a more atrocious grievance than those, if they were real, which it is intended to punish, and might produce far greater evils than those which are imputed to him, against whom it is projected.

It has, indeed, my lords, been mentioned by a noble lord, in much softer language, as a method only of making an inquiry possible. The possibility of an inquiry, my lords, is a very remote and inoffensive idea; but names will not change the nature of the things to which they are applied. The bill is, in my opinion, calculated to make a defence impossible, to deprive innocence of its guard, and to let loose oppression and perjury upon the world. It is a bill to dazzle the wicked with a prospect of security, and to incite them to purchase an indemnity for one crime, by the perpetration of another. It is a bill to confound the notions of right and wrong, to violate the essence of our constitution, and to leave us without any certain security for our properties, or rule for our actions.

Nor are the particular parts less defective than the general foundation; for it is full of ambiguous promises, vague ideas, and indeterminate expressions, of which some have been already particularized by the noble lords that have spoken on this occasion, whose observations I shall not repeat, nor endeavour to improve; but cannot forbear proposing to the advocates for the bill one sentence, that it may be explained by them, and that at least we may not pass what we do not understand.

In the inquiry into the conduct of the earl of ORFORD, every man, as we have already seen, is invited to bring his evidence, and to procure an indemnity, by answering such questions as shall be asked, *touching or concerning the said inquiry, or relative thereto*. What is to be understood by

this last sentence, I would willingly be informed; I would hear how far the *relation* to the inquiry is designed to be extended, with what other *inquiries* it is to be complicated, and where the chain of interrogatories is to have an end.

When an evidence appears before the committee, how can he be certain that the questions asked are *relative to the inquiry*? How can he be certain that they are such as he may procure an indemnity by resolving? Or whether they are not unconnected with the principal question, and therefore insidious and dangerous? And to what power must he appeal, if he should be prosecuted afterwards upon his own confession, on pretence that it was not *relative to the inquiry*?

Expressions like these, my lords, if they are not the effects of malicious hurry, and negligent animosity, must be intended to vest the committee with absolute authority, with the award of life and death, by leaving to them the liberty to explain the statute at their own pleasure, to contract or enlarge the relation to the controversy, to inquire without bounds, and judge without control.

Thus, my lords, I have laid before you my opinion of this bill without any partial regard, without exaggerating the ill consequences that may be feared from it, or endeavouring to elude any reasoning by which it has been defended. I have endeavoured to pursue the arguments of the noble lord who spoke first, and to show that it is founded upon false notions of criminal justice, that it proposes irrational and illegal methods of trial, that it will produce consequences fatal to our constitution, and establish a precedent of oppression.

I have endeavoured, in examining the arguments by which the bill has been defended, to show that the rights of the publick are ascertained, and that the power of the majority is to be limited by moral considerations; and to prove, in discussing its particular parts, that it is inaccurate, indeterminate, and unintelligible.

What effects my inquiry may have had upon your lordships, yourselves only can tell; for my part, the necessity of dwelling so long upon the question, has added new strength to my conviction; and so clearly do I now see the danger and injustice of a law like this, that though I do not imagine myself indued with any peculiar degree of heroism, I believe, that if I were condemned to a choice so disagreeable, I should more willingly suffer by such a bill passed in my own case, than consent to pass it in that of another.

The duke of ARGYLE replied to the following effect:—My lords, I am not yet able to discover that the bill now before us is either illegal or absurd, that its interpretation is doubtful, or its probable consequences dangerous.

The indisputable maxim, that *the publick has a right to every man's evidence*, has been explained away with much labour, and with more art than a good cause can often require. We have been told of publick contracts, of the rights of society with regard to individuals, and the privileges of individuals with respect to society; we have had one term opposed to another, only to amuse our attention; and law, reason, and sophistry have been mingled, till common sense was lost in the confusion.

But, my lords, it is easy to disentangle all this perplexity of ideas, and to set truth free from the shackles of sophistry, by observing that it is, in all civilized nations of the world, one of the first principles of the constitution, that the publick has a right, always reserved, of having recourse to extraordinary methods of proceeding, when the happiness of the community appears not sufficiently secured by the known laws.

Laws may, by those who have made the study and explanation of them the employment of their lives, be esteemed as the great standard of right; they may be habitually revered, and considered as sacred in their own nature, without regard to the end which they are designed to produce.

But others, my lords, whose minds operate without any impediment from education, will easily discover, that laws are to be regarded only for their use; that the power which made them only for the publick advantage ought to alter or annul them, when they are no longer serviceable, or when they obstruct those effects which they were intended to promote.

I will, therefore, my lords, still assert, that *the publick has a right to every man's evidence*; and that to reject any bill which can have no other consequence than that of enabling the nation to assert its claim, to reconcile one principle of law with another, and to deprive villany of an evasion which may always be used, is to deny justice to an oppressed people, and to concur in the ruin of our country.

And farther, my lords, I confidently affirm it has not been proved, that this bill can endanger any but the guilty; nor has it been shown that it is drawn up for any other purpose than that which the noble lord mentioned, of hindering *an inquiry from being impossible*; it may, therefore, justly be required from those who affect, on this occasion, so much tenderness for liberty, so many suspicions of remote designs, and so much zeal for our constitution, to demonstrate, that either an inquiry may be carried on by other means, or that an inquiry is itself superfluous or improper.

Though none of those who have spoken against the bill have been willing to expose themselves to universal indignation, by declaring that they would gladly obstruct the progress of the inquiry; that they designed to throw a mist over the publick affairs, and to conceal from the people the causes of their misery; and though I have no right to charge those who differ from me in opinion, with intentions, which, as they do not avow them, cannot be proved; this, however, I will not fear to affirm, that those who are for rejecting this method of inquiry, would consult their honour by proposing some other equally efficacious; lest it should be thought; by such as have not any opportunities of knowing their superiority to temptations, that they are influenced by some motives which they are not willing to own, and that they are, in secret, enemies to the inquiry, though, in publick, they only condemn the method of pursuing it.

The duke of NEWCASTLE next rose, and spoke to this effect:—My lords, the arguments which have been produced in defence of the bill before us, however those who offer them may be influenced by them, have made, hitherto, very little impression upon me; my opinion of the impropriety and illegality of this new method of prosecution, still continues the same; nor can it be expected that I should alter it, till those reasons have been answered which have been offered by the noble lord who spoke first in the debate.

The advocates for the bill seem, indeed, conscious of the insufficiency of their arguments, and have, therefore, added motives of another kind; they have informed us, that our power subsists upon our reputation, and that our reputation can only be preserved by concurring in the measures recommended by the commons; they have insinuated to us, that he who obstructs this bill, will be thought desirous to obstruct the inquiry, to conspire the ruin of his country, and to act in confederacy with publick robbers.

But, my lords, whether the nation is really exasperated to such a degree as is represented, whether it is the general opinion of mankind that the publick affairs have been unfaithfully administered, and whether this bill has been dictated by a desire of publick justice, or of private revenge, I have not thought it necessary to inquire; having long learned to act in consequence of my own conviction, not of the opinions of others, at least, not of those who determine upon questions which they cannot understand, and judge without having ever obtained an opportunity of examining.

Such, my lords, must be the opinions of the people upon questions of policy, opinions not formed by reflection, but adopted from those whom they sometimes, with very little reason, imagine nearer spectators of the government than themselves, and in whom they place an implicit confidence, on account of some casual act of popularity.

I shall not, therefore, think the demands of the people a rule of conduct, nor shall ever fear to incur their resentment in the prosecution of their interest. I shall never flatter their passions to obtain their favour, or gratify their revenge for fear of their contempt. The inconstancy, my lords, of publick applause, all of us have observed, and many of us have experienced; and we know that it is very far from being always the reward of merit. We know that the brightest character may be easily darkened by calumny; that those who are labouring for the welfare of the publick, may be easily represented as traitors and oppressors; and that the people may quickly be persuaded to join in the accusation.

That the people, however deceived, have a right to accuse whomsoever they suspect, and that their accusation ought to be heard, I do not deny; but surely, my lords, the opinion of the people is not such a proof of guilt as will justify a method of prosecution never known before, or give us a right to throw down the barriers of liberty, and punish by power those whom we cannot convict by law.

Let any of your lordships suppose himself by some accident exposed to the temporary malice of the populace, let him imagine his enemies inflaming them to a demand of a prosecution, and then proposing that he should be deprived of the common methods of defence, and that evidence should be hired against him, lest the publick should be disappointed, and he will quickly discover the unreasonableness of this bill.

I suppose no man will deny, that methods of prosecution introduced on one occasion, may be practised on another; and that in the natural rotations of power, the same means may be used for very different ends. Nothing is more probable, my lords, if a bill of this kind should be ever passed, in compliance with the clamours of the people, to punish ministers, and to awe the court, than that it may in time, if a wicked minister should arise, be made a precedent for measures by which the court may intimidate the champions of the people; by which those may be pursued to destruction, who have been guilty of no other crime than that of serving their country in a manner which those who are ignorant of the circumstances of affairs, happen to disapprove.

The measures now proposed, my lords, are, therefore, to be rejected, because it is evident that they will establish a precedent, by which virtue may at any time be oppressed, but which can be very seldom necessary for the detection of wickedness; since there is no probability that it will often happen, that a man really guilty of enormous crimes can secure himself from discovery, or connect others with him in such a manner, that they cannot impeach him without betraying themselves.

But, my lords, whenever virtue is to be persecuted, whenever false accusations are to be promoted, this method is incontestably useful; for no reward can so efficaciously prevail upon men who languish in daily fear of publick justice, as a grant of impunity.

It may be urged, my lords, I own, that all inquiries into futurity are idle speculations; that the expedient proposed is proper on the present occasion, and that no methods of justice are to be allowed, if the possibility of applying them to bad purposes, is a sufficient reason for rejecting them.

But to this, my lords, it may be answered with equal reason, that every process of law is likewise, in some degree, defective; that the complications of circumstances are variable without end, and, therefore, cannot be comprised in any certain rule; and that we must have no established method of justice, if we cannot be content with such as may possibly be sometimes eluded.

And, my lords, it may be observed farther, that scarcely any practice can be conceived, however generally unreasonable and unjust, which may not be sometimes equitable and proper; and that if we are to lay aside all regard to futurity, and act merely with regard to the present exigence, it may be often proper to violate every part of our constitution. This house may sometimes have rejected bills beneficial to the nation; and if this reasoning be allowed, it might have been wise and just in the commons and the emperour to have suspended our authority by force, to have voted us useless on that occasion, and have passed the law without our concurrence.

With regard to the establishment of criminal prosecutions, as well as to our civil rights, we are, my lords, to consider what is, upon the whole, most for the advantage of the publick; we are not to admit practices which may be sometimes useful, but may be often pernicious, and which suppose men better or wiser than they are. We do not grant absolute power to a wise and moderate prince, because his successors may inherit his power without his virtues; we are not to trust or allow new methods of prosecution upon an occasion on which they may seem useful, because they may be employed to purposes very different from those for which they were introduced.

Thus, my lords, I have shown the impropriety of the bill now before us, upon the most favourable supposition that can possibly be made; a supposition of the guilt of the noble person against whom it

is contrived. And surely, my lords, what cannot even in that case be approved, must, if we suppose him innocent, be detested.

That he is really innocent, my lords, that he is only blackened by calumny, and pursued by resentment, cannot be more strongly proved than by the necessity to which his enemies are reduced, of using expedients never heard of in this nation before, to procure accusations against him; expedients which they cannot show to have been at any time necessary for the punishment of a man really wicked, and which, by bringing guilt and innocence into the same danger, leave us at liberty to imagine, that he is clear from the crimes imputed to him, even in the opinion of those who pursue him with the fiercest resentment, and the loudest clamours.

It may well be imagined, my lords, that those whom he has so long defeated by his abilities, see themselves now baffled by his innocence; and that they only now persecute his character, to hide the true reason for which they formerly attacked his power.

I hope, my lords, I shall be easily forgiven for observing, that this is a testimony of uncorrupted greatness, more illustrious than any former minister has ever obtained; for when was it known, my lords, that after a continuance of power for twenty years, any man, when his conduct became the subject of publick examination, was without accusers?

I cannot, for my part, but congratulate the noble person upon his triumph over malice; malice assisted by subtilty and experience, by wealth and power, which is at length obliged to confess its impotence, to call upon us to assist it with new laws, to enable it to offer a reward for evidence against him, and throw down the boundaries of natural justice, that he may be harassed, censured, and oppressed, upon whom it cannot be proved that he ever deviated from the law, or employed his power for any other end than the promotion of the publick happiness.

Had the officers of the crown, my lords, when his influence was represented so great, and his dominion so absolute, projected any such measures for his defence; had they proposed to silence his opponents by calling them to a trial, and offered a stated price for accusations against them, how loudly would they have been charged with the most flagrant violation of the laws, and the most open disregard of the rights of nature; with how much vehemence would it have been urged, that they were intoxicated with their success, and that in the full security of power they thought themselves entitled to neglect the great distinctions of right and wrong, and determined to employ the law for the completion of those purposes, in which justice would give them no assistance.

I doubt not that your lordships will easily perceive, that this censure is equally just in either case; that you will not allow any man to be prosecuted by methods which he ought not to have used in his own case; that you will not expose any man to hardships, from which every other member of the community is exempt; that you will not suffer any man to be tried by hired evidence; and that you will not condemn him whom the law acquits.

Lord BATHURST spoke next, in substance as follows:—My lords, the question under our consideration has been so long and so accurately debated, that little can be added to the arguments on either side; and therefore, though I think it necessary on so important an occasion, to make a solemn declaration of my opinion, I shall endeavour to support it, not so much by any arguments of my own, as by a recapitulation and comparison of those which have been already heard by your lordships.

It has not been denied, that the punishment of crimes is absolutely necessary to the publick security; and as it is evident, that crimes cannot be punished unless they are detected, it must be allowed, that the discovery of wicked measures ought to be, in a very great degree, the care of those who are intrusted with the government of the nation; nor can they better discharge their trust, than by defeating the artifices of intrigue, and blocking up the retreats of guilt.

This, likewise, my lords, is admitted with such restrictions as seem intended to preclude any advantage that might be drawn from the appearance of a concession; for it is urged, that guilt is not to be detected by any methods which are not just, and that no methods are just which are not usual.

The first position, my lords, I have no intention to controvert; as it is not to violate justice, but to preserve it from violation, that this bill has been projected or defended. But, my lords, it is to be observed, that they who so warmly recommend the strictest adherence to justice, seem not fully to understand the duty which they urge. To do justice, my lords, is to act with impartiality, to banish from the mind all regard to personal motives, and to consider every question in its whole extent, without suffering the attention to be restrained to particular circumstances, or the judgment to be obstructed by partial affection.

This rule, my lords, seems not to have been very carefully observed, by the most vehement advocates for justice in the case before us; for they appear not to be solicitous that any should receive justice, but the person mentioned in the bill; they do not remember, that the publick has cried out for justice more than twenty years; for justice, which has not yet been obtained, and which can be obtained only by the method now proposed.

It is necessary, my lords, for those who are so watchful against the breach of justice, to prove that any means can be unjust which have no other tendency than the detection of wickedness, of wickedness too artful or too powerful to be punished by the common rules of law.

The introduction of new methods of prosecution, is the natural consequence of new schemes of villany, or new arts of evasion; nor is it necessary that precedents should be produced, when the wisdom of the legislature concurs in acknowledging the necessity of extraordinary measures. Though our constitution is in the highest degree excellent, I never yet heard that it was perfect, and whatever is not perfect may be improved. Our laws, however wise, are yet the contrivance of human policy; and why should we despair of adding somewhat to that which we inherit from our ancestors? Why should we imagine, that they anticipated every contingency, and left nothing for succeeding ages?

I think, my lords, with the highest regard both of our laws, and those by whom they were enacted, but I look with no less veneration on this illustrious assembly; I believe your lordships equal to your progenitors in abilities; and therefore, since you cannot but outgo them in experience, am confident that you may make improvements in the fabrick which they have erected; that you may adorn it with new beauties, or strengthen it with new supports.

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