

is our duty to take care, they may meet with what they deserve, that it may be a warning to others, to be more diligent in performing their duty, as well as in qualifying themselves properly for the performance of their duty.

When we come to inquire into this affair, the Commissioners of the Admiralty may perhaps be able to shew, that they informed his Majesty of this circumstance relating to the two Gentlemen he had made choice of, and that they properly represented the dangerous consequences of employing them in the same command; but that it was carried against their advice by the weight of some other advisers, whom they may be able to point out to us, if it could be supposed that his Majesty should refuse to name them. This I shall grant, Sir, would in a great measure excuse the Commissioners of the Admiralty; but it would very much aggravate the guilt of those who, notwithstanding such information, had advised his Majesty to make such a choice. By an inquiry therefore into this affair, we can hardly miss laying the blame at the right door. It must lie at the door of the Commissioners of our Admiralty, unless they can remove it to the door of some other advisers; and considering the fatal consequence that has ensued from this imprudent choice, we are, in duty to our country, obliged to find out and punish the advisers.

I am not at all surpris'd, Sir, to hear the prerogatives of the crown trump'd up as a bar to any inquiry; for they have always been set up by ministers against every inquiry or prosecution that was ever proposed in parliament: but this can never be of any weight with those who can properly distinguish between the prerogatives of the crown, and the privileges of parliament. The prerogatives of the crown, Sir, were all established by our constitution for the publick good; and when they are properly made use of, the parliament has nothing to do with them; but when they are made a wicked or an imprudent use of, the parliament has then a right to interpose, and to punish those who advised the King to make such an use of his prerogative. Thus the King has by his prerogative the sole power of

appointing all commanders both by sea and land; and while proper persons are employed, the parliament has no right to intermeddle: but when improper persons are appointed, and the publick has suffer'd, or is like to suffer, the parliament has a right to interpose; and not only to remove the worthless persons so appointed, but to punish those who advised the appointing of such. But, says the Hon. Gentleman, if we once begin to inquire into, and punish those who advised the appointing of any General or Admiral, we shall of course soon begin to assume to ourselves the power of appointing Generals and Admirals. I wish the Hon. Gentleman would reconsider this argument: if he does, he will find it to be in short thus: If we do what we have a right to do, we shall of course soon begin to do what we have no right to do. This may be logick among ministers of state; but I am sure it would not be allowed to pass for such among the under graduates of any of our universities. By this method of arguing, Sir, we should put an end to one of the chief uses of parliaments; which is, to take care that none of the prerogatives of the crown, which were all designed for the safety of the people, shall ever be turned towards their destruction. But however much this method of arguing may prevail among ministers of state, I hope it will never be admitted by this assembly. Here I hope the ancient maxim of our constitution will always prevail, That the King has many prerogatives to do good, but not so much as one to do evil.

Now, Sir, with regard to the foundation or the reasons we may have for presenting such an address as my Hon. friend was pleas'd to mention: I shall grant, we have no direct proof, that there was any animosity or antipathy subsisting between the two Gentlemen, when his Majesty made choice of them to command his squadron in the Mediterranean; but the fact was at that time notoriously known, and publickly talk'd of; and if we should enter into an inquiry, we may very probably find not only a proof of the fact, but that it was known to almost all our ministers. This of its having been publickly talk'd of, is a sufficient foundation for

an inquiry; and what was then talked of, seems to have been confirmed by the behaviour of the two Gentlemen towards one another, as soon as they met, and during the whole time of their continuance together, in the Mediterranean. The Vice-Admiral, by what appears, seems indeed to have been the most artful; because, in all points of ceremony, he behaved with an outward shew of respect. But this sort of behaviour often serves as a cloak for a heart full of malice and revenge: and if it should appear, that he ought to have closed the line before bringing to, the night before the engagement, or that he could have come up next day time enough to have had a share in the engagement, I shall suppose, that he secretly resolved to endeavour, as much as he could with any safety to himself, to make the Admiral lose either his character or his life. On the other hand, if it should appear, that our Squadron might have come up with the enemy, the second day after the engagement, I shall be very apt to suppose, that the Admiral called the Vice-Admiral off the chase, to prevent his gaining the honour of forcing the enemy to a new engagement, or obliging them to desert their crippled ships.

Then, Sir, as to the knowledge our ministers might have of the terms on which these two Gentlemen stood with respect to one another, I shall admit, that we have no direct proof of their knowledge: but as the fact was notoriously known and publicly talked of at the time, we have a strong presumption that they were not ignorant of it: and a strong presumption of guilt has always been held to be a sufficient foundation for an inquiry. But with respect to the Lords Commissioners of the Admiralty, we have something more. As I have said before, it was their business to know this fact: the duty of their office requires, that they should inform themselves very minutely, of every thing that relates to the character or circumstances of any officer they are to recommend to a high command in the navy. With regard to them, therefore, we have not only a foundation for an inquiry, but already almost a full proof, that they have either failed in their duty, or

have been ignorant of what it was their business to know. Consequently, in the inquiry we have no reason to apprehend our not being able to answer the just expectations of the people without doing because the blame must fall upon the Lords of the Admiralty, if they cannot remove it from themselves, by charging it on some of our other ministers.

But the truth, I believe, is, Sir, and will perhaps appear to be, that, as we have present two sets of ministers, very distant from one another, and often contending which shall appear to have the greater influence in the cabinet, the Admiralty recommended by one set, and the other set, in order to preserve their credit with their party, insisted upon their friend the Vice-Admiral's being continued in command; tho' they could not but see, that they can ever see any thing, that the public service might suffer by such an ill-judged and unnatural conjunction. If this should appear to be the case, the by-end of those who advised the continuance of the Vice-Admiral in that command will be manifest. Without any further proof we must conclude, that they sacrificed the public service to the preservation of their credit with their party; and that for this purpose they went out of their proper province, which is an aggravation of their crime; for it is the proper province of the Admiralty-board to advise his Majesty with regard to the placing, displacing, or stationing all the Admirals and officers of the navy. If any bad choice be made, they are answerable for it; and if it should appear, that they advised against the choice that was made, and duly represented the dangerous consequences of making such a choice, it will be a farther addition to the guilt of those who for their own by-ends advised it.

From hence, Sir, we must see the necessity of our making such an inquiry as my Hon. friend has mentioned, if we are resolved to perform the duty we owe both to our King and country; and that inquiry must be begun by a motion for such an address as he has proposed. Whether it be proper in this committee to resolve upon the making of such a motion, is another question; but it is a question that



my opinion, can admit of no dispute. What was this committee appointed for? Look on the order for this purpose: is it not in these words, *That it be referred to a committee, to inquire into the cause of the miscarriage of his Majesty's fleet in the action last year near Toulon, in the Mediterranean, against the combined fleets of France and Spain?* [Mag. 1745, p. 95.] If any one thinks I have not repeated the words faithfully, I shall desire the order to be read at your table.—As these are admitted to be the words of the order, is it not plain, that if we think, the cause of this miscarriage was ultimately owing to his Majesty's making choice of two Admirals for the command of that Squadron, who had a contempt and an aversion for one another: I say, if this be our opinion, is it not plain, that in this committee we have not only a power, but we ought to resolve, that this choice was the ultimate cause of the miscarriage? And, consequently, we have a power, and ought to direct our chairman to move the house for such an address as my Hon. friend has been pleased to propose.

I therefore hope, Sir, that nothing that has been said by the Hon. Gentleman who spoke last, will prejudice any member of this house against such a motion, or make any one think, that it is improper for this committee to direct our chairman to make such a motion. I think indeed we should first resolve, that his Majesty's making choice of two such Admirals was the ultimate cause, or one of the chief causes of the miscarriage of his fleet in that action. To such a resolution I shall most heartily give my assent; because I am fully convinced, that if there had been any sort of harmony between our Admiral and Vice-Admiral, we should that day have obtained a most compleat victory: nay, I am persuaded, we should have almost totally destroyed both the French and Spanish squadrons; for as the wind then stood, they had no port of safety to retreat to, within less than two days sail. Our coming to such a resolution can be no excuse for either of the Admirals, if it should appear, that either of them was guilty of any breach or neglect of duty; because whatever terms they stood on with re-

spect to one another, they should have joined cordially and sincerely together in fighting and destroying the enemies of their country. If they had done so, it might have been a cover for those who had advised employing them in the same command; but it could never have justified the choice: and, now that choice has produced such fatal effects, we are bound to inquire into the advisers; I hope we shall be able to bring them to condign punishment, whatever methods they may take to shelter themselves behind the throne.

*The substance of several speeches made, on the 30th of April 1745, in the debate upon the motion relating to the proceedings of the court-martial held on Capt. Richard Norris.*

*The speech of A. Cornelius Cossus, in the character of Velters Cornwall, Esq;*

*Mr President,*

I CANNOT but observe, Sir, that you yourself, and many Gentlemen near me, seem in a manner to call me up, after what happened the latter end of the last week on this occasion, when I offered you a question, which I had framed in the best manner I was able, from the depositions and minutes sent us out of the Mediterranean, of Capt. Norris's trial, which the committee then read, and of which the house has appointed this day to consider.

And indeed I should otherwise have thought it my duty to say something at present, (his Majesty being in haste to prorogue us, and to visit his German dominions), that I might take a proper leave of this inquiry, of which I happened to be one of the first parents: and tho' I well remember, that on the original motion for the house to resolve itself into a committee on the fight off Toulon, &c. some Gentlemen debated point-blank against it, others were for a previous question, and others desired me to withdraw it; yet it worked its own way thro' the house, after the manner that fame is described to do: motion made it flourish; and the farther it went, the stronger it grew; for it might otherwise have failed, from the inability of your chairman.

And it being now, Sir, grown too big to be maintained otherwise than by the Royal hand, I hope his Majesty will take it under his own care, and will by this means obtain the popularity of restoring to us that courage and discipline which have, in all ages but the present, made the fleets of this island the terror of its enemies. What must soon be the fate of this nation, when military merit is no longer the way to military preferment? Pray, Sir, is not this verified in the case before us, where, after the pusillanimous behaviour of many of our commanders in that most critical conjuncture, a court-martial, sitting on the mock-trial (for so I must call it) of one of the greatest cowards that this or any other country ever produced, combines, and conspires with the criminal to let him slip thro' their fingers; and for no other reason than this, that, truly, they hear his father is at the head of the Admiralty?

The Admiral who lately commanded there, and is now your member, abuses the Lieutenants of the Essex for complaining of the cowardice of their Captain in the action, and advises Norris to quit. He does so, and enters himself a volunteer. Then he desires Mr Rowley to hold a court-martial upon him, that he may clear himself of the aspersions that have been cast upon him. Mr Rowley sends home his letter to the Lords of the Admiralty, and doubts his power of trying one who had given up his command. They order him to be tried. Upon which a court-martial is held; to which Mr Norris is invited rather than summoned, and desired to accuse those who have aspersed him: he appears there no more like a prisoner than any member of the court-martial; walks in and out with his sword on; is under no arrest; the Lieutenants of his ship allowed only to send in depositions, and not admitted to appear at the trial, which lasted eight days; and the common sailors kept drunk, and suborned to swear falsely in favour of Norris; when the Lieutenants of the poor Marlborough came on board the ship where the court-martial is held, and desired by letter to be admitted to be examined, the court is unanimously of opinion, that they should

not be heard, because *they seemed to have prejudged the case*; nor are the three Lieutenants of the Essex allowed to make good their charge.

I should observe too, that Capt. Norris does not only govern the court as he pleases, and ask more than three fourths of the questions; but brow-beats every body he dislikes, and asks the same questions of recrimination over ten thousand times, *viz.* Was not my ship as near the enemy as the Dorsetshire, and others that never fought at all? &c. &c. Nor should I forget the great complaisance of the supposed prosecutor on the part of the crown which, I am told, was the Admiral's secretary; who always addresses himself to Capt. Norris, to know what he would be pleased to have done, and takes care in his style throughout the whole, to say, "Capt. Norris and the court proceeded, or did so and so."

And now, Sir, by way of farce, after this tragi-comedy, our pious court-martial resumes the former doubt, which had been long before sent home, and overruled by the Lords of the Admiralty; and they all sign an opinion, that they cannot try (even after they have tried him) Capt. Norris, he having no pay from, or command under the government. But, notwithstanding all I have said, I hope there may be Gentlemen in the house who may have letters from the Mediterranean, that will set many of the members of this court-martial in a better light; and it has been whispered without doors, that the Admiral and three or four of the court differed with the majority: and altho' I believe it is a maxim in law, That there can be no averment against a record; yet I hope that if any Gentleman can produce such a letter, the committee will give him leave to read it as a part of his speech, that it may avail somewhat towards the taking off some of the odium from those who thereby endeavour to exculpate themselves from the parliamentary censure which my general question carries along with it.

My question, however, Sir, is at present warranted by the evidence on your table; and will, I am sure, be supported by much abler arguments than any I have troubled



troubled you with ; so that I proceed to move you, *That the proceedings of the court-martial assembled on board his Majesty's ship Terbay, begun the 28th of January 1744, and ending the 5th of February following, pursuant to an order from the Commissioners for executing the office of Lord High Admiral of Great Britain, bearing date the 28th of November 1744, to Vice-Adm. Rowley, for inquiring into the conduct and behaviour of Capt. Richard Norris, in the engagement between the English fleet, under the command of Adm. Matthews, and the united fleets of France and Spain, in the Mediterranean, on the 11th of February 1743, were partial, arbitrary, and illegal.*

*The speech of Horatius Cocles, in the character of Sir John Hynd Cotton, who spoke next.*

*Mr President,*

AS I had heard a great many repeated accounts of the infamous behaviour of this unfortunate Gentleman in the engagement off Toulon, I was for many months amazed that I never heard of his having been tried by a court-martial ; and, at last, when I heard he had been tried, and, as it was first reported, acquitted, I began to doubt the veracity of the accounts I had before heard. But now, after having seen the proceedings of that court-martial, I am more amazed than ever. I am astonished, that men who call themselves Gentlemen, should, for the sake of gaining the favour or countenance of any great man, falsify their oaths, and join in an attempt to screen such a cowardly behaviour from that punishment which is usually and justly inflicted upon it by our military law. It is a most terrible disappointment and discouragement to our brave seamen, to find themselves under the command of a cowardly Captain ; but what indignation must they not be filled with, what despair must they not be driven to, when they see that Captain protected by their Admiral, and screened by the mock solemnity of a court-martial ? If an immediate stop be not put to such practices, we can no longer expect either glory or safety from our navy : no brave man will ever enter into the service, because he must expect the fate of Capt.

Cornwall : he must expect to be sacrificed by the cowardice of his companions. In this affair, therefore, I hope all party-divisions, all ministerial evasions, will be entirely laid aside. Our lives, our liberties, and our properties, as well as the honour and glory of our country, are at stake : and the interposition of this house is the more necessary, because, during the long tract of peace we have lately had, several young Lords, or sons of great families, have taken it into their head to become seamen, and may expect the same partiality from a court-martial, which they see this young Captain has met with.

This house has, Sir, for many years been so much under the guidance of ministers, that we may in some measure be said to have lost, by disuse, several of those powers which we are invested with by our constitution. Thank God ! since this parliament began, we seem to be got a little out of our leading strings ; and therefore I hope we shall begin to interrupt that prescription which might otherwise perhaps, in a short time, be pleaded against us. Upon this occasion I must remind Gentlemen, that we have, among others, a power to inspect the proceedings of all courts of justice ; as is evident from our grand committees established at the beginning of every session, one of which, in particular, is for our courts of justice : for tho' this committee has for many years never once sat to do any business, yet the annual establishment of such a committee is a proof, that we have a right, and that we ought to inspect the proceedings of all courts of justice ; and the proceedings of this court-martial is a proof of its being now become necessary for us to exert that right, more punctually than we have done for many years past.

Sir, I believe there was never in this world a court of justice that proceeded in such an unjust and partial manner. From the very day of the engagement, there seems to have been a combination among the officers of that squadron, from the highest to the lowest, to screen one another, or at least all but the Vice-Admiral, from the resentment of their country, for their cowardice, and neglect of duty. If we consider how little most of our ships

suffered, it is from thence evident, without any proof, that they did not attack the enemy with that vigour and bravery, with which, as Englishmen, they ought to have done. From this charge indeed I must exempt the Admiral, and his second, the unfortunate Captain of the Marlborough; and I am sorry I cannot exempt the Admiral from the other charge, of endeavouring to screen some of the Captains under his command, particularly the Captain of the Essex, whose conduct is now under our consideration. Considering the station of that ship in the line, and the little damage she suffered, it was evident, without any proof, that the Captain had avoided coming to a close engagement with any one of the enemy. This was confirmed by the general voice of almost all the ships of the squadron; and yet the Admiral never thought of doing justice to his country, by bringing this Captain to a trial. At last, a direct charge was laid against him by his Second Lieutenant. But this too was overlooked by the Admiral; tho' it had, it seems, such an effect upon the Captain as to make him resign the command of his ship: and this, it seems, was thought a sufficient atonement for betraying his country by his cowardice in the time of action; for no thoughts were ever afterwards had of bringing him to a trial, till the Captain was advised by his friends, and encouraged, I suppose, by the protection he met with, to apply, in the September following, for a trial, in order to remove that infamy which malice and falshood, as he said, had thrown upon him.

The next succeeding Admiral, being unwilling, I suppose, Sir, to incur any private odium by condemning him, or the publick odium by acquitting him, made a doubt whether he could order him to be tried, as he had then no command in the squadron, without an order from the board of Admiralty; which he at last received on the 5th of January last, directing him to assemble a court martial, to inquire into that Captain's conduct in the engagement which had happened near a twelve-month before: and in pursuance of this order a court martial was assembled for this purpose on the 28th of the same month.

Thus you see, Sir, that the Captain obtained, upon the first application, a favour, which neither the complaints of our brave seamen, nor the service of our country could obtain in many months; nor could ever, I believe, have obtained, if the Captain had not been encouraged to apply for it. From a court-martial so obtained, the officer who had been so bold as to make himself the accuser, could not indeed expect much justice; and their very first step convinced him and every one else, that they were assembled, not to try, but to acquit the Captain, if possible; for whatever may be the practice in our Common law courts, it was right in Lieut. Jekyll, to refuse being examined as a witness, after having made himself the accuser, by his letter to the Admiral, complaining of his Captain's cowardly behaviour. He was certainly, in common reason, to support his accusation by the testimony of other witnesses, and not by his own testimony on oath or otherwise. By his letter to the Admiral he had made himself a party; consequently, it was a proper point of honour in him to refuse being examined upon oath: for which reason the court should have admitted him as the accuser, and should have furnished him with the proper powers to bring all such witnesses to be examined, as he thought necessary for supporting his accusation. But, instead of this, they refused to admit any one as the accuser or prosecutor, but the person appointed by themselves, or at least by the Admiral; and the consequence of this was, that no one witness was summoned or examined, except such as voluntarily offered themselves, or such as were summoned by the Captain. Nay, the court expressly refused to allow the Gentlemen who had given evidence against the Captain, to summon any witnesses for supporting their evidence: and what was still worse, they refused to examine the officers of the Marlborough, for no other reason, but because, in their letter desiring to be examined, they shewed, that their depositions would not be in favour of the Captain of the Essex, which the court were pleased to call prejudicing the case.

From such a partial manner of proceeding,



ing, Sir, the Gentlemen who had given evidence against their Captain, could not but expect to hear him acquitted, and themselves brought under the scandal of having given in a false and malicious accusation: for I am not at all surpris'd, that a Captain of a man of war, and the son of a rich Admiral, should find some persons on board his ship, to contradict the evidence given against him; especially as the latter were not impowered or allowed by the court, to compel any one to be examined in support of the evidence they had given. But, luckily for the accusers, the fact was so generally known in the fleet, that even this court-martial, partial as they had shewn themselves, would not risk their own characters so far as to acquit him: therefore they contrived how to avoid giving any sentence, either of condemnation or acquittal; and for this end pretended, that as the Captain was not then in his Majesty's service or pay, they had no right, nor ought to determine a matter, which they had been expressly ordered by the board of Admiralty to inquire into.

Sir, this is, in my opinion, not only a most illegal determination, but it is introducing a precedent that may be of the most dangerous consequence to the publick service both by sea and land. For if it should once be admitted, that a man's being out of his Majesty's pay and service should exempt him from the jurisdiction of a court-martial, for any crime he had committed whilst he was in the service, it would be in the power of every criminal, either in the sea or land service, to evade being tried or punished, if he could but obtain a discharge from his commanding officer, or prevail with him to accept his resignation. Nay, if this were admitted, neither our board of Admiralty, nor even his Majesty himself, by his sovereign authority, could order such a criminal to be tried by a court-martial, or take any other method to punish him for the crime he had committed, unless it was such a one as fell under the cognisance of the Common law; which in particular can take no notice of cowardice, nor inflict any punishment upon the coward, however much his country may have suffered by his misbehaviour.

Thus the greatest coward might, by the favour of his commanding officer, escape all punishment; and of what dangerous consequence this might be to the publick service, I shall leave for Gentlemen to consider.

For this reason, Sir, if no partiality or injustice had appeared in any other part of the proceedings of this court-martial, we ought to censure them, in order to prevent this opinion of theirs from ever taking place, or being made use of as a precedent upon any future occasion; especially on such an occasion as this, where there is great reason to suspect, that the resignation was designed on purpose to prevent the criminal's being tried and punished by a court-martial. I say, *the criminal*, Sir: for, in my opinion, it appears even from what is said by his own witnesses, that he never bore down upon the enemy, or engaged any one of their ships within what is called point-blank shot; and, consequently, could not be in a line either with the Admiral, or his second the Marlborough; who appear both to have been within point-blank shot, from the damage they received, as well as from the damage they did the enemy. One of his witnesses indeed, meaning Gray, says, that when the Essex first began to engage, she was within point-blank shot of the enemy; but the court took care not to make him explain himself: and when he was afterwards asked, If the Essex was to windward or leeward of the Marlborough? he answered, 'To windward, to be sure; which could not be, if she had been within what ought to be called point-blank shot of the enemy. And all his witnesses agree, that when the Marlborough's masts went by the board, his ship, the Essex, was not only to windward, but doing nothing: so that she had nothing to prevent her going down to the assistance of the Marlborough, but the pretence of not breaking the line without an express order from the Admiral: which to me seems to be nothing but a mere pretence; because in the time of action it is impossible for an Admiral to attend to every accident that may happen; and therefore, a ship that has nothing to do, may certainly leave her station in the line, in order to

assist

assist any ship she sees in distress: for I must observe, that the chief triumph we obtained, which was the taking, and afterwards destroying the Spanish ship called the Poder; I say, this chief triumph was occasioned by one of our ships leaving, not only her station in the line, but the division she belonged to. When I say this, every Gentleman must suppose I mean the Berwick, one of our Rear-Admiral's division; the Captain of which bravely left, without any orders, not only his station, but his division, in order to attack the Poder, because he saw that our ships abreast of her fired at such a distance as not to be able to do her much damage.

In short, Sir, from all the circumstances of this day's engagement, and even from the evidence brought by the Captain whose behaviour is now under our consideration, it is manifest, that he was too much under the influence of that spirit which prevailed over most of the Captains in the Admiral's division; I mean that of keeping as much out of harm's way as possible: and if we give credit to those Gentlemen who appeared voluntarily against him, we must believe him to be such an arrant poltroon, that his escaping unpunished will be a lasting scandal to this nation. I shall grant, that their evidence has been expressly contradicted, in several material circumstances, by the witnesses he brought to swear in his favour: but when we consider all circumstances, it is no difficult matter to determine which side deserves the most credit. When we consider the high station which this Captain's father has been deservedly raised to in our navy, and the great influence he must, consequently, have upon all our naval preferments, it is not probable that any man, much less a number of men, could, out of resentment, conspire to bring a false accusation against him; because they could not but foresee, that to pursue their resentment in such a manner, would make it rebound with infinitely greater force against themselves. By such a method of proceeding, they could expect nothing but ruin upon his being acquitted. Had they succeeded in obtaining a sentence against him, they could expect no

reward. On the other hand, when we consider the Captain's circumstances: the protection he apparently met with from the Admiral, the long time he had to practise upon the men that had been under his command, and the rewards that might be expected by those that offered or engaged to swear in his favour; we cannot wonder, that, in this degenerate age, he found some men on board his ship, ready to contradict, upon oath, any fact that had been sworn against him, or any thing that had been objected to his conduct. And when we consider, that there was, in reality, no prosecutor allowed to appear against him, nor any one to cross examine his witnesses, we may wonder, that the proof of his innocence was not more full, more distinct, and more consistent, than it appears to be.

These things being considered, it is easy, I say, Sir, to determine which side of the evidence deserves the most credit; but as we are not now to declare, that the Captain was either innocent or guilty of what was laid to his charge, we have nothing to do with the credibility of the evidence of either side of the question: all we have at present to do, is, to consider the proceedings of the court-martial that inquired into his conduct. And these proceedings are so extraordinary, that I shall not scruple in the least giving them all the bad names my Hon. friend has been pleased to mention. Upon the very face of them they appear to be such as no man, I believe, either within doors or without, will pretend to justify; and I hope the notice that has been taken of them in this house, will make all future courts-martial resolve to proceed with more candour towards the accuser, with more severity towards the person accused. Whatever may have been the former practice, I hope all future courts-martial will make it a rule, to allow any person to set himself up as the accuser or prosecutor, or at least as a joint prosecutor with the crown; and, so far from refusing, upon frivolous pretences, any witnesses that shall offer to appear, I hope they will make it a rule, to furnish both prisoner and prosecutor with the necessary powers for compelling all persons to appear, who they think can give any account of the facts in question.



It is, I know, Sir, the practice at Common law, to make the prosecutor or accuser appear as a witness, and give his evidence upon oath against the prisoner; but it is the necessity of the thing alone that can excuse the practice: for tho' the law supposes, that the prosecutor is only evidence for the King, and no other person concerned in the trial, he is in reality a party, and may suffer by the event, if the court should think the prosecution malicious; therefore, even at Common law, he should never be compelled, or indeed admitted to appear as a witness, when it is not absolutely necessary: and as courts-martial are not bound to follow any of the practices of our Common law courts farther than they think them reasonable, I must look upon it as a piece of very great injustice in this court-martial, to insist upon the accuser or prosecutor's being sworn, or otherwise to exclude him from being present in the court, in order to support his accusation; for in this they followed the practice neither of law nor of reason. If they had followed the practice of law, they might have compelled him to be sworn: if that of reason, they must have admitted him to be present in court, to support his accusation by such questions or cross questions, as he thought necessary for making the witnesses tell all the truth, and nothing but the truth.

This was therefore a manifest piece of injustice with respect to the prosecutor, and of partiality with respect to the prisoner, or who ought at least to have been a prisoner; for, during the whole trial, he seems to have been treated rather as a member of the court, than as a prisoner at their bar. But what, I think, was much more illegal, and indeed a shocking piece of injustice, was their refusing to admit the other accusers of this Captain to go into the proof of their own depositions, or to bring any witnesses for confirming the evidence they had given, or falsifying that which had been given in favour of the Captain. Surely, if the prosecutor, set up by the court, had not been a sham prosecutor, he would have insisted upon it as his right, to bring what witnesses he pleased to be examined, and would have thought himself obliged to those Gentle-

men, if they could have informed him of any other witnesses that were material to be examined; for where there is a contradiction of evidence, it is the business of the prosecutor to support his evidence, and it is the duty of the court to examine every man whose evidence can any way contribute towards a discovery of the truth. In this therefore the court acted illegally, as well as partially and unjustly; and as such proceedings in courts-martial may be of the most dangerous consequence to the publick service, I think it absolutely necessary for us to endeavour, by a publick censure, to prevent the like for the future: for which reason, I shall conclude with seconding my Hon. friend's motion.

*The speech of Servilius Priscus, in the character of Henry Pelham, Esq; who spoke next.*

*Mr President,*

I Do not stand up to vindicate the Captain whose conduct is now under our consideration, nor do I stand up to justify the proceedings of the court-martial which was appointed to inquire into the aspersions that had been thrown on his character in regard to his conduct and behaviour in the late engagement off Toulon; tho' both have been, I think, in some measure misunderstood, and consequently misrepresented, by the Hon. Gentlemen who made and seconded the motion now before us. The chief end of my standing up, is, to justify his Majesty's conduct in this affair, and to prevent what, in my opinion, will be such an incroachment upon the prerogatives of the crown as may be of the most dangerous consequence to the publick service. This I take to be my duty as one of his Majesty's servants; this I take to be my duty as a member of this house; and therefore I hope you will excuse the trouble I think myself obliged to give you upon this occasion.

I believe, Sir, it will not be denied, that his Majesty has by his prerogative the sole power over both our fleets and armies; and consequently his Majesty, or such as he shall appoint, must be the sole judge of the conduct of every officer. When any officer, either of the navy or army, is accused of misconduct, or even suspect-

ed of any misconduct, the method hitherto has been, for his Majesty to appoint a court-martial, at any time he thinks fit, to inquire into such officer's conduct upon such a particular occasion; and when they have made a full inquiry, they either pass such a sentence as they think just, or they report the whole matter to his Majesty, and leave to him the determination of what punishment he may think the officer deserves. Even when the court-martial passes sentence, that sentence must be confirmed by his Majesty before it can be put in execution; and he may alter it, or suspend the execution, if he pleases; or he may order a new trial, if he sees any just cause. This, Sir, has been hitherto the practice; by this practice all the officers of our army and navy have been kept under a due obedience to the crown; and as our courts-martial are answerable to none but their sovereign for their proceedings, they have generally fulfilled the trust reposed in them with fidelity to the crown, and a strict regard to the publick service; being sensible, that if they should condemn an innocent man, the crown would prevent the execution; that if they should acquit a guilty person, they could not thereby free him from punishment; and that in both cases they would expose themselves to the resentment of their sovereign.

What effect this practice has had with regard to the publick service, we very well know, and must rejoice in, because it has generally made us victorious over our enemies abroad, and has secured the publick tranquillity at home, by which the nation has been raised to that high degree of riches, power, and influence it is now arrived at: but if this house should begin to interfere with the crown, in the exercise of any power over our fleets and armies; if we should begin to inquire into the conduct of officers, and to censure the proceedings of courts-martial, no one knows what effects it might produce. One, I think, is certain, that it would transfer the dependence, and consequently the obedience of the officers, both of our fleets and armies, from the crown to this assembly: for should we once begin to inquire and censure, we would very soon begin to

punish; and should we once assume a power to punish, we would very soon alter assume a power to reward. Thus the power of rewarding and punishing would soon come to be lodged wholly in this assembly; by this the eyes of every officer, both in our fleets and armies, would be fixed here alone; and then we might, whenever we pleased, assume the sole power to command, as well as the sole power to reward and punish: which would entirely alter the nature of our constitution in effect, and very probably soon alter in form as well as effect; for a house of Commons that had usurped the power over our fleets and armies, would in all probability follow the example of their predecessors in 1640, and abolish both the other branches of our legislature. We should then again have a government established under the name of *The commonwealth of England*, which I believe would be no longer-lived than that which was established at that extraordinary conjuncture I have mentioned.

Notwithstanding these fatal consequences, which I think we have great reason to apprehend; yet, Sir, if the administration of publick justice could be better secured, or more firmly established, by the frequency of our inquiries or censures, I should not be so much against them. But experience may teach us, that numerous assemblies are not the most proper for a due administration of justice. Party and faction too often prevail over justice in such assemblies; and their sentence is generally either too mild or too severe. It can be supposed, that in his Majesty's courts of justice a guilty officer may be screened, by having a near relation who has great weight in his Majesty's council. I am sure it may with more reason be supposed, that in any sort of prosecution here, a guilty officer may be screened, by having a near relation who has great weight in this assembly. For this reason, Sir, it it be now become more usual than it was in former times, for Gentlemen of great families to betake themselves to the army or navy, we should be more cautious than formerly of interfering with the crown in the administration of justice, or any thing else relating to the government of our army.



any or navy: for if upon an inquiry into an officer's conduct, it should be voted by this house, that he had punctually performed his duty, I believe no court-martial would afterwards venture to condemn him; and therefore those officers who had great friends or relations, might neglect their duty, in hopes of being screened by a vote of this assembly, upon the issue of an inquiry set on foot by their friends for that very purpose. On the other hand, it might often happen, that a brave and diligent, but unfortunate officer, might be prosecuted and condemned by a parliamentary inquiry, for no other reason but because he happened to be of a party or faction different from that which had the prevailing influence in this assembly.

In my opinion, therefore, Sir, nothing can contribute more to the destroying of all sort of military discipline in the army or navy, than a too frequent use of parliamentary inquiries into the conduct of officers: and a frequent or unnecessary inquiry into the proceedings of courts-martial will certainly have the same effect; for if their proceedings are to be examined into upon every trivial occasion by this assembly, no court-martial will ever pass any sentence, at least they will take care never to condemn an officer whose friends are known to have great influence in this house; for upon every such occasion they would be under the dread of having their proceedings inquired into and censured: and what might be the consequence of a parliamentary censure, neither they nor any one else could pretend to foretel; especially if in pursuance of their sentence an officer should be shot for cowardice or desertion, and that sentence should afterwards be voted partial, arbitrary, and illegal, by the interest of his friends and relations in this assembly. We could not, 'tis true, with all our power, recall the dead man to life; but we might, and probably would, for that very reason, fall upon some method to punish those whose sentence had been the cause of his death.

This, Sir, would necessarily beget a dispute between us and our sovereign; for the King would, and indeed ought to think himself obliged in honour to protect those

who had acted by his commission and with his approbation: and the consequence of this dispute, whichever side should prevail, would be fatal to our constitution. As this house has the sole power of granting money, without which no fleet or army could be supported by any legal means, the King could not prevail in such a dispute, unless both fleet and army should agree to enable him to lay parliaments aside, and establish an arbitrary government; and if this house should prevail, it would, as I have said, transfer the dependence of our fleets and armies from the crown to this assembly; the consequence of which I have already explained. And this consequence we have the more reason to apprehend, because it has once already put an end to our constitution. By an extraordinary, and I may almost say, a miraculous intervention of providence, our constitution was at that time restored without any blood-shed; but if we should tread again the same path to destruction, I am sure we should not deserve, and I doubt much if we should meet with any intervention of providence in our favour. Therefore we should be extremely cautious of making the least incroachment upon that part of our constitution which has placed in the crown the sole power over our fleets and armies.

When I say this, Sir, I hope it will not be thought, that I am arguing against our ever making an inquiry into the conduct of any officer, or into the proceedings of any court-martial. My meaning is only to shew, that no such inquiry ought ever to be set on foot, except upon some very extraordinary and important occasion. When a great officer, such as a General or an Admiral who happens to be a member of this house, desires that his conduct may be inquired into, in order to vindicate his character from the false and malicious aspersions that have been thrown upon it, we may comply with his request; or when there appears to be a failure or a want of justice on the part of the crown, we may inquire into the conduct of any officer, or into the proceedings of any court-martial. But in the case now before us, neither of these can be pretended. The officer whose conduct this motion re-

lates to, is neither a member of this house, nor is he in such a high station as to deserve the attention of this assembly. And as to the proceedings of the court-martial appointed to inquire into his conduct, suppose they deserve all the hard names that are to be given them by this motion, yet we cannot say there is as yet any failure of justice on the part of the crown. If the proceedings of that court-martial were partial, arbitrary, and illegal, we ought to give the crown time to inquire into them, and to get them rectified, before we think of taking the cognisance of them to ourselves. Can it be said that the crown has as yet had a sufficient time for this purpose, when we consider that the court-martial did not end till the 5th of February last, and that it was held at such a distance that we cannot suppose the crown had any account of its proceedings before the end of last month? This motion therefore, I think, we cannot at this time, nor indeed in this session, comply with. When the crown has neglected to make use of its prerogative, and the publick is like to suffer by that neglect; or when the crown has made a wrong use of its prerogative; the parliament has then, I shall grant, a right to interpose; nay I think it is our duty to interpose: but till then, we ought never to assume to ourselves the cognisance of any case which by our constitution belongs properly and solely to the crown: and I believe no Gentleman will say, that the crown has not by its prerogative as much a right to judge of and rectify the proceedings of a court-martial, as it has to appoint a court-martial.

For this reason, Sir, however partial, however arbitrary and illegal the proceedings of this court-martial may have been, I hope Gentlemen will suspend their resentment till next session; when an inquiry into them may be set on foot without doing any great violence to our constitution, in case the crown should not before that time have made a proper use of its prerogative, by giving due satisfaction to the publick justice of the nation. But now, Sir, with regard to the proceedings themselves, tho' I did not rise up with any design to vindicate them, yet I would not

have Gentlemen run away with an opinion that they are altogether inexcusable, and in order to shew that they are not, I must beg leave to examine the material objections that have been made against them; which I think may be reduced to four: The court's not confining the Captain, and bringing him before them as a prisoner; Their not admitting Lieut. Kyll as his accuser or prosecutor, unless he would submit to be examined upon oath; Their not admitting the Lieutenants of the Marlborough to be examined, or allowing those who had sworn against the Captain to bring other witnesses for supporting the evidence they had given; and Their not passing any sentence either of condemnation or acquittal.

These I think, Sir, are all the material objections that have been made against the proceedings of this court-martial. And as to the first of these, I think it may be very easily justified, if we consider how this court-martial came to be appointed, and the usual custom in such cases. When an officer has been apparently guilty of any misbehaviour, it has always been the custom, for the chief commander to order him into arrest, or perhaps lay him in irons; in which condition he remains till he is tried by a court-martial: and in every such case he is brought before the court-martial as a prisoner, and continues as such during the whole time of his trial. But even in this case he is allowed to bring what witnesses he pleases for his vindication, and to object to, and cross-examine the witnesses that are brought against him. This, Sir, is the method of proceeding in all cases where the officer to be tried has been manifestly guilty of some misbehaviour, and when the trial is brought on without any thing of his own seeking. But officers are often brought to a trial upon their own application: for when an officer finds, that his conduct upon any occasion has been misrepresented, or suspects, that by his unfortunately failing in any enterprise his conduct may be causelessly blamed, he applies for a trial before a court-martial, in order to vindicate his character; and his request is never refused. In these cases, the officer is never confined, but, on the contrary, is, during the whole



trial, treated by the court-martial with that respect that is due to his character: and even when upon the trial he is found guilty of some misbehaviour, he remains at liberty, unless confinement or a corporal punishment be a part of his sentence.

Now, Sir, let us consider, that the court-martial whose proceedings are now under our consideration, was a court martial of the latter sort. It was appointed by an express order from the Lords of the Admiralty; and that order was issued upon the application, and at the earnest request of the officer who was to be tried. This court-martial therefore could neither condemn him, nor be any way wanting in that respect which was due to his station, without transgressing those rules which have been established by a long and uninterrupted custom in the navy; and, consequently, upon this head no just objection can be made to any part of their proceedings. Then, as to the second objection, whatever incongruity there may be, according to the reason of things, in examining an accuser upon oath, or in not admitting any one as a prosecutor upon the trial, except the person employed by the crown for that purpose, it is a custom that has prevailed for time immemorial in criminal trials, both at Common law and before courts-martial; and cannot therefore, in my opinion, be altered by any court whatever, without the authority of an act of parliament. If this court-martial therefore refused to admit the Lieutenant who had accused his Captain as the prosecutor, they did no more than what they were authorised to do by custom; nay, if they had done otherwise, their proceedings would, in this respect, have been illegal: and if they did not compel him to appear as a witness, and give his evidence upon oath, which they thought, it seems, they could not do, it was but an error in point of law, and cannot deserve any of the hard names contained in this motion; nor had they thought otherwise, they might have concluded, in my opinion, with great reason, that among such a number of officers and private men as must always be on board a large man of war, there could not be a scarcity of witnesses for setting the Captain's behaviour in its true light;

and that therefore they had no occasion to force any particular man to appear as a witness upon the trial.

Thus, Sir, against this objection likewise the proceedings of this court-martial must stand justified; and with respect to the third objection, I must think, that the Lieutenants of the Marlborough, by their letter to Adm. Rowley, did shew themselves a little too much prejudiced against the Captain of the Essex, to be admitted as unexceptionable witnesses: for in that very letter they presume to pass sentence against the Captain of the Essex, by saying, that the just and honourable designs of his Lieutenants were in danger of being baffled; and they further declare, that they thought themselves the greatest sufferers, by his not doing his duty; consequently the court could not but suppose that they would be partial in their evidence: and therefore I must think, it would have been a little partial in the court to have admitted them as witnesses. Then as to the demand made by the Lieutenants of the Essex, if there were any other witnesses that were ready to confirm what they had sworn, they should have given in a list of them to the prosecutor for the crown, who was the only proper person they could apply to for that purpose; therefore their application to the Admiral was contrary to form, and for that reason, I suppose, the court thought it ought to be rejected, because they were neither prosecutors, nor could be admitted as such; which would have been the case, if they had been allowed to bring whatever witnesses they pleased to be examined upon the trial.

In both these refusals, Sir, the court had therefore some reason for what they did; and if that reason be not thought sufficient, it may be an argument for saying they had bad heads; but it can be no argument for saying they had bad hearts; and much less for our declaring, that they acted partially, arbitrarily and illegally. And now, Sir, with regard to the last objection made to the proceedings of this court martial, which is that of their resolving not to come to any resolution upon the subject-matter of their inquiry, but to send home their whole proceedings to the

the Lords of the Admiralty; this, I am sure, can neither be called partial, arbitrary, nor illegal; for surely no man can be said to act partially, arbitrarily, or illegally, when he does not act at all. Nay it cannot be so much as said, that in this the members of the court-martial were any way deficient in their duty; because there is nothing more customary, than for courts-martial not to pass any sentence, but to refer the whole of their proceedings to the board of Admiralty; especially in matters which they find very difficult to determine, or when they think they have not sufficient power to determine. Which last seems to have been the case with this court-martial: for the order from the Lords of the Admiralty directs the Admiral to assemble a court-martial to inquire into the Captain's conduct and behaviour in the engagement off Toulon; but goes no farther. It neither directs the court-martial nor the Admiral to pass sentence; and much less to punish the Captain in case of his being found guilty of any misbehaviour: and therefore, even supposing the Captain to have been still in the service and pay of the government, the court-martial had some reason to doubt of their power to pass sentence, either against him, or in his favour.

These, Sir, are some of the reasons that may be suggested in answer to what has been objected against the proceedings of this court-martial. Whether these reasons may be thought sufficient for justifying every part of their proceedings, is what I do not know; but I hope they will be thought sufficient for shewing, that we ought not to be rash or precipitate in passing that severe censure upon them which is proposed by this motion. If it should become proper and necessary for us to examine the proceedings of this court-martial, I think we ought to take a little more time to inquire into the affair, and we ought to give the members of that court-martial an opportunity to be heard, before we pass a censure which must so nearly affect their characters. But I have already shewn, that as yet it is neither proper nor necessary for us to enter into any inquiry relating to this affair, because the crown cannot as yet be said either not

to have made the proper use, or to have made a wrong use of that prerogative which gives it the sole power of reviewing the proceedings of courts-martial. Therefore, supposing I were fully convinced, that the proceedings of this court-martial deserved the censure now proposed, I should be for postponing it till next session; for I shall always be against our interfering with any of the prerogatives of the crown, till it becomes manifestly necessary for us to do so.

[*This debate to be continued.*]

*The right of the house of Stewart to the crown of Scotland considered. Published before the end of January last.*

[N. B. All the notes are the author's, except the last in p. 124. which we have added.]

*Imperium semper ad optimum quemque a minus bono transfertur. Sall.*

*Sit denique inscriptum in fronte universique quid de republica sentiat. Cic.*

THE dispute betwixt the *Whigs* and the *Jacobites* turning upon the two points of *right* and *expediency*, most of our late pamphlets have been employed in considering the latter. This branch of the argument is indeed that which, in our reasoning with the *Whigs*, ought chiefly to be insisted on; but, in our reasoning with *Jacobites*, can only be of force when their notions of *right* are in the first place destroyed. A person persuaded of the *divine* indefeasible right of Kings to govern *wrong*, can never be touched with arguments drawn from their doing so; and therefore, in all our reasonings with these people, this of *divine right* ought particularly to be insisted on.

Indeed, the arguments advanced by the *Whigs*, against this monkish dream of *divine*, hereditary, indefeasible right, have been so many and various, so strong and convincing, that the obstinacy of the *Jacobites* in maintaining it, is perhaps not the least surprising phenomenon in nature. But as yet it is not time to despair of their conviction. The persuasion of this gave rise to the following thoughts; the end of publishing them to the world being, to refresh the memories of many, and, if the

author



author dare express his hope, to correct the prejudices of a few.

If we are true *Scotsmen*, and the author writes to none else, we cannot fail of being fired with indignation, when told, that we neither are, nor ever were a free and independent people; that we have been, from ages most remote, the *absolute property* of a certain family, who claim us as their inheritance; that we are now the property, not of a King, but the shadow of a King, the banished race of a tyrant. Yet this, certain late manifesto's have sounded in our ears, wherein we, and our country, are claimed as the *estate* of one, who tells us he possesses by virtue of a divine, hereditary, indefeasible grant. Whatever the *Jacobites* may think of this, sure there is no man of common sense, but must look upon it as the grossest affront capable of being offered himself, or his country. They indeed hug their chains, and are proud of being *slaves*; nay are fond of ranking with their flocks and herds, and of being bought and bartered like them. But, thank heaven, we are not all of the same brutal disposition: there are still some amongst us who imagine themselves *free*, the property of no King, no pretender, whatever.

These Gentlemen and freemen imagine, that there is no person, no family, who ever had, or now has, a divine, hereditary, indefeasible right to govern them. They allow, that the race of *Stewart* did for many years possess the throne of *Scotland*; but they insist, that it was by no means by virtue of such a right; seeing the first of that race that ever reigned, reigned by the consent of a free people, and the authority of the parliament. And they apprehend, that no man can convey more right to another, than he himself is vested with; according to the brocard, *Nemo plus juris in alterum transferre potest, quam ipse in se habet*.

To demonstrate this, they beg leave to look back as far as the death of *Alexander III.* who died *anno* 1285.

The race of that monarch becoming

extinct by the death of his grand-daughter *Margaret*, the right of succession to the crown of *Scotland* came to be called in question.

Two chief competitors appeared, both of them descendents of *David* Earl of *Huntington*, whose nearest heir was allowed to have right to the crown. The one, *John Baliol*, was his great-grandson by his eldest daughter *Margaret*; the other, *Robert Bruce*, was his grandson by his second daughter *Isabel*.—The question therefore came to be, Whether the grandson of the eldest daughter, or the son of the second daughter, was to be preferred, in right of succession, to the crown?

This dispute was referred to *Edward I.* of *England*; who at that time grasped at the superiority of *Scotland*, and only wanted a proper tool for his purpose. Both the competitors were intent to purchase a crown at any rate; and, as *Bruce's* plea was the worst, he first swore to *Edward*; and *Baliol* followed his example.

*Baliol* contended, That, according to the custom of *Scotland* in the succession of heritage, the elder daughter and her descendents excluded the younger daughter and her descendents.

*Bruce* contended, That he was a degree nearer than *Baliol*, being only grandson to *David* Earl of *Huntington*, while *Baliol* was great-grandson; and that, according to the custom of foreign countries, the male nearest in degree should be preferred.

*Bruce's* plea was rejected; and *Edward*, in just agreement with the custom of *Scotland* in other heritages, determined in favour of *Baliol*.—Accordingly (1293) *Baliol* was acknowledged King by the States and Nobility of *Scotland*; but after a short reign of four years, having withdrawn his allegiance from *Edward*, he was carried prisoner to *England*; thereafter was delivered into the hands of the Pope, who consigned him to the care of some *French* Bishops, under whose pious tutory he languished and died.

During *Baliol's* retirement in *France*, *Robert Bruce*, the grandson of that *Robert* who

who

\* *Vide* Rudd. *Ann. ad* Buchan. p. 424. *ad fin.*

And then *Bruce* was not ashamed to claim the third part of the kingdom, as the descendant of one of the three daughters of *David*. But the crown was justly found to be indivisible. *Vide* Rym. *Fœd.*

who had competed with him, got into the throne of Scotland; even while *Balial* was alive, and had a son, *Edward*, capable of succeeding him. And the states, in a convention held at *Air* in the year 1315, were not content with barely acknowledging him as King; but, by a solemn deed, settled the crown on him, and a particular succession of heirs therein narrated. — *Vide Anderson's Appendix*, N<sup>o</sup> 24.

During his son *David's* minority (1329) young *Balial* attempted to recover Scotland. He succeeded, was crowned, and reversed the acts made in *Bruce's* reign, as made during an usurpation. But he too was soon expelled, and *David Bruce* settled on the throne.

*David* died without issue: and his sister having married *Walter* Great Stewart of Scotland, her son *Robert* came to the crown in the year 1370, and was the first of the name of Stewart that ever enjoyed that high dignity.

From this short recapitulation of our ancient history, according to our best historians, the Gentlemen I formerly mentioned observe, in the first place, That, considering the crown of Scotland as heritage, *John Balial* had the right of succession to it, as nearest heir. 2<sup>dy</sup>, That, according to the doctrine of divine, hereditary, indefeasible right, his son *Edward* ought to have succeeded him. 3<sup>dy</sup>, That therefore the reign of *Robert Bruce* was an usurpation: he himself, his son *David*, and all his descendent, usurpers. Whence, lastly, they conclude, either that the family of Stewart did at first usurp the crown of Scotland, and must be supposed to have continued to do so till the contrary is proven: or that they mounted the throne, and swayed the sceptre to the last, on principles plainly revolutionary, the consent of a free people, and the authority of parliament.

In order to illustrate these observations, and to make us attend to their just consequences, they proceed in this manner. — And, 1<sup>st</sup>, they take it for granted, That the crown is as much a man's property as

his estate, and that therefore it must descend in succession like his estate <sup>a</sup>. They apprehend, the *Jacobites* will refuse to deny. If they do, their pamphlets and manifestos will convict them. In the next place, they take it for granted, That, by the laws and custom of Scotland at the æra referred to, heritage unentailed descended to the heirs of an eldest daughter, exclusive of those of a younger, in the same way as it does now. They apprehend, the *Jacobites* cannot deny. If they do, they are desired to reverse the act of settlement in favour of *Robert Bruce*; which, they will find, proceeds directly upon the supposition of what is here asserted <sup>b</sup>. They are likewise fired to consider the arguments used by *Bruce* himself before *K. Edward*, wherein he expressly allows it to be so. And if none of these will satisfy them, they are desired to point out the time when the present law of succession, agreeable to what is here affirmed to be our oldest, first took place. — Lastly, they take it for granted, That the crown of Scotland in *Balial's* days was an unentailed estate, and therefore (to speak in the style of lawyers) descended to heirs whatsoever. If any refuse this, let them be so good as show a copy of the entail.

Now, these propositions being granted, will the *Jacobites* be pleased to tell us, what right *Robert Bruce* came to succeed to the crown of Scotland? Was it by a right divine, hereditary, and indefeasible? Was it by a right similar to that by which any man succeeds to his estate? If it was, let them try to reconcile it with the foregoing history. From that it appears pretty evident, that *Bruce* was not the nearest heir to the estate of the crown of Scotland. That nearest heir was undoubtedly untruly *Balial*. — If he was, could he forfeit this estate? — The *Jacobites* cannot with decency say he could. If they do, let them point out any reasons of forfeiture, which, in consistency with their own principles, can satisfy any reasonable man. If they say, he could not forfeit it: then

<sup>a</sup> *Vide* Sir *Rudd*, *ub. sup.* p. 432. *Regnum Scoticum non ex ordinum suffragio descendit, sed jure sanguinis hereditario in genere proximos continuo descendat; — eodem jure quo filii in parentum defunctorum bona & possessiones dominium acquirere solent.*

<sup>b</sup> *Vide* *Anderson's Appendix*, N<sup>o</sup> 25. *ad fin.*



now, how came Bruce in? what right had he? and what right had the states of Scotland to make him King? — But allowing that Balol the father by his own crimes could forfeit this grand estate; which by some *Jacobite* authors maintain, how consistently, let the reader judge<sup>a</sup>: yet how could his innocent son be made suffer for his father's faults? How came he to usurp the crown, the property of another? and why rather did he not content himself with being Regent in Balol's name, as the memorable Sir William Wallace had done before him? Why did not the Scots, to a man, assist in re-establishing young Balol upon the throne of his ancestors? and how came they to oppose him; to hinder a man of his own, his own by a right from heaven?

How the *Jacobites* can answer these questions, in consistency with their avowed principles, and so as to maintain that Robert Bruce succeeded to the crown of Scotland by a divine, hereditary right, is out of our comprehension. As to the last, as they may say, That the Scots opposed young Balol, because he attempted to recover the kingdom by the assistance of England, at that time our greatest foe. It may be so; but they will allow themselves to be put in mind, that what England was to us then, France is now.

To shun these unlucky consequences, one may perhaps aver, That Bruce's right to the crown was better than Balol's; and that the competition ought to have been determined, not by the laws and customs of the country contended for, but by the laws and customs of the *Goths* and *Vandals*, the Feudal law; by which law, say they, Bruce's right would have been preferable. Now, if Scotland was a feu, as these Gentlemen would make it; pray let them tell us, of what overlord it held, and what was

the nature of the holding<sup>b</sup>. Further, let them explain, how the customs of other nations either could or should have regulated the succession to the crown of Scotland, and make it run in a channel contrary to the laws and customs of the country. Besides, let them remember, that even the Feudal law is not so clearly on their side of the question, as they would seem to intimate. Sir Thomas Craig, tho' he declares for their opinion, yet candidly owns, that the two great lights (as he terms them) of the Feudal law, *Gerard* and *Obert*, differ upon this point. — Indeed, he himself delivers his opinion with an unusual modesty and diffidence. And, considering that he wrote under the reign of a monarch peculiarly fond of hereditary right, from whom he had received distinguishing favours, and that he introduces it in his treatise of *homage*, where it evidently tends to the strengthening of his argument, it is a wonder he says so little, and shews us that he was not very positive in his opinion<sup>c</sup>. But if any chuse to subscribe implicitly to the opinion of Sir Thomas Craig, we refer them to his treatise of *succession*, p. 373. 374. against *Doleman*; where they will find him maintaining, that "the crown of England ought to descend according to the customs and laws of England; — and that there can be no room for the children of a second daughter in the succession of things that admit of no division, so long as there are children of an elder daughter." — These are his expressions; of equal weight, as we apprehend, with any in his treatise of *homage*. 'Tis with the utmost respect we mention this great man; but it is no derogation from that to say, that his zeal for his King carried him, as it has done many, a little too far.

But the opinion of lawyers is not the only

<sup>a</sup> Vide Mackerzie's Works, vol. 2. p. 454. And for which we have this remarkable saying: "If a King will alienate his kingdom, his subjects are free; not by their power to resume their first liberty, but because the King will not continue King; and they are free indeed, not by their own right."

<sup>b</sup> Let it be remembered, that these very people, in the dispute about the homage, assert the independency of Scotland, and maintain that it was no fee of England.

<sup>c</sup> It is worth observing, that Sir Thomas falls, in this very treatise, into the vulgar error, of making Bruce refuse to swear to Edward: A circumstance which indeed strengthens his argument, but is by no means true, as the reader will see from the authorities formerly quoted.

only thing to be regarded in the present case: the opinion of our brave ancestors, the Nobility, Clergy and Commons of Scotland, ought to have at least an equal weight with us, their posterity; and should fill us with a noble zeal for that liberty they were so solicitous to transmit to us. Of this we have still some illustrious monuments, as old as the period of time we were just considering; and from which we shall take the liberty to make two short extracts relative to our present argument<sup>a</sup>. In a letter wrote 6th April 1320, by the Nobility and community of Scotland, to the Pope, we have the following remarkable passage. After having made answer to Edward's claim of homage, they tell his Holiness, they had been delivered from all their troubles by their brave King Robert Bruce, "Whom (say they) also divine providence, and the right of succession, according to our laws and customs, which we will maintain to the utmost, and the due [debitus] consent and assent of us all, have made our prince and King. To him, as the deliverer of the people, by preserving our liberties, we

are bound to adhere, as well upon account of his right, as by reason of his merit. But if he desist from what he has begun, and shew any inclination to forsake us, or our kingdom, to England, or to the English; we will use our utmost endeavour to expel him immediately, as our enemy, and the subverter of his own right of our right; and we will make another King, who is able to defend us, not for glory, riches and honours we fight, but only for liberty, which no good man loseth but with his life<sup>b</sup>." Such was the spirit of our ancestors.

In a declaration published by the clergy, in a general national council of Scotland, held at Dundee 24th February 1320, it is said, "That the right and title of King Robert Bruce, to the crown, was declared by the judgment of the people; that he was assumed to be King by their knowledge and consent; and that, being elected by their authority to the crown, he was thereby solemnly made King of Scotland<sup>c</sup>."—Now, tho' it is true, that both these, particularly in the beginning of the last, (which for brevity's sake

<sup>a</sup> Vide Anderson's Appendix, N<sup>o</sup> 11.

<sup>b</sup> This letter is signed even by Walter Stewart himself, son-in-law to King Robert Bruce, and father to King Robert II.

<sup>c</sup> Vide Anderson's Appendix, N<sup>o</sup> 12. How far (says that author) these things establish and confirm a revolution-settlement, as being agreeable to our ancient constitution; how far they discover that a claim of right is no novelty in Scotland; and how far the title of Robert Bruce and his successors, who have swayed our sceptre for four hundred years, is founded in these principles; I leave to every man to judge.

\* [The clause here referred to, is in these words, as translated by Mr Anderson, in his Appendix to his Historical essay, shewing that the crown and kingdom of Scotland are imperial and independent, viz. "When there was a controversy between Lord Baliol, late King of Scotland de facto, advanced by the King of England, and the great Lord Robert Bruce, grandfather of the present King Robert, Which of them was nearest in blood to inherit and reign over the people of Scotland? the loyal people of Scotland did always maintain, as they did understand from their forefathers and predecessors, and were firmly persuaded, that the said Lord Robert the grandfather was, after the decease of King Alexander, and of his niece the daughter of the King of Norway, the true heir, and should have been preferred to the crown before all others."—And the clause of which the substance is given above, is in these words, viz. "The people, by the favour of heaven, agreed upon the said Lord Robert, now King, in whom the right of his father and grandfather to the foresaid kingdom, by the judgment of the people, did remain and continue entire: and by the knowledge and consent of the said people and community, he is assumed to be King, that he may reform what is disorderly in the kingdom, and that he may correct what is amiss, and that he may direct what is wanting: and being by their authority advanced to the crown, he is solemnly made King of Scotland, with whom all loyal people will live and die, as with one who, by the right of his blood and other eminent virtues, is fit to reign, and worthy the name and honour of a King."]



are obliged to omit), they mention *Robert's* right to the crown by succession; yet it is submitted, whether they lay the most weight upon it, or upon their own consent and election? They express a due regard for the Royal line; and to be sure, hereditary, tho' not indefeasible right, may possibly prevent certain inconveniencies: but at the same time they boldly declare, they will prefer a regard for their own liberty to both.—Besides, we cannot help being of opinion, that what they say about it, did not proceed so much from the derivation of any such right in the person of *Bruce*, as from a desire of defeating *Edward's* plea for the homage, arising from *Bruce's* base surrender of the kingdom. And we cannot but think,\* that if *Robert* had been as fully persuaded of his divine, hereditary right to the crown, as his successors seem to have been of theirs, he would never have allowed such bold declarations of the contrary to pass under his very nose.—

But now perhaps the *Jacobites* will reply. Pray, what is all this to us? What is the conquest you have gained? What was *Robert Bruce* was an usurper? and without divine, hereditary right, he was we know of no successors the *Baliol* family has. If we did, we are ready to crown the house of *Stewart* for ever, and would assert the divine, hereditary, indefeasible right of monarchy, at the expence of our own blood, and the blood of our country.

We shall for once believe the *Jacobites* sincere, particularly in the last part of their declaration; and, we verily believe, few in the country, after such feeling experience, will doubt of it. But then, as to the first part of it, we humbly apprehend, that it is not incumbent upon us. 'Tis none of our business, to hunt after *jure divino* monarchs; that is the task of those who believe there are any such in existence. We have never yet learned from the *Jacobites* how to know them, the marks they give

us are so various and odd. The Ladies bid you look for Majesty of presence, and genteelness of person; the Priests, for a *shechinah* about the head, like the glory of the saints: some desire, you would touch for the evil; while all that others require is a long nose and a grim complexion<sup>a</sup>. But all of them put us in mind of the ancient *Egyptians* seeking a new calf to worship, on the death of their old one.—However, tho' this is by no means incumbent on us, yet we shall put the Gentlemen in mind, they will find what they seek, in the house and family of *Douglas*.—We shall not detain the reader, by marking the steps of this descent; but only observe, from *Buchanan*, *Boethius*, and many other of our historians, that *William* Earl of *Douglas* was so well convinced of his hereditary right to the crown of *Scotland*, as descendent of the *Baliols* and *Cumins*, that, at the accession of *Robert II.* the first of our Kings of the race of *Stewart*, he insisted upon his claim to such a degree, that *Robert* thought proper to appease him, by giving him his own daughter in marriage<sup>b</sup>. This is sufficient for our present argument: for how soon the *Jacobites* tell us when the *Baliols* were extinct, or united with the *Brucian* family in a *Stewart*, (which is absolutely necessary to be done, ere they can infer, that the *Stewarts* have a divine, hereditary, indefeasible right to our crown), we shall endeavour to be more particular<sup>c</sup>.

Till they do this, we are hopeful they will allow us, that the settlement of 1688 is in every respect as good as the settlement of 1315; and, consequently, that the illustrious family that is now in possession of our throne by virtue of the one, has as much of what they call divine, hereditary, indefeasible right, as ever the family of *Stewart* had, who possessed it so long by virtue of the other. This they must allow, or they'll please to tell us where the difference lies. In 1685, the direct line of our Kings being extinct, the

R

collateral

<sup>a</sup> A more proper characteristick of the family of *Stewart*, than mercy. Vide *Pretender's Declaration*.

<sup>b</sup> Vide *Buchan. Boeth. Hist. of the house of Douglas, &c.*

<sup>c</sup> Mean while, they will remember, that no length of time, not five hundred years, can stand prescription in the present case; else let them explain, how any length of time can destroy a divine, indefeasible right; — or how, on the other hand, it can constitute it.

collateral took place; so did it at the death of *Alexander III.* There was then a great contest about settling the succession, witness the exclusion-bill, &c.; so was there betwixt *Bruce* and *Baliol*. About that period, the succession was settled by hereditary right, in the accession of the Duke of *York*; so was it also when *Baliol* got the crown. *Baliol* was deposed for inflaving his kingdom to the crown of *England*; *James VII.* was deposed for inflaving his to the court of *Rome*, and Popery. *Baliol* was justly banished into *France*; so was *K. James*. *Baliol* died in the hands of *French Bishops*; so did *K. James* too. The *Scots* justly put the crown on *Robert Bruce's* head, their deliverer from *England*; so did the *British* on *K. William*, their deliverer from *Rome*. The *Scots* did not think it fit to make *Bruce* only Regent during *Baliol's* lifetime; neither did the *British*, the Prince of *Orange*, during the life of *K. James*. Young *Baliol* attempted to regain the crown by the assistance of *England*; so has the young Chevalier by the assistance of *France*. In all these they agree.—In this they differ: Young *Baliol* succeeded; the young pretender has failed.

The whole of what has been now said, consists either of facts, or of what is humbly apprehended to be the plain and easy consequences of facts: tho' therefore it should not convince, it is hoped it will not offend. The design was, to revive the remembrance of some things, which some men seem to have forgot; and, by a collection of circumstances, to place the affair in the most striking light. It is hoped, that the *Whigs* will here discover somewhat to confirm them in their opinion, and that the *Jacobites* (if any such should cast their eye that way) will find, that their adherence to the family of *Stewart* is not the effect of principle, but prejudice. It is somewhat strange, to see men adhere obstinately to a family, on the principle of divine, hereditary, indefeasible right; and endeavour to set them on a throne, to which, allowing the doctrine to be true, they never had a title. But our admiration cannot but be great, when we see them hazarding their lives, their fortunes, their all, nay involving their

whole country in distress, misery and ruin, making it the scoff of its enemies, and the grief of its friends, and all to advance a family to the throne, who either never had a right to it, or were justly deprived of it.—If these Gentlemen are indeed convinced of divine, hereditary, indefeasible right, it is expected and intreated they would act up to their principle; and, if they had done so, *Scotland* had not been what it this day is, the scene of death, and the unblest grave of its children.—Say no longer then, that you fight for the family of *Stewart* on the principle of divine, hereditary, indefeasible right: if that be indeed your principle, it is from obliging you to fight for them, that it binds you to fight against them.

*A singular experiment in electricity.* From a letter dated at Paris, March 25.—  
See *Mag.* 1745, p. 277. & 1746.

**M.** De *Musschenbroek*, a famous Professor in Experimental Physics at *Leyden*, has sent to *M. de Reaumur*, of the Royal Academy of Sciences, an account of a very singular experiment, which led him to several discoveries concerning electricity. "Having suspended an iron cannon horizontally upon silken cords, with one end near the electrical globe, and fastened to the other end a latten wire, which descended into a bottle half full of water; then holding up the bottle with his right hand, while the cannon was electrifying, he put forth a finger of his left hand towards the piece, in order, as he thought, to draw off a spark; but was struck with a violent blow, that he thought his arm an end." He adds, that he esteemed himself very happy in escaping, and that the commotion he felt was like a clap of thunder.

As this account came at a time when many learned men were employed about electricity, the *Abbe Nollet* and *M. de Monniers* of the Academy, zealous to inquire into so extraordinary a phenomenon, ventured to make the same experiment: and in like manner found the concussion very terrible.



On Miss M——, of Greenwich, who relieved  
a soldier, fainting, in his march over Black-  
Heath.

When the faint warrior sigh'd, and bow'd  
his head,

Stay, fleeting life!—the lovely Sappho said;  
Thy silver charm, brave youth, accept, arise;  
While tears of pity wail'd her gen'rous eyes.—  
'Twas well the soft suffusion hid from sight  
Thy eyes that shine with such a dang'rous light;  
For, whom the sounds reviv'd, the looks had slain,  
And e'en Apollo had prescrib'd in vain.

But now, new life the quick'ning sounds impart,  
Reviv'd vigour swells his glowing heart;  
His blood obedient to the mandate proves,  
Strong beats each pulse, and firm the hero moves.

Yet here, fair nymph, without thy pow'r to save,  
The force of art might disappoint the grave:  
Oft from rich balms a cure the languid find;  
Each part is free to med'cine, but the mind;  
Deposited health salubrious herbs restore,  
And pining Sickness knows to waste no more.

But ills there are which you alone can cure;  
And yet these ills, despairing, I endure.

And shall thy bounty still refuse to heal  
The wounds thy eyes have giv'n, the wounds I  
Demand for aid to other charms I fly, [feel?  
Still flows the silent tear, still heaves the sigh,  
That tear a tear, that sigh a sigh succeeds,  
And my fond soul to death, unpity'd, bleeds.

O! form'd to bless, and grac'd with heavenly  
Wings, bestow thus a partial pity warm, [charms,  
Say, whence, dear Sappho, this strange turn of  
Mind, why at once so cruel and so kind? [mind?  
Wou'dst thou to give, and courted to deny;  
Thou bid the stranger live, the lover die!

On the death of Dean Swift, and the arrival  
of the Earl of Chesterfield.

HIBERNIA speaks.

When such a son I lose, and Viceroy gain,  
Can I too much rejoice? too much complain?  
Gone is my patriot son! my Viceroy's sway,  
That best of patriots would with pride obey!  
Yet e'en beneath his auspices I pine;  
Swift is no more, tho' Chesterfield be mine.  
Each loss from me is torn, to me is given,  
I feel at once thy wrath, and mercy, heaven.

The DECISION. A tale.

Clarissa, sprightly once and gay,  
Now sigh'd the tedious hours away;  
She mourn'd the kindest husband gone,  
The husband much—but more the man.

Dark weeds conceal'd the fair from  
view—

Yet mightily became her too!  
She wail'd her pretty blubber'd face,  
And wept her dear—with such a  
grace!

But lo, young Florimond appears  
To dry the joyless widow's tears.  
His suit she heard with warm disdain,  
Protested all his hopes were vain;  
Her hands she wrung, her robe she rent,  
And wept, and "wonder'd what he  
meant!"

Yet thro' the drop that drown'd her eye,  
'Tis said, there shone a spark of joy;  
And sage diviners cou'd foretell,  
That Florimond might yet do well.

A scruple now disturb'd her head,  
"Whether it were a sin to wed?"  
Queries and doubts her brain possess'd,  
And busy Conscience broke her rest.  
So, to resolve this knotty case,  
She seeks the Curate of the place:  
A casuist?—Deep.—Of judgment?—  
Sound.—

Yes, sam'd for parts—the parish round.

Clarissa with the rising sun  
Approach'd her friend, and thus begun.  
Full sixty times hath yonder light  
Arose,—as oft hath sunk in night,  
Since the lamented hour that gave  
My faithful consort to the grave:  
And sure no second love shall e'er  
Efface that image still so dear:  
Clarissa to his mem'ry just,  
For ever shall revere his dust.  
Yet cruel Prudence may require  
What else were foreign to desire;  
And midst a weight of cares, you know,  
What can a helpless woman do?  
My heedless servants slight my call,  
My farmers break, my houses fall;  
And Florimond with winning air,  
Tells me they want a husband's care.  
What does my learned Doctor say?  
"Why, marry, jure—without de-  
lay?"—

But shou'd the lover prove unkind,  
A tyrant o'er a tender mind,  
How hard my lot, condemn'd to mingle  
Tears with my cup!—"Why then live  
single."—

Yet what if an obdurate fair  
Shou'd drive a lover to despair?

You know the foolish freaks of men;  
I dread the thought!—"Nay, take him  
then."—

But shou'd he squander my estate,  
And parve my jewels, rings, and plate!  
And witless I, by folly led,  
Be turn'd adrift to beg my bread!

The Doctor, vers'd in womankind,  
Perceiv'd the working of her mind.

Madam, he cries, when truth we seek,  
All argument is often weak:  
When reasons weigh on either part;  
Opinion vainly tries her art;  
So, till descending truth prevails,  
She sits suspended o'er the scales.  
A way more speedy shall be try'd;  
A tongue shall speak that never ly'd:  
Know, Madam, then, my parish bell  
Is famous for advising well;  
Whate'er the point in question be,  
It hits the matter to a tee:  
Thus, as it dictates by its tone,  
You here must wed, or lie alone.

Now tow'rd the church in haste they go:

The widow cheerful?—But so so—  
Yet vows, whate'er the answer giv'n,  
She "piously will yield to heav'n:"  
The Doctor too exhorts the fair,  
To "listen, and decide with care."  
And now, the mystery to unfold,  
He turn'd the key, the bell he toll'd.  
Our widow mus'd, and knit her brow—  
"Well, Madam, pray what think you now?"  
(Here, first she jebb'd, and wip'd her eye,  
Then labour'd out a doleful sigh.)

—Think, Doctor?—Why, the case is plain:  
Alas, I find resistance vain!

In heav'n, 'tis said, our doom is seal'd:  
Ah, Florimond!—and must I yield?  
Yet not by choice—by fate I'm won;  
The will of heav'n be ever done!  
The bell ordains thee to my bed;  
For hark, it fairly bids me "Wed."  
Dear Doctor, then, (I speak with sorrow),  
Be sure you be at home to-morrow.

Think you the simple tale too long?  
Then hear the moral of my song.  
The moral, to no sex confin'd,  
Regards alike all human kind.

Shy Passion and distemper'd Sense  
Unwrap the firm of evidence;  
And truth and falsehood, good and ill,  
Receive their tincture from the will.  
Man boasts his Reason's power in vain;  
The pagan drag a hidden chain:

A vary'd shape each object wears,  
Just as he wishes, hopes, or fears:  
His deepest thought, his vaunted rule,  
Is Passion's slave, or Folly's fool.

'Tis hence we blindly can approve  
The very faults of those we love;  
'Tis hence we blindly can debate  
The noblest deeds of those we hate.  
Abroad thus works perverted Will;  
At home our views are darker still;  
And actions deem'd absurd in thee,  
Are prudent, wise, and just in me:  
Self-love adores her own caprice,  
Still deifys each darling vice;  
And by the colour of a name,  
Removes at once the guilt and shame.  
The prodigal is "gen'rous, free:"  
The miser "boasts economy:"

"Gay," the debauch'd; the proud,  
"great;"

The bold oppressor "bates a cheat;"  
The fawning slave "obliges all;"  
And mad Revenge "is Honour's call."

Thus Passion shoots thro' every part;  
The brain is tainted with the heart:  
Weak Judgment falls before Temptation,  
And Reason—is but Inclination.

A free translation of the Latin ode p. 50.  
To the tune of, Wilt thou play me that  
play, highland laddie.

In the chorus, which is to be sung after  
every four lines, either Royal or Lowland  
Laddie may be used.

To the Most Serene Prince William  
Duke of Cumberland, marching into the  
Northern parts of Scotland, against the  
remains of the rebels,

#### AN ODE.

NOW o'er the high and shaggy hills  
Now o'er the low and humble valleys  
O'er the braes beset with thorn,  
And rocks the traveller's foot that scours,  
Bonny Laddie, Royal Laddie,

There, my hero, lies your way,  
Where the sun with feeble ray  
Scarce can cheer the barren plain,  
That neither pasture yields, nor grain;  
Where bare riggs are bound in frost,  
Where Cairn o' mount in snow is lost,  
Where the cottages are rare,  
And trackless paths the stranger fears



While you hunt Rebellion's race,  
 With a coward's pace,  
 Cowering o'er the hills like goats,  
 And ring far as Johny Groat's;  
 While you cross the beathy moors,  
 Leading on your daring corps;  
 Of your health be not profuse,  
 In regions that no houses use.  
 While you're safe, who either fears,  
 Open wars, or Tencin's snares?  
 Of the threats or gasconade  
 Of a mob for mischief mad?  
 Mean while, my pious wish and pray'r  
 Thee shall attend with anxious care:  
 Safe be your life, where danger fills  
 The frightful ridge of tow'ring hills;  
 May heaven's friendship thee preserve,  
 And wings omnipotent thee serve  
 To shade thy manly head around,  
 And thee return with laurels crown'd;  
 May your victorious troops return  
 (While our foes their folly mourn)  
 To mingle in the mazy dance,  
 And triumphs sing o'er Spain and France.

Lanark.

Abstract of the act decimo nono Georgii II. intitled, *An act for the more easy and speedy trial of such persons as have levied, or shall levy war against his Majesty; and for the better ascertaining the qualifications of jurors, in trials for high treason, or misprision of treason, in that part of Great Britain called Scotland.*

Whereas a horrid and unnatural rebellion and war has been openly and traiterously raised and levied against his Majesty within this realm, and is still continued, with design to depose and murder his Most Sacred Majesty, and to set a Popish pretender, bred up and instructed in Romish superstition and arbitrary principles, on the throne of these realms: and whereas great numbers of such as have joined in the said rebellion have been lately seized, and distributed into several prisons in different counties of this realm; and others of them have been, and may be, in order to discover the foundations and causes of the said rebellion and treasons, brought up to London, in order to be examined: and so far as bills of indict-

ment, as the law now stands, are to be found in the counties where treasons are committed; but as it will be very inconvenient to publick justice, that the judges should remain so long in the said counties as will be necessary for the trying of the said offenders, so it will be very burthensome to the freeholders of the same counties to attend so many trials as may be necessary to be had for the safety of the publick: To the end therefore that the said offenders may not conceive any hope of impunity from the distance of the several counties where the said treasons are committed, and that justice may more speedily and securely be administered against them, and proper examples made in such reasonable time, as may be a means to suppress the remains of the said rebellion, and preserve the peace of these kingdoms, it is enacted,

That all offenders now in custody on account of the said rebellion and high treason in levying war against his Majesty, and all other persons who are or shall be guilty of high treason in levying war against his Majesty within this realm, and shall be imprisoned for the same on or before the 1st of January 1746, [*i. e.* 1747. according to the Scots computation], may be proceeded against, and the said treasons may be inquired of, heard, and determined, before such Commissioners of Oyer and Terminer, or Goal-delivery, and in such counties or shires of this realm, as shall be assigned by the King's commission under the great seal of G. Britain, in like manner as if such treasons had been committed within the counties or shires where they shall be tried as aforesaid.

That if any indictment against any such offender be found in the county or shire where such offences have been or shall be committed, such offender may be proceeded against on such indictment, for such treasons, before such Commissioners of Oyer and Terminer, or Goal-delivery, and in such county or shire, as shall be assigned by the King's commission under the great seal of G. Britain; and such indictment, in such cases, shall be certified unto such Commissioners upon his Majesty's writ of *Certiorari*, to be issued for that purpose under the great seal of G. Britain: And

And that in all such cases no challenge for the county, or shire, or hundred, shall be allowed: But nevertheless, upon the trials of such treasons, the challenge to any juror for want of freehold in the county or shire where the same shall be tried, and all other due challenges to jurors, shall be allowed.

Provided, That if any Peer happen to be indicted of any such treason, he shall have his trial by his Peers, in such manner as by law a Peer is to have his trial.

Provided, That this act shall not extend to alter the place of indictment or trial, unless the person indicted shall, upon his trial, be proved to have been actually in arms, or to have personally joined with others while in arms, in the rebellion or war charged in the indictment; but upon failure of such proof, such person shall be discharged from such indictment, in the same manner, and to the same intents and purposes only, as he should have been in case this act had never been made.

And whereas difficulties may occur in trials for high treason, and misprision of treason, in Scotland, with respect to the qualifications of jurors to be summoned and returned on such trials; for remedy thereof it is enacted, That, in all times hereafter, every person may be summoned and returned to be a jurymen in such trials in Scotland, who shall, at the time, be possessed, in his own right, or in the right of his wife, of lands or tenements, as proprietor or liferenter, within the shire, stewartry, or place where the trial shall be, or from whence the jury is to come, of the yearly value of forty shillings Sterling at least, or valued at thirty shillings Sterling *per annum* in the tax-roll of the same shire or stewartry; and, for want thereof, or for any other lawful cause, shall be subject to be challenged, and set aside.

#### FOREIGN HISTORY.

ON the 12th of January, an Ambassador arrived at CONSTANTINOPLE, from the Emperor of Persia; and a few days after, he had an audience of the Grand Vizir; in which he gave assurances of his master's sincere dispositions towards peace. At his departure he had the usual presents of rich

furs and a fine horse; whence it was concluded that a negotiation would quickly be set on foot with some prospect of success. However, as it was not known how far these appearances might be depended upon, the Porte formally acknowledged the Grand Duke of Tuscany and the Queen of Hungary as Emperor and Empress of Germany. Mean while so many Ottoman troops were cantoned near the Hungarian frontiers as gave the court at Vienna some uneasiness. Its suspicions were increased by a letter from the imperial resident at Constantinople, advising that the Porte complained of divers necessities committed by the Sclavonians and Illyrians, against two caravans, in their journey to that capital. To remove all ground of a quarrel on that head, her imperial Majesty, without delay, ordered a strict inquiry into the affair, in order to make proper satisfaction. According to the last advices from Constantinople, all fears of disturbance to any of the European princes from that quarter must be over for this campaign; as they inform us, that the Shah Nadir has only answered the Grand Signior with proposals of peace till he should have all his warlike preparations made, and that he is endeavouring to march with an army of 120,000 men towards Anatolia, which has occasioned a prodigious consternation, and caused a resolution be taken to march all the Ottoman forces that were on the frontier of Hungary into Asia, where they are to assemble the whole power of the empire carrying on the war with vigour.

Great armaments continue to go on in RUSSIA, without any thing positive being said as to the destination of them. The court has actually recalled the body of troops that were in Courland; but a train of artillery has been ordered to Siga, with vast quantities of ammunition; and great magazines have likewise been formed at Pleskow. — M. de Dieux, the Dutch minister, has left Petersburg, without being able to conclude the treaty of commerce he has long laboured for. The Empress, however, dismissed him with extraordinary marks of regard.

In SWEDEN an edict has been lately published for encouraging the Jews to come



me and reside there. They are to have the commercial privileges of natural-born subjects; to join in any of the public associations; to be admitted as free burghers, and enjoy the liberty of trading to the East or West Indies, as well as of fishing in the herring-fishery, or any other branch of commerce.—The ship designed for transporting the Swedish officers engaged in the service of France, was frozen for some time. A letter from Stockholm, dated March 18. says, that when their last advices from Gottenburg came away, they still remained there.—M. Monmar, the French Secretary of Embassy, as left Stockholm, upon a formal complaint made by the court of Admiralty to the King and senate, of the hand he has put in the piracies committed in the Baltic by Dageaer. [*Mag.* 1745, p. 338.] The King of DENMARK has caused it to be signified at foreign courts, that he will adhere strictly to the neutrality which he has hitherto observed.

As the court of VIENNA is now entirely at ease with respect to the Turks, and so can spare a good number of troops from Bohemia, she still rises in her declarations of acting vigorously this campaign. It is said she will increase the reinforcements for Italy to 60,000 men, and she has sent off for the Low Countries a considerable number of troops above what were at first promised.

His PRUSSIAN Majesty has still a great army on foot; but what use he will make of it, time alone can plainly discover.—His prince, having freed his subjects from the cares and expences of war, has thought proper to add to their happiness, by exempting them from the chicane and perplexities of long expensive law-suits, often more troublesome than war, by publishing the manifesto following. "Frederick, by the grace of God, King of Prussia, &c. We gratefully salute our friends and worthy counsellors. You are to learn by the copies of the orders hereunto annexed, the directions given to Coccefi, our minister of state. And we trust that you will execute these our just intentions with a strict exactness, which you have not heretofore done; and that you will apply yourselves to the moderating of the immense expence, to

which the parties are liable who apply to you for justice, which occasions universal complaints. If by this rescript a suitable remedy be not found, answerable to the end proposed, we shall consider of other means, to procure to our subjects expeditious, solid, and impartial justice."—His Majesty's letter to M. de Coccefi was as follows. "Coccefi, my dear minister, a multitude of examples has convinced me how just a foundation there is for my subjects complaints against the administration of justice in my dominions. I have taken a resolution not to shut my eyes to such abuses, but carefully to look into them myself. You are therefore to address yourself, in consequence hereof, to all my tribunals of justice in due order, and to oblige them to cease the abuses which chicane, brigue, and delay, have introduced into their administration, and which call for vengeance from heaven. You are at the same time to signify, that they must be ready and quick in their determinations, without exception of persons; to moderate the expence, by the abridgement of proceedings that have in them more of form than use; and, in one word, only to apply themselves to the dispatching of business with the utmost celerity that the nature of the case before them can possibly admit of, under pain of losing my favour, and incurring a suitable punishment. *I am, &c.*"

Orders have been sent to the SAXON minister at the Hague, to ask, in his Polish Majesty's name, the guaranty of the States-General to the treaty of Dresden. There has been frequent talk as if a body of Saxon troops were taken into the service of the maritime powers, and it is now said, that the terms being fully settled, they are actually in motion in order to march for the Netherlands, to the number of 15,000 men.

On the 24th of February the French minister demanded from the circle of SWABIA a clear and speedy declaration to observe a strict neutrality, and consequently not to grant a passage thro' its territories to the enemies of the King his master, to attack or disturb the frontiers of his dominions, and to avoid entering into any association that might give him the least umbrage.

umbrage. About the same time a detachment of Croats resolved to make some reprisals upon the garrison of Hunninghen, for the incursions they had made over the Rhine. Accordingly these troops passed the river, and cut to pieces, or carried off prisoners, all the men they found in three different redoubts. The French minister at Francfort has loudly complained of this, as a breach of neutrality on the side of the empire. By last accounts he had received no answer, tho' one was drawn up; because, upon deliberation, the deputies of the several circles were not agreed in their opinion of it.

Along the North-side of the Rhine, the French have been busy repairing the lines of Germersham and Lauterburg, and augmenting the fortifications of Landau, which is a strong town situated behind those lines in such a manner as to be encompassed by them on three sides. In this place they are said to have laid up provisions sufficient to subsist an army of 80,000 men for a whole year. They have also sent to it above 230 pieces of cannon, with a proportional number of mortars; and, according to latest advices, the French troops were assembling in its neighbourhood, in order to execute some enterprize upon the frontiers of the empire, in case the circles should refuse to accept of the neutrality proposed to them.

Affairs in ITALY have put on a new face of late. About the latter end of February, the French ministry gave out, that his Sardinian Majesty had actually signed preliminaries in order to an accommodation with their court and that of Spain. There seems no reason to doubt of proposals having been made to him, as they have several times been since the commencement of the war. Whether the King of Sardinia really thought himself reduced to the necessity of making up matters with the two crowns, and so was willing to accept of a peace on proper terms; or if he wanted only to gain time till his further preparations should be ready, and to draw larger succours from Germany, is not certain. However that might be, no sooner was a good body of Austrians arrived in the Mantuan, and certain advice received that the rest who had been pro-

mised were on their march, than he took the field with 40,000 men, to act in concert with his former allies. The commencement of his operations has not with all imaginable success. Baron Leutrum, with a body of Piedmontese troops, after having in his march made himself master of several small posts of the French, and intercepted the whole regiment of Dauphiny, invested Asti on the 5th of March N.S. On the 7th, both the town and castle surrendered; when M. de Mettal, the Governor, two Majors-General, three Brigadiers, near 400 other officers, and 5200 private men, of the best troops that the French had in Italy, were made prisoners of war. M. de Maillebois having assembled all the forces he could get together in the Montferrat, had advanced as far as Annone, which is but five miles from Asti, in order to disengage the garrison; but could not succeed. In the mean time, some of the Piedmontese detachments forced the bridge on the Lancia, and both there and in two other posts in the mountains between Asti and Alexandria, some hundred prisoners were taken. On the 9th, Gen. Leutrum moved forward towards Alexandria, and two marches came to Solery, within a few small miles from that town. There he was informed, that M. Maillebois, in the utmost hurry and confusion, was gathering in the rest of his army at San Salvatore, an important post in the mountains about three miles off; that the battalions of Casal were come to join him there, and some few men being left in the castle, and that, as well from their numbers as consternation, the French were not likely to interrupt him in his operations. Upon this intelligence he immediately sent to reconnoitre the avenues of the castle, and being informed that the coast was clear, and that the French had abandoned the redoubt they had raised for covering their blockade, he ordered a courier with provisions to advance; which got into the citadel that night and next morning. This must have been a very reasonable supply to the garrison, as they are said to have had subsistence sufficient for two days more, when it arrived. Soon after, the French left the town, and a detachment



ment from the citadel immediately took possession of it. Here likewise about 6000 prisoners were taken, half of them sick, and the other half having taken refuge in the churches and private houses. Some small magazines were also found in the place. M. Maillebois now thought proper to quit the post of San Salvador, and retreat by the mountains towards his bridges on the Tanaro; which river he had passed by the 12th, and then he marched for Tortona, that he might have an opportunity of joining M. de Gages, or of being joined by him. 'Tis assured, however, that Baron Leutrum came up with his rearguard; and made two battalions more prisoners of war. He had left 400 men in Valencia, and as many in the castle. The town fell into the King of Sardinia's hands as soon as his troops advanced to it; and it was not doubted but the castle with its garrison would be in his possession within a few days.

While Baron Leutrum was thus pursuing his advantage on the *South-side* of the Po, several Austrian detachments were employed on the *North-side*, in very useful dispositions; the French, in several posts of the Lamellina, abandoning them with much precipitation and disorder, as the Imperialists approached, and in most places leaving behind them their sick and magazines. A body of Austrians attacked Zeno, and took 200 prisoners, with a Lieutenant-Colonel, two Captains, six subalterns, and 300 mules. At the same time a Major-General in the Spanish service, who was come thither from Mortaro to reconnoitre, with a guard of 100 dragoons and miquelets, was taken by the buffars, who cut the greatest part of his detachment to pieces. Gen. Platz, having passed the Po with eight battalions and eighteen companies of grenadeers, advanced to attack Montcalvo, an important post in the hills that divide the province of Casal from that of Asti; but the three French battalions that were quartered there found means to escape, as he drew near to invest it. Upon this he marched forward to join Baron Leutrum, leaving forces sufficient to blockade the castle of Montcalvo; which soon surrendered; and, besides 200 prisoners, pretty considerable magazines of pro-

visions were found in it. Mean while, the Spaniards evacuated the Milanese with the utmost precipitation, leaving considerable magazines in all the places they abandoned. The artillery they had brought for besieging the castle of Milan, had been sent off to Pavia, into which a strong garrison was put; and they immediately set about throwing up intrenchments, and strengthening the fortifications of the place to the utmost of their power. Don Philip left Milan on the 19th at five o'clock in the morning, escorted by about 6000 men, and took the road to Pavia. Pr. Livingstein, a Colonel of dragoons, immediately took possession of Milan; in the suburbs of which he killed or made prisoners about 600 men. Gen. Brown having detached 8 or 9000 men from the Mantuan, under the command of Gen. Bernclau, these troops came up with the rearguard of the Spaniards at a village near Codogno; which they attacked, two hours before dark, and forced them to abandon the village, with the loss of some men killed and taken; or, as other accounts say, with the loss of a whole regiment, that was cut to pieces. Upon this the Spaniards hastened towards their bridge on the Po, which it was supposed they would lose no time in passing towards Placentia. Gen. Bernclau proposed to attack the head of that bridge next day, and hoped he would be able to force it; after which he designed to present himself before Pavia. According to latest advices from Italy, the Piedmontese with the Austrians under Pr. Lichtenstein, having made preparations for attacking the French in their posts upon the Scrivia, between Tortona and Sale, M. Maillebois retired into the Genoese state between Gavi and Novi, where they were likewise endeavouring to harass him. The French had likewise evacuated Acqui, the castle of which was again garrisoned by Piedmontese troops; and that of Casal was besieged in form by the Austrians. 'Tis assured that at present there are great jealousies and animosities between the Generals of the two crowns; in consequence of which, neither has M. de Gages sent a man to M. Maillebois, nor would the garrison of Tortona, where there are 12 Spanish battalions, ad-

mit any French or their equipages. A courier is said to have passed through Munich for Vienna on the 30th, with news of the Spaniards having been attacked in their retreat on the 27th, and having lost near 6000 men, killed and wounded. Without reckoning upon this account till it be better confirmed, the Austrians and Piedmontese had made between 8 and 9000 prisoners, from the beginning of March to the 20th, with very small loss on their own side, and recovered most of the towns and territories that the armies of the three crowns had been five or six months in gaining.

The Austrians give out, that the whole of the French, Spaniards, Neapolitans, and Genoese, do not at present amount to 40,000 men. According to letters from Naples, the reinforcements coming to them from that kingdom are 2000 horse and 3500 foot; but the French accounts make them amount to 10,000. The project of imbarcking the Austrian reinforcements for their army in Italy, at Trieste, was laid aside, and they took quite another route. By the assiduity of Gen. Bernclau, in prevailing on them to double their marches through the Tyrol, and by his having put them on board of floats, which Gen. Brown had provided at Bolzano, in order to their falling down the Adige, it is said ten days have been gained. By the 25th, about 22,000 of them were arrived, of whom Gen. Brown had the command; and it was computed they would be 35,000 by the end of the month, besides the 13,000 formerly under Pr. Lichtenstein.

Letters from MADRID mention the great diligence of the Spanish court in making preparations for this campaign in Italy. The Ferrol Squadron, which we have been often told was to join that at Brest, failed at length, about the middle of February. Having got to some distance, they met with a terrible storm; in which the *Castilla*, a 60 gun ship, lost her main mast; the *Glorioso*, of 70 guns, was separated from the rest in a very leaky condition; and others of them received some damage. This obliged them to put back, and they returned to anchor at the entrance of the river of Ferrol, after

having been ten days at sea. A small vessel was sent out in search of the *Glorioso*; but, according to latest accounts, that vessel had put into Vigo, without bearing any thing of her; so that it was apprehended she must be lost. These advices add, that the damage sustained by the rest of the ships was repairing with all diligence; that it was reported they would put to sea again, as soon as they were refitted, which would not be till towards the latter end of April; and that they had landed a great number of sick men, which had occasioned the issuing of orders for a new supply from the respective ports.

The court of FRANCE has still continued busy projecting schemes for sending assistance to the rebels in Scotland. It is said that a person of note went to France in the *Hazard* sloop, [p. 88.] which sailed from Montrose about the end of January, and gave such an account of the affair at Falkirk, as inspired them with new courage to prosecute their design of imbarcation. In a conference held at Versailles, in presence of the King, after his arrival, it is said Card. Tencin could not forbear discovering unusual warmth, and shewing great dissatisfaction that the troops which were intended for Scotland were not gone, without waiting, as they had done, for the Spanish Squadron. He said, that, for want of these succours, the pretender's affairs had been much prejudiced, and would be irreparable, if the expedition was any longer delayed; that the King had troops enough, as well in Flanders as on the side of Germany, to ward off any blow from either of those parts; and that it was chiefly proper to have always in view, what he had frequently declared, namely, that the fate of Britain would absolutely determine that of Europe. Accordingly advices from Dunkirk bear, that, on the three first days of March, several ships sailed from that port and Ostend, with six battalions; and that preparations were then carrying on for imbarcking more. Within two weeks after, five of these vessels had put back to Dunkirk, of which only one had landed her men and stores. The others, missing their expected signals from the coast, and some of them having been cha-



ed by the British men of war, returned for further orders. Another vessel, which had landed her money by a fishing-boat, in the North of Scotland, but carried back her men and stores, was chased into the opening of Flushing by a British man of war. She had several men wounded, four killed, and her foremast so disabled as to be unserviceable; notwithstanding which, she stole close along by the Flemish coast next morning, and got into Ostend. The Captains of those vessels that returned without landing their men were laid under arrest. It is credibly affirmed by letters from Zealand and Dutch Flanders, that the same transports made a fresh attempt on the 26th N. S. at night, to stretch over to Scotland; but that falling in again with some British ships of war, they were driven back the next day to Ostend; with what loss or damage, is not yet known. There is yet much talk of the great preparations which are making at Boulogne and Calais for a considerable embarkation, to sail for Scotland, under convoy of the Brest Squadron. Some accounts make this Squadron to consist of 14 ships of war, and others swell their number to 25, some privateers being included.—The news from Italy have somewhat disconcerted the French schemes. We are told, that fearing more than ever, that the Spanish court may fall off from its dependence upon theirs, to prevent this, they have thought fit to send M. Noailles to Madrid, with orders to assure their Catholick Majesties, that France is so far from intending to do her own business at the expence of her allies, that she is determined to have 40,000 men in Italy by the end of April; and that, if it shall be found necessary, M. Maillebois shall be relieved by another officer of the same rank. It is assured that orders have actually been given for 30,000 troops to march from Provence, Dauphiny and Alsace, for that purpose; and that, in consequence of this, an important expedition which was designed on the side of Germany, is laid aside, or at least delayed.

Nothing of importance has happened in the NETHERLANDS since the surrender of Brussels. M. Lowendahl is making new fortifications to that town, the chief

of which are between the gates of Scharbeek and Louvain, and those of Namur and Halle. The French lie quiet in Prince Waldeck's neighbourhood. That General still maintains his post behind the Dyle without molestation, and has extended the left of his cantonment almost to Louvain, to facilitate the junction of the Austrian regiments, which arrive successively from that side. All the troops that the States-General can get together are likewise repairing to his army.—The British dragoons, which were embarked at Williamstadt, instead of sailing for England, as was supposed, disembarked again, and advanced to their old cantonments in the territories of the States; from whence they were soon to march towards Antwerp.—'Tis said that his Imperial Majesty, having obtained 100,000 pounds Sterling of addition to his ordinary subsidy from Britain, has resolved not only to send 10,000 men more into the Low Countries, but also to maintain 15,000 there at his own expence.—M. Bathiani is arrived at the Hague, and it is thought he will set out for the allied army, so soon as he has settled with their High Mightinesses the operations of the campaign.—Mons and Charleroy are so invironed by the French, that there is no entering or coming from either of these places without their leave.—On the 26th of March, O. S. at night, Pr. Waldeck sent a detachment of six companies of Dutch and four of Austrian grenadeers, with three free companies, sustained by 2 or 300 horse, to beat up the French quarters at Vilvorden; which post they forced sword-in-hand; and, besides the killed, took 5 officers, 40 soldiers, and two cannon of 6 pounders. The greatest part of the garrison saved itself in the castle, and it was supposed the Prince's detachment would not be able to maintain long possession of the town.

As the STATES-GENERAL appear to be under considerable uneasiness on account of the late arrest of those privileges which their subjects trading into France enjoyed by virtue of treaties, it may not be amiss to give some account of it. The following is an extract of the French King's edict, recalling those privileges.

"The King in council having caused to be laid before him the treaty of peace and friendship concluded on the 11th of April 1713, at Utrecht, between the late King and the States-General of the United Netherlands, as also the treaty of commerce concluded at Versailles Dec. 21. 1739; and his Majesty having more particularly taken notice of the 1st and 4th articles of the said treaty of Utrecht, and of the 11th and 41st of the said treaty of 1739, relating to the reciprocal treatment of ships by the contracting parties in those treaties, in case of their entering the ports in either country; and being informed that the States-General have, in contravention of the said treaties, obliged several French privateers to abandon, in the ports of the States-General, the prizes which they had carried thither, and forced others to go out without receiving the succours of which they had need; and that they had permitted the English to carry three ships, which they had taken from the French East-India company, into a port of the said States-General, where they were sold, and afterwards sent into Holland under the Dutch flag, in order to prevent their being retaken; and his Majesty taking notice likewise of the infractions of the capitulations of Tournay and Dendermonde, hath thereupon in his council ordered, and doth hereby order, that for the future, and from the day of the publication of these presents, the subjects of the States-General of the United Provinces shall cease to enjoy, in the ports and cities of this kingdom, all the privileges granted them by the said treaties, &c. — Given in the council of state held in his Majesty's presence at Versailles, Dec. 31. 1745."

Orders were immediately sent to all the ports of France for causing this edict to be put in execution. In the letter written by his Majesty to the Duke of Penthièvre, High Admiral of France, he says, "They [the subjects of the States-General] are to be treated, as well for their persons, as for their ships, cargoes, goods and effects, navigation and commerce, as other neutral nations are, with whom I have neither convention nor treaty of commerce." Six months before the publication of that ar-

ret, four Dutch vessels were seized at Quillebeuf, which M. Van Hoy reclaimed agreeably to the treaty of commerce concluded in 1739, but without effect at that time; and on the 21st of December 1745, an imbargo was laid at Rouen on ten ships of the same nation, five of which were ready to have sailed the next day. His Majesty has however since declared, that such Dutch ships as were in the ports of his dominions before the above edict was issued, should not be comprehended in it, but should enjoy all the benefits of the treaty 1739; and that the Dutch should likewise preserve till Dec. 31. 1746, all the prerogatives to which they were entitled by virtue of that treaty with respect to salt fish. Agreeably to this, the ships that were put under an imbargo at Rouen have been discharged.

Towards the end of February, Count Wassenaar went to Paris on an embassy from the States. The principal point of his negotiation was, to re-establish matters between France and the republic upon the footing they were before the armistice, and then to prevail upon his Most Christian Majesty to hearken to the proposal of peace with which he was charged. — A letter from the Hague says, "It will be difficult to get off the arret, and to prevent the Danes and Swedes from taking the trade of the herring fishery out of our hands, if we persist in opposing the pursuits of France; and if we do not, as far as human foresight can extend, we must be utterly undone. This delicate crisis engages our whole attention. Our state is in the condition of a ship in a storm, where the only question is, Whether the merchandize is to be thrown over board, and lost? or, whether we must lose ship, men, and merchandize together?" — The French have allowed the States to ransom the sick that were left in Brussels, but have hitherto refused them the same privilege with respect to the rest of that garrison, which, in the mean time, they convey to the remotest parts of France.

#### DOMESTICK HISTORY.

*The motions and operations of the armies.*

**B**Y our last accounts of the armies, in the February Magazine, the rebels were



were in different bodies. About 2000 of them were on the banks of the Spey; and about 3 or 4000, with the pretender's son, at Inverness. From this place, a detachment, with some cannon, was sent to Fort Augustus; and small parties were seen near Fort William.—On the other hand, the King's army, with the Duke, was at Aberdeen, making ready for a march to Inverness, which it was thought would take some days to form; the Hessians, and some dragoons, who were about Edinburgh, had got orders to march for Perth and Stirling; Sir Andrew Agnew, with 500 men, was at Blair; Capt. Webber, with 200, at Castle Menzies, near Tay bridge; small parties of the Argyleshire highlanders, at two or three posts in the bays of Athol; and Maj.-Gen. Campbell, after having been with the Duke at Perth, was returned to Argyleshire.

About the beginning of March, the Hessian troops, with their artillery, &c. moved from the neighbourhood of Edinburgh for Perth. Their route was by Stirling. The Prince, the Earl of Crawford, &c. left Holyroodhouse on the 5th, and were that night at Hopeton-house. By the 10th, they had their head quarters, with the greatest body of their troops, at Perth. Thence his Serene Highness took a tour Northward, by Dunkeld, Taymouth, &c. to reconnoitre, and returned to Perth on the 15th. Naizon's and Hamilton's dragoons marched about the middle of the month, by the same route that the Hessians had taken.

Pursuant to an order from the Duke [191.], the Hessian transports, about thirty four in number, sailed from Leith road on the 2d, for Shields, with their convoy, the Gibraltar, Sheerness, and a bomb-vessel. There they took on board the Dutch troops, and arrived with them in Holland about the end of the month.

On the 5th, Bligh's regiment embarked at Leith, and sailed next day for Aberdeen. They were several times put back by contrary winds, and did not reach the destined port till the 25th. Two days before, 300 men belonging to different regiments, had arrived at Aberdeen by land. M.

According to letters from the Duke, of

the 9th, from Aberdeen, the rebels still pretended that they would defend the passage of the Spey. Lord John Drummond, who was chief of those in that part of the country, with the remains of his regiment, and a few French horse lately landed, was at Gordon castle. Their low country people, whom they set at 3000, were at Elgin, Fochabers, and other places on both sides the Spey. They were intrenching themselves, and preparing herissons and crow feet to spoil the fords; and they gave out that the clans were coming behind them. The pretender's son himself was come to Elgin, and was then very ill there. The day before his arrival at this place, some people unknown were shipped off in a small fishing-vessel at Portsoy, which little harbour was still in the power of the rebels. G.—As to the other body of the rebels, the last accounts were, that after taking possession of Inverness and the castle, [Fort George], they sent one party over the frith of Murray after Lord Loudon; that another, of about 4 or 500, with the French piquets, were gone to Fort Augustus; that these had taken the old barracks, and expected to take the castle in a few days; that the number of the rebels was daily increasing; and that the pretender's son, as they gave out, would go himself to the isle of Sky, to raise men there. G.—Among many reports concerning the increase of the rebels, one is, That Lord Lovat joined them with 700 men; another, That a private Gentleman having published a scheme, for transporting the disaffected highlanders to America, to prevent any future insurrections, this Lord procured a copy of it, translated it into the Irish language, shewed copies of it up and down the country, told the people the Duke was coming to put the scheme in execution, and admonished them to rise, and defend their liberties, properties, wives, and children; and that they seemed determined to follow his Lordship's advice. But we have had neither of these by authority.

Mean time the disposition and cantonment of the King's army were so contiguous, that there was no reason to apprehend any surprise. The whole of the infantry was within the towns of Old and New

New Aberdeen; and as soon as a great storm of snow, which fell on the night of the 8th, was a little run off, it was proposed to march. Three King's ships were cruising in the narrow frith of Murray, which it was hoped would effectually prevent any attempt that might be made by the French of assisting the rebels at Inverness. G.

The Duke of Gordon arrived at the head quarters at Aberdeen on the evening of the 9th, from his own house, which he had left the day before, on foot, and in the most secret manner he could, the rebels who lived upon his estate having constantly watched his Grace ever since they had been there. G.

At Forfar, where each of the four divisions of the King's army lay a night, three French Irish officers were concealed during the whole time; and after all the troops were passed through, they were permitted to beat up for volunteers there. G. — Upon information that some rebels, and, amongst others, Roy Stewart, were concealed in Aberdeen, the Duke ordered search to be made for them G; but we did not hear that any were found. — A design was formed at Montrose, for the country people to come down and rescue the rebel-prisoners; but fortunately Kingston's horse being there, prevented the affair. The prisoners were thereupon ordered under a guard to Stirling. G. — And upon Bligh's regiment being embarked at Leith for Aberdeen, some disaffected persons formed a design to rise up, and break the prison doors at Edinburgh; whereupon Lee's regiment was ordered to march thither from Berwick. G. — The truth of this was doubted at Edinburgh. M.

'Tis added in the above letters from the Duke, that his R. Highness had ordered Lord Loudon to come and join the army with all his highlanders; and that the Montroses, Sutherlands, and the rest of the well-affected Northern clans, had joined his Lordship, and would come with him. Four companies, consisting of 310 men, besides Serjeants, Corporals, and Drums, joined him from the Earl of Sutherland. According to accounts from Aberdeen of the 19th, however, his Lordship was still at Dornoch in Sutherland. G.

About the beginning of March an order was published by the Duke, and read from the pulpits, commanding all those who had been pressed into the rebellion, forthwith to deliver up their arms; and promising to recommend to the Royal mercy such as should comply. But he said that the disaffected industriously put a bad construction on his R. Highness's merciful design; and that tho' some had thereupon complied, yet that others had fled, and joined the rebels. C.

Copies of a paper were brought to Aberdeen, which was printed, and dispersed all over the highlands, by the rebels, containing the reasons of their retreat from Stirling. In it they say, That, after the battle at Falkirk, a great part of their men desired to carry home the booty they had got there and in England, and promised to be back again before the King's forces could possibly be recruited, and come again to attack them; that they accordingly went, but not being come back when the King's army set out from Edinburgh, they thought it more prudent to retreat to Blair of Athol, than to hazard a battle: And that the reason of their retreating still farther North, was, that tho' they had taken from the King's army upwards of 1000 tents at Falkirk, yet they could not prevail on their men to make use of them, who chose rather to lie in the open fields, in their usual manner, notwithstanding the severity of the weather; that their leaders foresaw this might be very prejudicial to their healths, and therefore ordered them to retreat to Leveness, till the weather became more favourable; and that then they would come South again, and make the uprightness of their cause to appear. *St J. Ex. P.* — See p. 92. col. 2. par. 2.

From the Eastern coast we shall now remove our attention for a little to the West. Here we find that early precautions had been taken for the security of Fort William. Gen. Campbell threw into it upwards of 300 Argyleshire men, with a good engineer; and ordered the *Serpent* and *Baltimore* sloops to that station. *Gl. J.* — Fifty men of Guise's regiment, who had been gathered together at Edinburgh under the command of the Captain



Captain-Lieutenant, and some other troops, were likewise ordered thither. These preparations soon came to be of use. By the 4th, the Duke had received the following accounts, dated the 4th, at Fort William. "We have advice here, that a party of the rebels, amounting to 1000 men, at Glenevis, within two miles of us; and that their train of artillery is to be tomorrow at Highbridge, which is six miles from this fort. We have heard of the taking of Fort Augustus, and expect to be attacked; but Gov. Campbell is determined to defend the place to the utmost of his power. For some days past there have been some small parties of rebels posted on each side the narrows of Carron; in which, on Saturday last, they took one of the boats belonging to the Baltimore sloop, as she was coming from Kylesall bay, and sent the crew prisoners to their head quarters. As soon as we had intelligence of this accident, a council was called, consisting of land and sea-officers, and a resolution taken to send a strong party to dislodge the rebels. In consequence thereof, early this morning Capt. Askew of the Serpent sloop sent his boat with 27 men in it, another boat of the Baltimore's with 24 men, and a boat belonging to Fort William with 20, down the narrows; where they all arrived by day-light. Capt. Askew's men landed first, and were immediately attacked by a party of 80 rebels, who fired upon them, but without doing them any damage; and upon the rest of the men belonging to the boats coming up, the rebels fled. Our people pursued them, burnt the ferry-houses on both sides of the water, and a little town with about twelve houses in it, a quarter of a mile distant from the ferry-house on the North-side, and destroyed or brought off all their boats. Two of the rebels were killed in this affair, and several wounded. It was very lucky that our boats went down as they did; for there was a boat with a party of militia in it, that was coming hither from Stalker castle, which would probably have fallen into the hands of the rebels, but for the skirmish before mentioned." G.—Capt. Frederick Scot came from Dunstaffnage to Ellanstalker castle on the 6th; but could

not get any farther, the rebels having guarded both sides of the narrows of Carron for two miles on that side Fort William. On the night of the 6th, the centries at Ellanstalker saw several lights, which were thought to belong to the rebel parties marching towards Fort William from Strathappin, which is near the rock on which Ellanstalker castle stands, and Appin house is not a mile from it. G.

Gen. Campbell having got notice at Inverary, that the rebels had taken the Baltimore's boat, and hearing that they had likewise possessed themselves of the pass of Ardgour, so that nothing could pass to or from Fort William, his Excellency caused put four swivel-guns, with ammunition, &c. on board the Victory wherry, with an officer and 16 men, and a like number on board the Hopewell sloop, and sent them round. They sailed accordingly on the 8th. *Gl. J.*

Advice was received at Inverary the 11th, that the French, which were judged not to be many, had come up to Fort William with the artillery on the 7th and 8th; and that they proposed to have a battery ready to play on the 10th. *Gl. J.* But by letters from Capt. Scot, who had thrown himself into Fort William, dated the 15th, the rebels had not then begun the siege, but were bringing up their artillery for that purpose. G.—Four gunners sent by the Duke from Aberdeen, passed through Glasgow on the 19th for Fort William; and next day came into that city from Edinburgh two companies of Johnson's foot, designed as a reinforcement for the same place. Letters from Inverary give an account, that one of these companies had marched from that town on the 28th, and would be next morning at Dunstaffnage, where they had wherries ready to transport them to Fort William. 'Tis added, that a deserter informed, that there were not above 5 or 600 of the clans and 300 French before Fort William; that on the 22d they began to fire with six four-pounders and two eight-pounders, and talked of playing some great guns in two days after; and that Gov. Campbell had bravely defended the place, and, in order to prevent the rebels sheltering themselves near the fort, had

had caused burn the town of Maryburgh. *Gl. 7.*

As the rebels could not cut off the communication by sea, the garrison was plentifully supplied with provisions from Inverary. The siege was however continued till the 3d of April, and then raised. An officer in the fort gives the following compleat journal of it.

"On the 24th of February this place was blockaded by the rebels, who they say are 1500, including the French piquets. Brig. Stapleton commands the siege. Lochiel commands the highlanders, consisting chiefly of his own clan, the Macdonalds of Keppoch and Gleaco, and the Stewarts of Appin.

From the 24th February to the 20th March they kept every day firing, tho' at a considerable distance. On the 20th, they began to raise batteries, and that night threw in a great many cohorn shells of six inches diameter, and above inch thick in the shell.

21st, They began to cannonade from a battery of 3 guns, and that night threw in betwixt 60 and 70 more of these shells upon us.

22d, They sent a French drum with a summons to surrender. He was not admitted into the garrison, nor his credentials looked at. On his return, they plied us hard all that day with their cannon, and betwixt 10 at night and 3 next morning, they threw in from one battery of 5 and another of 4 cohorn-mortars, no less than 194 of those large shells. These batteries are about 200 yards distance from the walls.

23d, They cannonaded us very closely this forenoon; but, in the afternoon, we made a triple discharge of 9 of our cannon, and 2 bomb-mortars, which silenced them.

24th, This morning they began again their cannonading from their first battery, which they continued on the 25th and 26th.

27th, They unmasked a second battery of 4 guns on the high ground above the Governor's garden, not above 200 yards distant: from which, and the other, they have now 250 shot, besides a continued fire of small arms from the nearest battery.

The shot from their cannon were two thirds of them six pounders. They threw in 50 more of their royals on us, but did us no further harm than wounding 2 men.

28th, They cannonaded us hard all the forenoon. In the afternoon they were silent; but were busy erecting a new battery about 200 yards higher than their second battery, and to the West of it, to sweep our whole parade.

29th, This morning, by break of day, they unmasked a new battery at the Craigs, of 3 brass four pounders, within 100 yards of the walls, and cannonaded us from that and the other 3 batteries. As they carried a furnace along with them, they threw in a great many hot bullets, and some bearded pieces of iron a foot long, and inch thick, which they designed should stick in our timber work, and set us on fire. They fired grape and prodridge shot, and plied us hard from all hands with small arms; but have done us very little damage.

30th, They cannonaded us hard from day-light till night, and continued throwing a few shells and hot bullets, some of which, after lying some time on the ground, could burn powder.

31st, Capt. Scot having ordered 12 men out of each company, amounting in all to about 150 men, to make a sally, they marched out about 11 o'clock to the Craigs, about 100 yards from the garrison, where the rebels had a battery which, after a smart fire, they rushed upon, and made themselves masters of 3 brass four pounders, 2 mortars, and their furnace, being the same they took from Sir John Cope at Preston. They spiked up 2 large mortars, which they could not bring away, with 1 brass six pounder, which they brought under the walls. They had all this time a warm skirmish with the rebels, and lost only 2 men, and 3 wounded. We brought in 2 prisoners, one of them a French gunner.

*April 1st,* This day they cannonaded us, but not very hotly.

2d, They continued cannonading, but not so briskly as usual. At 10 at night they threw in 17 shells, and fired cannon, and gave over about 1 o'clock in the morning. This play was only to amuse



while they were spiking up their largest cannon, and carrying off their small ones.

3d. This forenoon, seeing no men about their batteries, and observing bodies of men travelling by the tops of the hills towards Fort Augustus, we made a sally with about 500 men, but found the works abandoned. We took the rest of the cannon and mortars, and brought them into the fort; so have raised the siege gloriously, and taken, in all, 4 brass four pounders, 4 iron six pounders, 9 mortars, and their furnace; and since the commencement have only buried 6 men, and have about 24 wounded. The roofs of the houses, and some of the rooms within, have suffered a good deal from the shells; which were so heavy, that they often went down from the roof to the ground where they broke. It seems they had not a very pressing call elsewhere, since they did not take time to carry off their artillery, or even to hide them, which might have been easily done.

P. S. We have razed down their batteries, which were prodigiously strong, some of them being 27 foot from the front of the embrazure to the other side." *Gl. J.*

Other accounts say, that the men who killed out on the 31st were in two parties, one commanded by Capt<sup>s</sup> Foster and MacLachlan, the other by Capt<sup>s</sup> Paton and Whitway; that the former attacked and took the battery at the back of the craigs; that in another attack, made upon a four gun battery at the foot of the hill, the King's troops were repulsed, with the loss of two men killed and a few wounded; that their retreat was made in good order, under cover of the guns of the fort; that they carried in two prisoners, one an Englishman, the other a Frenchman, or rather a Spaniard; that this last gave an account, that the besiegers were half starved, and beginning to run short of ammunition; that the rebels lost a considerable number of men, not only in their flight from the craigs, but in the second attack; that the Governor was wounded, but not dangerously; that the town of Maryburgh and garden walls were all levelled with the ground; that the garrison were 600 in number, all in good spirits, and were reinforced on the 1st of April

by 70 of Johnson's regiment; that the roofs of the fort were exceedingly damaged, and the old pile of barracks almost quite beat down, both roof and walls; that there were not six panes of glass remaining in the windows; and that Capt Scot had been indefatigable, both by night and day, in erecting new works.

All this while, Gen. Campbell was very busy at Inverary, in preparing to oppose the rebels in case they should move that way.—It was said, about the beginning of March, That all the men in Argyleshire able to bear arms, were assembling at that place, and that two additional companies of the Scots fusileers who lay at Dumbarton, were likewise ordered thither; about the middle of the month, That there were then 1500 men there, and 300 more expected in a few days; and about the end of the month, That Maclean of Brolus had joined them with a company of his clan, and that the General had put the place in a good posture of defence, having ordered 12 pieces of cannon thither from Greenock. *Gl. J.*

By some accounts from Argyleshire, twenty six villages in Morven and places adjacent, possessed chiefly by the Camerons, were burnt by a party sent ashore from the sloops of war on the West coast. *Gl. J.*—This, tho' probably no other than what is related p. 139. has, as is reported, produced a kind of manifesto by Lochiel and Keppoch C. in which they exclaim against the Campbells, for burning houses and corn, killing horses, houghing cattle, stripping women and children, and exposing them to the severity of the weather in the open fields; threaten to make reprisals, if they can procure leave from their Prince, by entering Argyleshire, and acting there at discretion, and by putting a Campbell to death (of whom several had lately been made prisoners in Athol) for every house that should afterwards be burnt by that clan; extol the lenity and moderation of the rebels, notwithstanding the aspersions industriously spread to the contrary; and insinuate, that those who gave orders for the burning, could not answer for it to the British parliament.

With regard to affairs in the inland

parts of the country, the Duke had received pretty certain intelligence at Aberdeen, by the 14th, that Fort Augustus was fallen into the rebels hands; and that the garrison, consisting of three companies of Guise's regiment, [140 men, *Gl. J.*], were made prisoners of war. It was not at this time known how they had defended themselves, as no accounts of what passed had been got, either from Major Wentworth, who commanded, or any other officer of the garrison. *G.*—Other advices say, that the place was invested on the 23d of February, the third day after the rebels got possession of Fort George, [*p. 92.*]; that the garrison defended themselves two days; but that their powder-magazine taking fire, they were obliged to surrender. *Gl. J.*—According to the above accounts from Aberdeen of the 14th, the rebels were laying in their magazines and stores at Fort Augustus; and had blown up Fort George; in doing which, their Chief Engineer, Col. Grant, was killed. It was thought, that all the advantage they could gain by the taking those two forts, and the retreat of Lord Loudon, [*p. 91. 2.*], would be, the drawing the seat of the war into the hills, and protracting it a little time. The only junction they had gained there, was some few of the Mackenzies, headed by the Lady Seafort. The Lord of that name, however, and the Laird of Macintosh, were both with Lord Loudon; but the wife of this last was likewise in the rebellion. *G.*

As to what happened to the South of this, by advices of the 4th from the Duke of Athol, the party of the rebels then nearest to Blair was at Dalnaspedal, twelve miles to the North of it; from whence to Inverness they were in possession of the whole country, and guarded the passes so strictly, that there was no getting any certain intelligence about them: Sir Andrew Agnew, with his 500 men, continued at Blair; and his Grace had sent a party to Mar, and retaken the young Laird of Invercauld, who was at his father's house upon parole *G.*—having been made prisoner at Preston.—Besides the garrisons of regular forces at Blair and Castle Menzies, there were about 200

Argyleshire highlanders in different parties; one at the foot of Rannoch, under the command of Glenure; others at Blairfetty, three miles North, and Lynamchan, three miles West of Blair. At two in the morning of the 17th, these outposts were all surpris'd by the rebels, about half a dozen killed, and the rest taken prisoners, except a few that escaped. The corps of the rebels consisted of Macphersons, Macintoshes, and some Atholmen, in all about 700, under the command of Lord George Murray. They march'd from Ruthven only on the 16th. At Dalnaspedal, small parties were detach'd to the three places above mentioned, and Lord George with the main body march'd directly for Blair. He arriv'd at this place, and the three detachments at the same time, which they were respectively order'd, about the same time, so as none of the Argyleshire parties could warn another of their danger. In the evening, two of the rebels cannon, four-pounders, arriv'd at Blair; with which they began to play at the castle in the morning of the 18th, but did little hurt, other than damaging some parts of the roof. Sir Andrew Agnew, with his men, were blockaded in the castle; and guards were posted by the rebels at both ends the pass of Killichranky, and at all other passes and avenues leading to Blair. The rebels were highly incensed against the King's troops, because one of their houses in Athol had been plundered; and several of the country people that had been formerly forced into the rebellion, and were returned home, join'd Lord George upon his coming among them at this time. Besides, the fiery cross was order'd thro' all places where they came, by which every man between sixteen and sixty years of age is required to appear, on pain of the severest military execution. It is certain that there were parties of them at Dunkeld and Invar, and some by the Nairn house, which is but five miles from Perth.—The rebels were at this time in several large bodies and smaller parties from the West to the East seas: about 1500 at Fort William, Camerons, Macdonalds, Appin Stewarts, and some French, much the same number after Lord Loudon to Ross-shire; the Gordons and Low-



landers upon the Spey; and the Macphersons, some of the Macintoshes, and Atholmen, in Athol: so that tho' there was scarce 1000 in any one place, yet they could all join in three days.

On the news of the rebels endeavouring to force the castle of Blair, two Hessian battalions that had been left at Stirling, marched to Crief on the 19th; and on the 24th, those at Perth, consisting of four battalions, moved Northward, incamped that night at Nairn-house, next day 600 of them marched to Dunkeld, as did the rest on the 26th, and the two battalions from Crief were to incamp at Tay bridge on the 27th. G.—From the 26th till the 31st the Hessians continued at Dunkeld. In this time their hussars and the outposts of the rebels exchanged some shots; but without any hurt on either side, other than the wounding of one hussar. On Monday the 31st, 500 Hessians, with St George's dragoons, marched, and incamped at Dowallie, four miles from Dunkeld, on the road to Blair. Next day they proceeded to Pitlochrie, which is but six miles from Blair. St George's dragoons and the Hessian hussars, commanded by the Earl of Crawford, and accompanied by the Duke of Athol, were a good way before the foot. At Pitlochrie an advanced party of the rebels drew up in order of battle to oppose the King's troops. Lord Crawford drew up his men likewise, sent orders to the foot to hasten their march, and dispatched an express for a reinforcement from the Prince, who was at Dunkeld. His Serene Highness immediately ordered 500 men to march; which they did accordingly, and incamped on the Tuesday night at Dowallie. But the rebels, before the foot were come up to Lord Crawford, retired; and, making a small compass, posted themselves at the East end of the pass of Killichtranky, about four miles from Blair. Lord Crawford with the dragoons remained at Pitlochrie on Tuesday night; but the Hessians were recalled to Dunkeld; and accordingly the whole were returned thither early on Wednesday morning. Mean time, instead of defending the pass of Killichtranky, the rebels quitted that post on Tuesday night, and retired to Blair; whence, on Wednesday morning, they

proceeded Northward by Drumuachker, Gen. Wade's road. On notice of this, —the Earl of Crawford, with a party of dragoons, marched, and arrived at Blair castle on Thursday at five o' clock in the morning. His Lordship was followed by the Duke of Athol, and both were received by Sir Andrew Agnew. The Prince of Hesse set out from Dunkeld for Blair on Friday, with all the cavalry and hussars, and was followed by 1000 foot. G.—Having staid a day or two at Blair, the troops returned to Dunkeld, and from thence the whole of them marched to Perth. —Sir Andrew Agnew's conduct is highly applauded. The garrison were so reduced, that they had nothing to live upon but horse-flesh for some days before the rebels left the country. C.—'Tis said that the hussars have been guilty of irregularities in Athol.

A letter from Athol gives the following account of the siege of Blair castle. "It gives me some pain, to observe that your news-writers have taken so little notice of the gallant defence made by the garrison at Blair. The rebels, by marching all night, concealed their design so well, that they were within two miles of Blair before the garrison had any notice of their being nearer than Badenoeh. How soon they got intelligence, they with great alertness carried their sick from one of the office-houses near the castle, and took in their horses, with what forage and fuel was at hand. Afterwards Sir Andrew Agnew drew up his men before the castle, and kept them under arms for some hours, offering the rebels battle. But they were too wise to attack the Lieutenant Colonel of the Scots fusileers, whose bravery they were no strangers to. When Sir Andrew perceived that they kept themselves behind park-dikes, he drew his men into the castle, and made the proper dispositions for standing a siege. All Monday the 17th of March, being the first day of the siege, there was little firing. The rebels paraded round the castle at a great distance, endeavouring to make their numbers appear as great as possible. Early on Tuesday morning they began to play upon the castle with two pieces of cannon, a four-pounder and a three pounder. But ob-

serving that no impression was made upon the wall, they pointed their cannon at the roof, and did a good deal of damage, especially after they began to throw red-hot bullets, of which they threw a great many: but such was the alertness of the garrison, that their carpenters were ready to cut out the bullets where-ever they stuck, and to throw them out, or cool them in water. The rebels, after having thrown 207 cannon bullets, of which 185 were red-hot, and did a good deal of damage to the roof and wainscoting, sent off their cannon to Dalnacardich, so as not to retard them in case of a retreat; which they began to think of in good earnest when the Hessians approached. The Earl of Crawford, at the head of the dragoons, and a detachment of the Hessians, having advanced to Pitlochrie on Tuesday the 11th of April, the rebels quartered there formed, to give them battle. Lord Crawford formed on the other side. On this the rebels retired; with design, as they gave out, to decoy the troops into the pass of Killichranky. But missing their aim in this, and dreading lest Lord Crawford should steal a march upon them thro' the hills above Moulin, hearing likewise that there was a detachment marching from Tay bridge by Kynichan; therefore, for fear of being inclosed, they decamped on Tuesday night, and marched off with great precipitation for Badenoch, after having almost ruined the poor country they pretended to deliver, eating up the little meal that was left by the many parties who travelled thro' it this year.—After Sir Andrew Agnew had been a week shut up, he found means to send off two men from the castle; who, about twelve at night, made their way through the rebel-guards, and reached Perth next day before two o'clock in the afternoon, after having fetched a terrible compass round the hills."

It was observed above, that a body of the rebels had gone after Lord Loudon.—A small party of his regiment has been surprised, and taken prisoners, some few only excepted, who made their escape by flight. G.—The particulars are thus related: "The rebels having collected a number of fishing boats at Findhorn, and two other small places in the Murray frith,

put four men on board each, and, by the favour of a thick fog, which lasted several days, coasted round Tarbotness to Tay in Ross-shire, where a body of their men lay. There they embarked, to the number of 12 or 1500, under the command of the Duke of Perth, the Earl of Cromarty, and Clanronald; and on the 20th of March, at eight in the morning, they crossed the ferry, and landed on the Sutherland side, about two miles West of Dornoch, where 200 of Loudon's regiment were cantoned. On notice of the rebels landing, 140 of Loudon's men retired Eastward. The other 60 were surprised and made prisoners; among whom were the Major, Mackenzie, Capt<sup>s</sup> Sutherland of Forfe, and Macintosh of that ilk, and Adjutant Robert Grant. Lord Loudon had left Dornoch that morning about five o'clock, and gone Westward, to reconnoitre the different passes where the rest of his men were stationed; dreading nothing from that quarter, as he had carried all the boats over to the opposite shore, and judged it impracticable to bring any from the Murray frith, three ships of war being stationed there." C.—Advice has been received since, that Lord Loudon, the Lord President, the Laird of Macleod, &c. with about 800 men, had got safe into the isle of Sky; that Gen. Campbell had sent them a ship with provisions; and that they were soon expected at Dunstaffnage, to join the Argyleshire men.

To return now to Aberdeen: By putting together all the intelligence got about the middle of March, it seemed pretty clear, that there were then few or none of the clans in Murray, or on that side the country; and that all the rebels then on the Spey, and which had made some show, were the lowlanders, and the greatest part of the French. G.

Maj.-Gen. Bland marched from Aberdeen on the 12th to Inverury and Old Meldrum, one march towards the Spey, with the battalion of the Royal Scots, Barrell's, Price's, and Cholmondeley's, Cobham's dragoons, and Kingston's horse, having the Campbells before him, with the Laird of Grant and 100 of his followers. G.

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Stonehive on the 14th, that a dogger and some other vessels appeared off the coast, which they took to be French. G.

The Duke having received intelligence on the 16th, that Roy Stewart was at Strathbogie, with about 1000 foot and 60 hussars, sent Col. Conway with orders to Maj.-Gen. Bland, to attempt to surprise them, and if he should not succeed in that, to attack them; and his R. Highness ordered Brig. Mordaunt, with four battalions [the Scots fusileers, Brag's, Minto's, and Battereau's C] and four pieces of cannon, to march by break of day next morning to Old Meldrum, in order to sustain Maj.-Gen. Bland, if there should be occasion. Accordingly Maj.-Gen. Bland marched on the 17th towards Strathbogie, and was almost within sight of the place when the rebels had the first notice of his approach. Upon which they abandoned the town, and fled with the utmost precipitation towards Keith. Gen. Bland's vanguard pushed their rear a good way beyond the river Deveron: but as the night was coming on, and the evening was wet and hazy, his Excellency ordered the troops to quit the pursuit. Notwithstanding which, the volunteers, viz. the Marquis of Granby, Col. Conway, Capt. Haldane, and several others, continued to pursue the rebels at least two miles; whose panick was so great, that it was concluded they would not halt long in a place till they had passed the Spey. The Campbells, who had the van, behaved extremely well; as did also Kingston's horse, and in general all the troops. It was reported from among the rebels, that Roy Stewart was killed by a shot he received from one of Kingston's men G; — or, according to other accounts, wounded in the arm.

A Captain of highlanders, whom Gen. Bland detached with 70 highlanders and 30 of Kingston's men, to Keith from Strathbogie, was surprised [on the night of the 20th M], and lost his whole party, except a Cornet, five men and two horses, of Kingston's, and one highlander, who made their escape. The rebels [about 400 C.] marched from Fochabers in the night, surrounded Keith, and entered at both ends. As the Campbells lay in

the church, and defended the church yard for above half an hour, during which there was very brisk firing, it is not doubted but the rebels paid dear for this advantage. G.— Capt. Campbell, a Serjeant, and five private men of the King's troops were killed. M.

By the 26th, the King's army were divided in three cantonments; the whole first line, consisting of six battalions, Kingston's horse, and Cobham's dragoons, under the command of Lord Albemarle and Maj.-Gen. Bland, at Strathbogie, within twelve miles of the Spey; the reserve, consisting of three battalions, with four pieces of cannon, under the command of Brig. Mordaunt, at Old Meldrum, half way between Strathbogie and Aberdeen; and the whole second line, consisting of the six remaining battalions, (Bligh's having been then arrived), and Mark Kerr's dragoons, at Aberdeen. G.— About this time, the advanced parties of the rebels and of the corps at Strathbogie were within a mile of each other every night; their scouts and reconnoitring parties exchanged some shots; and, for fear of a surprise, the troops were kept under arms several nights successively, being obliged to take what sleep they could get, in the day-time. M.

According to letters from Aberdeen, of the 26th, certain intelligence had been received, that the Earl of Airly, father of Lord Ogilvy, was raising his men, to join the rebels; and orders had been sent him by the Duke, to desist from such treasonable practices. This, however, his Lordship did not comply with; and therefore Capt. Hewett, with 100 recovered men who were coming up to the army, were sent to take possession of his house, and to make him prisoner in it, until his people should bring in their arms, and behave as became good subjects: which soon had some good effect, as a number thereupon brought in their arms. G.— [The Earl has since come to Edinburgh.] — 'Tis added, that his R. Highness had also ordered Major La Fausille, with 300 men, to go to Glenesk, one of the most rebellious parts, to attack all whom he found in arms against the government, and to burn the habitations of such as had left them.

them, and were with the rebels. G.—A letter from Brechin says, That they would certainly have been swallowed up, if the Duke had not been so good as send this detachment to their assistance; for that one David Ferrier, an old smuggler, had, with a small party of rebels, taken up his quarters in Glenesk; had sent down parties almost to the very ports of Brechin, and carried off men, horses, arms, &c. and had raised about 200 men in Glenesk and Glenprosen: That Major La Fauville made a trip to Edzell, burnt the meeting-house of Lethnot, and laid two or three of the richest Jacobites under a small contribution; that he next paid Lord Airly a visit, traversed Glenprosen and Clova, and there took some greater freedoms; that he burnt or destroyed all the meeting-houses where-ever he came: that it cost some pains to save Glenesk from being burnt from end to end, being a nest of Jacobites; and that these measures, with some threats, had had the desired effect, all having submitted, and partly delivered up their arms.

By the best accounts at this time, there were few or none of the rebels left upon the Spey side, and they were removing all their magazines to the Northward of the Chain [a name given to the road leading from Inverness to Fort William] into Caithness. G.—Some prisoners that made their escape from them reported, that they were in the utmost distress for provisions, inasmuch that the raw green kail from the farmers yards were looked on as a feast. C.

A party of the rebels came to the Earl of Findlater's house at Cullen on the 29th, with an order from the pretender's son, to burn the house, unless his steward and tenants immediately paid the cess and levy that they demanded. G.—Later advices say, that they rifled the house. C.

Several deserters that were come into Aberdeen by the 31st, confirmed the intelligence formerly received, that the rebel-army were in great want of money, having had no pay for seven days before. G.—They were endeavouring to embark their lowlanders, and force them to pass the Murray frith into Sutherland; but 200 of Stonywood's men, whom they were attempting to embark at Findhorn, deserted. G.

Letters of the 26th from Kirkwall & Orkney give an account, that a New England ship, commanded by one Capt. Sinclair, of 14 guns, some swivels, 15 small arms, and about 10 barrels of gun powder, loaded at Newcastle, had put to sea to Stromness on pretence of her being unable to proceed in her voyage to Bally and was there seized by six highlanders and six Orkney men, assisted by the Captain; who it seems had a correspondence with the rebels, and with a Gentleman in the Orkneys of known attachment to them. The crew fled, and the mate made his escape. C.

The Hazard sloop, taken by the rebels in November last, and called the *Prince Charles Stuart*, which has been of great use to them, [p. 88.], is retaken. She was drove ashore at Ostend by two English privateers, and thought to be destroyed; but being afterwards repaired she sailed; and, being an excellent sailer, escaped the vigilance and pursuit of six or seven English ships that were cruising off that port to watch her. On the 24th of March, she was descried by four English ships at anchor off Troup head. On sight of them, she bore away. Thereupon the Sheerness, Capt. Obrian, cut, gave her chase quite through Pentland frith, about 50 leagues, kept a running fight for five hours, and at last run her aground in Tongue bay. Here they landed their men late in the evening of the 25th, and came to a Gentleman's house opposite to Tongue. Lord Rea's militia, and about 100 men of Loudon's regiment, with the Captains Alexander Mackay, Sir Henry Monro, young Macleod, and Lord Charles Gordon, two subalterns, and the Surgeon, all left by Lord Loudon in Sutherland when he went to Sky, were at this time not far from Tongue. Lord Rea, on notice of the landing of the men, sent a boat with proper persons to get intelligence of their numbers, &c. On whose return, it was concerted by his Lordship and the officers, immediately to convene as many of the men as lay nearest, and to run expresses to such as were at a greater distance, with orders to join them with all possible speed. About 50 of Loudon's men, and the like number of Rea's, marched by

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March 1746.

*Motions and operations of the armies.*

147

break of day, and in two hours came up with the French; who had forced a guide to lead them off in the night. The French drew up, and being attacked, made several fires: but the highlanders, after discharging their firelocks, attacked them sword-in-hand. Thereupon the French, having five or six men killed, and as many more wounded, and seeing Capt. George Mackay coming up with a reinforcement of fresh men, surrendered. They were carried prisoners to Tongue, and the same night put on board the Sheerneys. One Highlander was wounded. There were in whole of the French, 20 officers, and 120 soldiers and sailors; of which upwards of 30 were killed and a good many wounded by the Sheerneys, before they landed. A good deal of arms and ammunition, with 13,000 l. Sterling, all English gold, except 1000 French guineas, was found on board.—The officers taken were: Col. Brown.—Of Berwick's regiment, Capt<sup>s</sup> Macmahon and Rogers; Lieut<sup>s</sup> Edw. and Will. Barnavals, Nugent, and Maurice.—Of Hainault, Capt. Macmahon.—Of Clare's, Lieut<sup>s</sup> Obrian, Birmingham, and Osborn.—Of the Royal Scots in France, Lieut<sup>s</sup> Barnaval and Weyard.—Of the French Gens d'Armes, M. Sabillard.—In the Spanish service, Capt. Gould, Lieut. Hynd.—Of the Irish grenadiers in the Spanish service, Capt<sup>s</sup> Macpherson, Sinclair, and Hay.—A Spanish Engineer, M. Faro.—And M. Salbold, Captain of the Hazard. C.

Intelligence was received by Lord Rea on the 29th, from Andrew Ross Sheriff-depute of Orkney, that Capt. Sinclair, above mentioned, had laid an imbargo on twelve merchant-ships in Stromness harbour; and designed, with the assistance of a rebel-party then at Kirkwall, under the command of Lord Macleod, son of the Earl of Cromarty, to secure them for the use of the pretender. Lord Rea immediately sent notice to the Sheerneys: which thereupon sailed directly, relieved the merchant-ships, and seized Sinclair's, but he himself made his escape. Capt. Obrian found a good deal of small arms, broad swords, ammunition, and several treasonable letters on board. C.

Lord Rea having been threatened by

letters from the Earl of Cromarty with fire and sword, unless his men would submit to the rebels, and deliver up their arms, went soon after this to Edinburgh, with his family, as did Loudon's men to Aberdeen, both by sea, C.—Capt. Obrian has since sailed to the frith of Forth, and has sent the two prizes, the Hazard, and Sinclair's ship, to Leith-road. The prisoners were carried to Berwick. C.

While the army lay at Aberdeen, some of the foldiers discovered an inclination to use the same freedoms there that had been taken in Perthshire [p. 87.] But it is assured in several letters, that the Duke discountenanced such practices.—One dated at Aberdeen, March 24. says, "Some detached parties having pillaged James Gordon of Cowbairdie's house, [who is in the rebellion, C.]; and his Lady having, by Lord Forbes, her father, petitioned the Duke, his R. Highness thereupon ordered a strict inquiry to be made into the matter, and 100 guineas to be given the Lady for her losses; declaring that there never was an order for taking any effects belonging to the rebels, other than their cattle and forage, for that the rest was to be left to the law. By this it appears that his R. Highness knows not of some little outrages committed, but punishes them when known." *St J. Ev. Post.*—It appears, that some officers were likewise criminal.—Lieut. Fawlie, of Fleming's regiment, was broke at Montrose, on the 24th of February, for disobedience of orders, forfeiture of his word of honour, and prevarication before a court-martial held on him in consequence of his plundering the house of Mr Oliphant of Gask, who is with the rebels. C.—This was one of the Gentlemen who had some of their household-goods, &c. auctioned at Perth. What the orders were that Lieut. Fawlie disobeyed, or wherein he forfeited his honour, is not mentioned; but the following case is more particular, (as inserted by order in the Edinburgh news-papers), dated at Aberdeen, March 27. and signed by Lt-Col. David Cunningham, President of the court-martial, and by David Bruce, D. J. Advocate, viz. "At a general court-martial held at Aberdeen the 23d day of March instant, by order of his R. Highness

Highness William Duke of Cumberland, &c. &c. &c. the following sentence was pronounced against Ensign Daniel Hart, of late Sir Robert Monro's regiment, for extorting six guineas from the wife of Francis Ross merchant in Aberdeen, upon his promising to protect her house and shop, viz. *It appearing evident to the court, from the preceeding depositions, and the prisoner's own confession, that he is guilty of the crimes laid to his charge, do therefore unanimously adjudge him to be cashiered, and rendered incapable of ever serving in any capacity under his Majesty; and ordain this his sentence to be publickly read to him at the head of the piquets; and require David Bruce, Deputy Judge Advocate for his R. Highness's army, to transmit a copy of the sentence to Edinburgh, to be insert in the publick news-papers.* N. B. His R. Highness approved of the above sentence, and discharged his following the army any further." — Two soldiers of Fleming's regiment were hanged at Aberdeen, for plundering several houses in that neighbourhood; and a spy was likewise executed there. The rebels did the same by a man for carrying letters to some friends of the government. C.

Great encomiums are daily made upon the Duke. — One letter in particular from Aberdeen, of the 9th of March, says, "His R. Royal Highness is in good health, and all degrees of people are charmed with his deportment. Even the disaffected cannot help saying, that his presence alone is equal to an army; and our friends, when they see him equally attentive to business and diversion, and as solicitous to please as to execute his office, ask us, whether the Duke was sent down to civilize, or to subdue the North? We answer, He is come to do both. The late hard weather has afforded him leisure enough for the former; and as the air grows warmer, he will infallibly take the necessary measures for performing the latter; and till the season would allow, even Caesar himself must have flaid." *Old Eng.*

According to letters from Aberdeen, of the 31st, the continued ill weather during the month of March, had raised the waters of the Spey so high, that the army still remained in that city and neighbour-

hood; but his R. Highness proposed to march as soon as possible. G.

Several small parties came to Edinburgh from England during this month, regular and irregulars, and marched to the posts assigned them. Considerable sums of money for the use of the army, and great quantities of stores, provisions, &c. have likewise come to Scotland from England. Lee's regiment from Berwick came to Edinburgh on the 16th, and were quartered in the suburbs. The Edinburgh regiment is still kept up. They do duty not only in town, but likewise in Canongate, the castle, &c. when there is occasion; and twelve of them, with a Serjeant, went on the 3d of March for Blackness castle, ten miles West of the city, to reinforce the garrison there. The freeholders of the shire of Mid-Lothian, at a general meeting held on the 14th, resolved, that they should pay up their full cess, without asking deduction of what they had been obliged to pay to the rebels. M. — On the 27th, four surgeon-lads, who had attended the rebels in their expedition into England, and had been prisoners some time in Edinburgh castle, were sent under a guard for London; and on the 1st of April, several prisoners taken up on suspicion at Perth, were brought to Edinburgh, put in a coach, the rest on foot, and committed to the castle M. but they were brought down the same day to the city-prison.

#### L O N D O N.

ON the 28th of February, the transports from Williamstadt arrived at the Thames, having on board the third and fourth troops of horse-guards, the second troop of horse grenadeer guards, the Royal regiment of horse-guards, and his Majesty's own regiment of horse.

Young Mr Radcliffe, and four French officers, born in France, taken in the *Esperance*, [*Mag.* 1745, p. 541.], are discharged from the tower; and the Count de Fitzjames, and some other persons of distinction taken by Com. Knowles, [*p.* 56.] are returned to France, all upon parole.

By an order of council, dated March 20. the quarantine which ships from the Mediterranean or West Barbary, were obliged to perform, is taken off.

Capt.



Capt. Cheap, of the Wager storeship, one of Com. Anson's Squadron, lost in the South sea, [Mag. 1745. p. 216.], with the Hon. Mr Byron, and Mr Hamilton Lieutenant of marines, arrived at London on the 24th. They were brought in a cartel-ship from Brest, where they came in the only South sea ship that got safe to port.

The scheme of the state lottery 1746 is the same with that for last year, as in Mag. 1745. p. 146.

Ventilators, an engine invented by the Rev. Dr Hales, are ordered to be put up in several apartments in Newgate, to bring in wholesome air.

A petition was presented to the Commons on the 25th of February, by several merchants of London, in behalf of themselves and the trade of the whole kingdom, representing, That the navigation and commerce of these kingdoms have been greatly exposed, more especially of late, to the capture of our enemies, whereby many of his Majesty's subjects have been impoverished, the revenue greatly diminished, and the navy deprived of many able seamen; that since the 1st of November last, upwards of 150 ships have been taken by the enemy, and many of them near our own coasts; that most of these misfortunes might have been prevented, if the act 1707, for the better securing the trade of this nation by cruizers and convoys, had been still in force; that the losses already sustained by his Majesty's subjects concerned in trade, are so heavy, that it will be impossible for them to carry on their commerce, unless a sufficient number of ships of war is kept constantly cruising in proper stations, and regular convoys granted to their ships much more frequently than they have hitherto been; and that as the protection of our trade is a point of the greatest importance, to our enemies know right well, that the whole landed interest of G. Britain, its manufactures, riches, and power, and even its existence as a great nation, depend absolutely upon the safety and prosperity of its navigation and commerce; and therefore praying redress. In consequence of this petition, a bill was brought in, for the better protecting and securing the

trade and navigation of this kingdom in times of war: but upon the second reading, March 18. a motion being made for committing it, it passed in the negative, Yeas 80, Noes 185.

Among other resolutions of the committee on ways and means reported Feb. 24. one was, That there should be paid by the maker, upon all metal or preparation for the making of glass in G. Britain, if crown, plate, flint, or white glass, 9 s. 4 d. and if green or any other glass, 2 s. 4 d. per hundred weight. And a motion being made for recommitting this resolution, it passed in the negative, Yeas 54, Noes 145. On the 3d of March, it was resolved, that these duties should be extended to Ireland; and that a drawback on glass made in G. Britain or Ireland, equal to the duty laid on like quantities of the metal or preparation, be allowed on exportation. Pursuant to these and other resolutions, a bill was presented next day, for laying several duties upon glass and spirituous liquors; and for raising a certain sum by annuities and a lottery, to be charged on said duties: which was agreed to in the committee, on the 10th of March, 231 against 132; and next day, upon report, a motion being made for recommitting the bill, it passed in the negative, Yeas 39, Noes 137.

On the 19th the King gave the Royal assent to,

*An act for granting to his Majesty several rates and duties upon glass, and upon spirituous liquors; and for raising a certain sum of money by annuities and a lottery, to be charged on the said rates and duties; and for obviating some doubts about making out orders at the exchequer for the monies advanced upon the credit of the salt-duties granted and continued to his Majesty by an act of the last session of parliament.*

*An act to continue the duties for encouragement of the coinage of money.*

*An act for punishing mutiny and desertion, and for the better payment of the army and their quarters.*

*An act for the more easy and speedy trial of such persons as have levied, or shall levy war against his Majesty; and for the better ascertaining the qualifications of jurors, in trials for high treason or misprison of treason.*

*treason, in that part of Great Britain called Scotland.* See p. 129.

*An act for repealing so much of an act passed in the eleventh year of the reign of his late Majesty King George the First, intitled, An act for regulating elections within the city of London, and for preserving the peace, good order, and government of the said city, as relates to the making or passing of acts, orders, or ordinances in common council.*

*An act to enlarge the time for Justices of the Peace to take and subscribe the oath directed by an act made in the last session of parliament, intitled, An act to amend and render more effectual an act passed in the fifth year of his present Majesty's reign, intitled, An act for the further qualification of Justices of the Peace.*

And to the Market-Harborough road bill, the Bethnell-Green church bill, and six private bills.

#### MARRIAGES and BIRTHS.

March 1. **S**IR Peter Warburton, of Cheshire, was married to Lady Elizabeth Stanley, eldest daughter of the Earl of Derby.

20. At London, Hon. Charles Hope-Weir of Craigiehall, Esq; to Miss Vane, eldest daughter of Hon. Henry Vane, Esq;

17. At London, the Lady of Lord Gower was delivered of a daughter.

At London, the Duchess of Roxburgh, of a daughter.

#### D E A T H S.

March Mr John Steill, Minister at Old Cumnock, aged 73.

10. Patrick Murray of Cherrytrees, Esq; aged 74.

10. At Epsom, Capt. John Ferniough, of the Welch fusileers.

Capt. John Keen, of Johnson's foot.

13. At Bath, Hon. Theophilus Fortescue, brother of the Lord Clinton, and member for Devon.

13. At Dumblane, Mr Robert Douglas, an Episcopal Minister there. His father was Bishop of that see at the revolution.

14. At Dublin, aged 60. Brig. Samuel Walter Whitshed.

14. At London, Capt.-Lieut. Erskine, of Cope's dragons.

15. At Edinburgh, Mr Robert Purvis, late one of the magistrates there.

15. At Edinburgh, Mr George Crookshanks, Examiner of the Customs.

18. Mr John Wilson, Min<sup>r</sup> at Carlingford, At Youghall, Ireland, Maj. Richard Basslet, of Sir John Bruce-Hope's foot. At York, Lieut. Wansell, of Oglethorpe's regiment.

20. At Pitfirren, aged 87, Sir Peter Halket-Wedderburn of Pitfirren and Gortair.

25. The Lady of Capt. William Darymple, son of the late Lord President, was murdered in her own house, in Caversham Square, London, by Matthew Henderson, her foot-boy, about 17 years old, who had been brought up in the family from five years of age. Being apprehended, he declared, that he attacked her, when sleeping with an iron cleaver, and gave her several wounds before she awaked; after which she uttered these expressions, *Oh, Lord, what is that!* But he pursued his blows, and, in struggling, she tumbled out of bed, where he also repeated his blows. She had six prodigious wounds on her head, one of her eyes cut out, both her cheek-bones cut thro', and two places of the head cut into the brain. Her other wounds were about forty.

#### P R E F E R M E N T S.

*Taken from the London Gazette.*

The King has been pleased to appoint, March 3. Lt-Col. Peter Naizon, to be Colonel of the dragoons late Col. Francis Gogonier's, deceas'd.

3. Maj. John Grey, to be Lieutenant-Colonel of Brig. Price's foot, in the room of Lt-Col. Jeffreys, deceas'd.

3. Capt. William Deane, to be Lieutenant-Colonel of the foot late Sir Robert Monro's, deceas'd, in the room of Lt-Col. Biggar, deceas'd.

3. Capt. John Petrie, to be Major of Brig. Fleming's foot, in the room of Maj. Brown, deceas'd.

3. Lemying Richardson, Esq; to be Fort-Major of Duncannon, in Ireland.

8. Hutton Perkins, Esq; to be Registrar to the Commissioners of Excise, in the room of John Blois, Esq; deceas'd.

25. Lord Archibald Hamilton, to be Master and one of the Commissioners of the Royal hospital at Greenwich.

25. His Majesty has been pleased to grant unto Sir William Morden Harbord of Gunton, Norfolk, Knight of the Bath, the dignity of a Baronet of G. Britain.

*Table*



*Taken from other papers.*

His R. Highness the Duke of Cumberland, elected *Chancellor of the university of St. Andrew's*, and presented with the minutes of his election in a gold box.

Alexander Earl of Leven, *his Majesty's Commissioner to the General Assembly*.

William Grant, Esq; *Lord Advocate for Scotland*, in the room of

Robert Craigie of Glendoig, Esq; who is said to be made *one of the Lords of Session*, in the room of Lord Balmerino, deceased.

Mr Patrick Haldane, and Mr Alexander Home, *Advocates, joint Solicitors for Scotland*, in the room of Mr Robert Dundas of Arncliffe, junior, who has resigned.

Alexander Hamilton of Innerwick, Esq; *Postmaster-General for Scotland*, in the room of Sir John Inglis of Cramond.

Com. Charles Knowles, *Governor of Cape Breton, and Commander in chief of his Majesty's ships on that station*.

Emanuel Bowen, *Geographer to the King*.

John Wynne, *Lieutenant-Colonel*, in the room of Lt Col. Cope; John Warburton, *Major*; William Higgins, *a Captain*; Lewis Griffith, *Captain-Lieutenant*; William Ross, *a Lieutenant*; and Edward Yonge, *a Cornet*, in *Molesworth's Royal regiment of dragoons in Ireland*.

George Rawson, *a Second Lieutenant*, and Tho. Dillon, *an Ensign*, in *Irwin's foot*.

Jeffery Martin, *a Second Lieutenant*, and Richard Rynd, *an Ensign*, in *Sir John Bruce-Hope's foot*.

John Caldwell, *a Second Lieutenant*, and John Vesey, *an Ensign*, in *Folliott's foot*.

*Commanders of men of war*: Capt. Williams, *of the Britannia*, a first rate; Capt. John Curtis, *of the Buckingham*, of 70 guns; Capt. Franklyn, (late of the *Rose*), *of the Dragon*, of 60 guns; Capt. Isaac Wilson, *of the Hare*, Capt. Saunders, *of the Phoenix*, both lately built, and Lieut. Young, *of the Amazon*, all three of 20 guns; and Lt Dorrel, *of the Jamaica sloop*.

*New Members*: Thomas Gore, Esq; [Commissary-General of the *Musters*], for *Portsmouth*, in the room of Martin Bladen, deceased; and John Symonds, for *Cardigan*, in the room of Thomas Pryse, deceased.

*Edin. April 15.* Oat-meal 10 d. White Pease meal 7½ d. Gray Pease meal 7 d. Bear-meal 7 d.

*Buried within the city of Edinburgh, and in the West-kirk yard, March 1746.*

Within the city, Men 61, Women 44, Children 68; in all 173. In the West-kirk-yard, Men 7, Women 9, Children 28; in all 44. In both 217. Decreased this month 22.

AGE.	Nº.	DISEASES, &c. Nº.
Under	2 64	Aged — 12
Between	2 & 5 23	Ague — 3
	5 & 10 9	Apoplexy — 3
	10 & 20 10	Asthma — 2
	20 & 30 18	Cancer — 1
	30 & 40 31	Childbed — 3
	40 & 50 15	Chincough — 13
	50 & 60 21	Colick — 3
	60 & 70 16	Consumption — 46
	70 & 80 6	Convulsion — 9
	80 & 90 2	Cough & cold 5
	90 & 100 1	Dropsy — 4
Of 100 & above 1		Fever — 45
		Flux — 4
		Meagrim — 2
		Measles — 10
		Mortification — 4
		Palsy — 3
		Pleurisy — 3
		Small-pox — 12
		Still-born — 3
		Suddenly — 10
		Teething — 13
		Tympany — 2
		Water in the head 2

*Haddington Prices, March 7.*

Wheat, 12l. 6s. 11l. 12s. 8l. & 7l. 10s.  
 Bear, 9l. 8l. 7l. 10s. & 7l.  
 Oats, 8l. 6s. 7l. 12s. 6l. 10s. & 6l.  
 Pease, 8l. 10s. 8l. 7l. 10s. & 7l.

*Haddington Prices, April 4.*

Wheat, 12l. 10l. & 8l. 16s.  
 Bear, 9l. 8l. 10s. & 7l. 16s.  
 Oats, 8l. 6s. 8l. 7l. 8s. & 6l. 6s.  
 Pease, 8l. 10s. 8l. & 7l. 6s.

*Prices of Stocks, &c. at London, March 29.*

STOCKS.  
 South-sea nothing Equiv. 95  
 —Annuity nothing India 156½  
 D. New 91½ —bonds 11s. disc.  
 3 per c. ann. 75 Royal Ass. nothing  
 Bank nothing London ditto 91  
 —Circ. 3 l. 10s. pr. Emp. Loan nothing  
 Million bank noth. Eng. cop. 5 l.

GOODS.

## G O O D S.

Coals, Pool 35 s.	Pease 16 to 19 s.
Wheaten peck loaf 23 d.	P. Malt 16 to 19 s.
Wheat 26 to 31 s. p. quart.	B. Malt 16 to 18 s.
Rye 10 to 15 s.	H. Beans 13 to 16 s.
Barley 10 to 14 s.	Hops 7 l. to 9 l. 10 s.
Oats 12 to 14 s.	Hay 36 s. p. load.

Mortality-bill from Feb. 25. to March 25.

Christened { Males — 635 } 1176  
                  { Females — 541 }

Buried { Males — 1252 } 2516  
              { Females — 1264 }

Buried { Within the walls — 242  
              Without the walls — 627  
              In Mid. and Surrey — 1014  
              City and sub. West. — 633 }

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# The SCOTS Magazine.

A P R I L, 1746.

PROCEEDINGS of the *Political Club*, continued from p. 120.

*The debate upon the motion relating to the proceedings of the court-martial held on Capt. Richard Norris, concluded.*

*The speech of A. Sellius, in the character of Major Selwyn, the last published of this debate.*

Mr President,

**T**HO' the Hon. Gentleman set out with declaring, that the chief design of his rising up, was not to vindicate the proceedings of the court-martial now under our consideration, yet he has been at great pains to do so; and has indeed said as much as can, I believe, be suggested by any human invention: therefore I must begin with shewing, as far as I am able, that none of his laboured arguments are sufficient for justifying those proceedings; for if the proceedings of that court-martial do not deserve the censure now proposed, we cannot agree to it; and if for that reason we cannot agree to it, we can have no occasion for inquiring whether or no our agreeing to it would be an encroachment upon any of the prerogatives of the crown.

As the Hon. Gentleman was pleased, Sir, to state the objections to the proceedings of this court-martial under four different heads, and to make a distinct answer to each, I shall in my reply follow the same method. And with regard to the first objection, which was that of the court-martial's not confining the Gentleman they were to try, but treating him rather as a member of the court, than as a prisoner at the bar, the Hon. Gentleman was pleased to inform us, that when a court-martial is appointed upon the application of the officer who is to be tried, he is never confined, not even when sentence passes against him, unless confinement or a corporal punishment be a part

of the sentence. If this be the practice, Sir, in courts-martial at sea, I think it is a very strange one, and expressly contrary to the usual course of trials at Common law. If I should kill a man in my own defence, and should desire to be tried for it, in order to justify myself to the world, I must appear in court as a prisoner at the bar: and with great reason; because, till the trial is over, it cannot appear what punishment I may deserve; and if I should in the course of the trial find myself in danger of a corporal punishment, I might take an opportunity to make my escape. But suppose the custom of courts-martial to be as the Hon. Gentleman has represented, there is a very great difference between not confining the person to be tried, and treating him as a member of the court; nay, indeed, as their master and director; which was the case with this court-martial. At the very first opening, Capt. Norris appears to have been in the court as if he had been one of the members; and the poor Lieutenant who had the assurance to accuse him, is called in; to do what? to answer to such questions as should be asked by Capt. Norris and the court. Upon the Lieutenant's refusing to answer, he and the company are ordered to withdraw: but the Captain remains in court; still as if he had been one of the members, or rather as if he had been their master and director; for they then ask him, whether he would have the court proceed farther in the inquiry into his conduct and behaviour? and upon his desiring it, they resolve to proceed. I should be glad to know, what this humble court-martial would have done, if the Captain had directed them not to proceed. Would they in this have followed his directions? If they had, I am sure they would have deserved punishment as well as censure: and yet it seems probable to me, that if

he had desired it, they would have put an end to their inquiry; for they followed his directions in another point, which I shall presently shew to have been fully as unreasonable; I mean that of turning the Lieutenant who had accused him, entirely out of court.

Sir, this method of proceeding, this respect that was shewn to the Captain, was not only illegal and unprecedented, but was certainly attended with a very bad consequence; for when people saw what respect was shewn by the court to the person under trial, it terrified every one from appearing, or offering to be examined as a witness against him: and accordingly we find, that no one was examined against him, or any one but such as he summoned, except those who had sworn and signed their depositions before the opening of the court; that is to say, before they knew what respect was to be shewn to the person against whom they were to give their evidence: for had they known it, I question much if so many of them would have appeared voluntarily against him: and we find, that when they came to be examined before the court, and saw with what respect the Captain was treated, they added very little or nothing to what they had before sworn; which they might perhaps have done, had they seen the Captain treated by the court as persons under trial usually are.

The next objection which the Hon. Gentleman endeavoured to answer, was the court's refusing to admit Lieut. Jekyll as the Captain's accuser, or to admit him to be present in court, unless he would exhibit his charge upon oath. In excuse for this arbitrary proceeding, the Hon. Gentleman told us, that the crown always appoints a prosecutor, and no other person can be admitted by the court as a prosecutor or accuser. I shall grant, Sir, that all criminal prosecutions are carried on in the name of the King, and by some person appointed as prosecutor for the crown. But in every case where a private man has any particular concern, he is admitted to be present in court, and to act as an assitant to the prosecutor for the crown. In this case Lieut. Jekyll had such a particular concern, that he was in some

measure to be tried as well as the Captain. He had, by his letter to Adm. Matthews, openly and directly accused the Captain of a cowardly behaviour in the engagement off Toulon; therefore, by that court-martial, the Captain was to be tried for cowardice, the Lieutenant for calumny. The acquittal of the former would have been of course a condemnation of the latter; therefore it was equally ridiculous to put the Lieutenant to his oath, as it would have been to have put the Captain upon swearing, that he was not guilty of any cowardly behaviour; and it was a most partial and arbitrary proceeding, to turn the former out of court, whilst the other was allowed to be present, and to ask every witness whatever questions or cross questions he pleased. But this was not the only arbitrary proceeding with regard to the poor Lieutenant. As he had such a concern in the event of the trial, he had a right to except, upon good cause shewn, against any of the members of the court; and therefore it was partial, arbitrary, and illegal, to resolve that he had no right to except, without so much as hearing his reasons. His exceptions were for the King as well as himself; and therefore, if the court would not hear them offered in his name, they should have ordered them to be offered in the name of the prosecutor for the crown; because it was the King's interest, not to have an officer tried by exceptionable judges: and perhaps that very two, against whom the Lieutenant intended to except, were the two chief authors of all the unjust and irregular proceedings of this court-martial.

The third objection, as stated by the Hon. Gentleman, was that of the court's refusing to examine the Lieutenants of the Marlborough, or to admit those who had sworn against Capt. Norris, to support, by other witnesses, the evidence they had given. And as to the first part of this objection, he has answered, by declaring himself of the same opinion with the court-martial; because those Lieutenants, by their letter to the Admiral, had shewn, that their evidence would not be favourable for the Captain under trial. This, I am persuaded, was a reason of great weight



with that court-martial; because they resolved, it would seem, not to examine any witness against the Captain, if they could, upon any pretence, avoid it. But can this be thought a good reason with any impartial judge? These Lieutenants certainly expected to be summoned, as they were in the engagement so near the *Phœnix*, and had so much reason to observe how that ship was employed during the engagement: and if the prosecutor for the crown had done his duty; if he had not been a sham prosecutor set up on purpose to smother the evidence against the person under trial, he would certainly have summoned those Lieutenants; the expectation of which made them delay so long to offer themselves to the court. When they did offer themselves, they expressed, 'tis true, some resentment against the behaviour of the Captain under trial: but they expressed no resentment on any private account; their resentment proceeded entirely from their regard for the publick service: and this, surely, is not a resentment that can any way invalidate a man's testimony, much less can it be thought such an objection as ought to prevent his being examined.

As to the other part of this objection, the Hon. Gentleman has answered, That it is the business of the prosecutor for the crown, to bring witnesses to be examined, and his business alone, so much that the court could not admit or allow any other person to bring witnesses to be examined; and that therefore, if the witnesses who were against the person under trial, thought it necessary to bring other witnesses for supporting the evidence they had given, they ought to have given a list of them to the prosecutor for the crown, and applied to him for getting them examined. How apt are Gentlemen, Sir, to overlook what they are not willing to see? Upon the very face of their letter it appears evident, in my opinion, that the prosecutor for the crown had been applied to. Their words are, "We have not the same advantages which Capt. Norris's witnesses have, his accusers not being permitted to summons such other witnesses as would prove the truth of our depositions." Could they say this, if no application had been

made for summoning other witnesses? If then the prosecutor for the crown was the proper person to apply to for this purpose, he certainly was applied to: and, upon his refusal, these Gentlemen found it necessary to apply to the court itself; where they met with as unjust and as arbitrary a refusal. But suppose they were irregular in their application, was that a reason for the court to refuse any lights, whatever way offered, into an affair where there appeared such a contrariety of evidence? When they were told, as they were by this letter, that no one was permitted to summons witnesses on the part of those who accused the Captain, could they, without being guilty of the most glaring partiality, avoid taking notice of such an arbitrary step in the prosecutor, or such other officer as they had appointed to deliver out such summons as should be required by any person concerned in the trial? This alone, Sir, ought to have given the court a suspicion, that the prosecutor was conniving with the person under trial, in order to let him escape by stifling the evidence against him; and when a court has any ground for such a suspicion, can any thing prevent their inquiring strictly into it, and providing a remedy? I say, can any thing prevent this, but their being themselves parties in the connivance? Surely, it will not be said, that the court had it not in their power to provide a remedy. They might, and upon such a complaint they ought to have appointed another prosecutor for the crown: but instead of this, contrary to the trust reposed in them, they join with the prosecutor in stifling the evidence for the King.

I come now, Sir, to the answer that has been made to the fourth objection. And here I shall join with the Hon. Gentleman, in saying, that the court's declining to pass any sentence was neither arbitrary nor illegal. But, notwithstanding all the Gentleman was pleased to say upon this head, I must think, it was partial; and what is still worse, I think it was a breach of their duty to their sovereign. It is very plain, from the reason they give for not passing sentence, that they thought the Captain in some measure guilty; for if they thought him entirely innocent,

surely, his not being in his Majesty's service or pay was no reason for their not acquitting him. If then they thought him guilty, it was partial in them not to pass sentence against him. This must be allowed unless we agree, as they pretend, that as he was not in his Majesty's service or pay, they neither ought nor had a right to determine the matter before them. But this is so absurd, that I believe no Gentleman will attempt to support the opinion. Even the Hon. Gentleman who has said so much in excuse for their proceedings, did not attempt to excuse their not passing sentence, upon this principle. The excuse he made was founded upon the supposed difficulty of the case, and upon their supposed want of power to determine; both which I shall beg leave to examine.

As to the difficulty of the case, Sir, there was no difficulty in this case, but what will generally happen in every trial, especially where the Gentleman to be tried appears to be a favourite with those who are to be his judges. The contrariety of evidence was the only difficulty: and in every such case, the members of the court-martial, who see and hear the witnesses examined, must be better able to judge, than the Lords of the Admiralty, who see only the minutes taken at the trial; because the credibility of what a witness says, must always depend very much upon his countenance, and the manner in which he delivers his discourse. Besides this, the members of the court-martial must always be better acquainted with the personal characters of the several witnesses; and consequently, when witnesses contradict one another, they must be better able to judge which of them deserve credit, than the Lords Commissioners of the Admiralty, or the King and his council can be supposed to be. For this reason, Sir, I think, that in every case where a contrariety of evidence is the only difficulty, the court-martial is obliged, in duty to their sovereign, to pass sentence, or at least to make a special report of the facts, with their opinion as to the credibility of each. This, I think, they are obliged to do; because every such affair ought to be determined some way or other, and cannot be determined

any where else. Consequently, as a contrariety of evidence was, in this case, the only difficulty, this court-martial was guilty of a breach of duty to their sovereign, in refusing to pass sentence, or to make a special report of the facts, as they appeared to them upon the trial.

Now, Sir, as to this court-martial's supposed want of power: I believe, it was never yet heard, that a court-martial was appointed to inquire only. All courts-martial are appointed to try, and to pass such a sentence as they think just; and every Admiral or commander in chief is, by his commission and instructions, empowered to appoint courts-martial for trying any one of those under his command. Adm. Rowley had the same power in this respect, that all other Admirals have; and, by the power he had, this court-martial was appointed. Upon this occasion, 'tis true, he had a particular order from the Lords of the Admiralty: but that order was only to remove a doubt he had, whether he could, by his general power, appoint a court-martial to try a man who had then no command, for what he had been guilty of when he had a command; and the Lords of the Admiralty very rightly ordered, that he should. But it is a mistake to suppose, that the court-martial was appointed by virtue of this order; for it was appointed by virtue of his general power, and was no way limited by this particular order: therefore this court-martial had the same power that other courts-martial have, and might, and ought to have passed such a sentence as they thought just.

Sir, if this court-martial had condemned the Captain to be shot, they could not have been blamed for exceeding their power, nor would it have been without precedent. We have upon our records a famous instance of this nature in *Q. Anne's* war. In the very beginning of that war, one of our Admirals being sent to the West-Indies with a small squadron, met with and attacked a French squadron in his passage; but was cowardly or maliciously deserted, or not properly assisted by some of his Captains; which, as now, gave the enemy's squadron an opportunity to escape. What was the consequence?

The



The Admiral, as soon as he arrived at Jamaica, appointed a court-martial; by which two of the Captains were condemned to be shot, and sent home in irons for that purpose: but an order for their execution met the ship at Plymouth, with directions not to allow them to set foot on shore; and accordingly they were both shot on board the ship in which they were brought home. This example of strict and speedy justice was certainly of great service in the future course of the war, and was perhaps one of the causes of our glorious success; for from hence every officer in the land as well as sea service was convinced, that no excuse would ever be admitted for cowardice, nor any interest be able to delay, much less prevent its meeting with the punishment it deserves.

I hope I have now shewn, Sir, that no sufficient answer has been, or indeed can be made to any of the material objections to the proceedings of this court-martial. It is really impossible to invent an excuse for any part of their proceedings; for through the whole there appears to have been a fixed resolution, not only in the prosecutor for the crown, but in the court itself, to stifle the evidence against the Captain. And when this appears so plain from the record itself, I am surpris'd to hear Gentlemen talk of its being necessary for us to examine more narrowly into this affair, before we pass such a severe censure. Sir, we are not here to judge of facts, which require a proof: we are to judge of a record, which upon the very face of it stands self-condemned. If we were to censure any of the members of this court-martial, I shall grant, it would be proper to give them an opportunity to be heard; because some of them, if I have been rightly informed, a good many of them, could shew, that they very much disapproved of these proceedings: but by this motion we are only to censure the record: and this, I think, it is absolutely necessary for us to do as soon as possible, in order to prevent the fatal consequences that such a method of proceeding in a court-martial may have upon the publick service; for if any method of screening cowardice in our navy be allowed, or so

much as connived at, we may bid farewell to every thing that is valuable among mankind.

This, Sir, brings me of course to the other part of the Hon. Gentleman's argument against this motion; which is that of its being an incroachment upon the prerogatives of the crown. Sir, if we were to give ear to the Gentlemen in office, we should never do any thing in this house but grant money, and contrive ways and means for loading our fellow-subjects with taxes. We should not even take upon us to refuse any sum demanded by our ministers; because, say they, the King is, by his prerogative, the sole judge of what may be necessary for the publick service. But those who are not in office, will, I hope, shew some regard to their own privileges, as well as to the King's prerogative; and those who do so, will never make a doubt of its being the privilege of this house, to inquire into any grievance or enormity, that may be of dangerous consequence to the publick welfare, whether it be in our civil or ecclesiastical government, or in the government of our army or navy. The King has, 'tis true, the command; but it is we that support both our army and navy; and therefore we have a right to see, that both shall be made as useful and as little burdensome as possible. The King has, I shall grant, by his prerogative, the sole power of appointing courts-martial; so he has of appointing the twelve judges: yet no one will pretend to doubt of our power to inquire into the conduct of all or any of the twelve judges; and that without waiting one moment for the King's exerting his prerogative in rectifying their mistake, at least so far as his prerogative will extend: for, in most cases, their mistakes can be no where rectified but in parliament; and if they should combine in screening one another, the crown itself could inflict no punishment upon them, without the assistance of parliament. Who then can doubt of our having a power to inquire into the conduct or proceedings of courts-martial? With regard to them, as well as the judges, it may, in many cases, be out of the power of the crown to rectify what they have done amiss, or to punish them as they

they deserve, without the assistance of parliament. If a court-martial should condemn an innocent man, the King may, 'tis true, grant him his pardon; but suppose the court-martial should acquit a guilty person, and that such acquittal should be of the most dangerous consequence to the publick service, how could the King, by his prerogative, rectify this abuse? I hope it will not be laid down as a maxim, That the King may appoint one court-martial after another, and one trial after another, till any officer he thinks fit be condemned to be shot; for a wicked minister might make use of this power for wrecking his revenge upon any officer that should dispute his commands. Therefore, if a guilty officer should be acquitted by a court martial, without any informality in their proceedings, I take it, that neither the King nor the publick could have any sufficient redress without the assistance of parliament; for, surely, the dismissing of the officers who were upon that court-martial, from the King's service, would not be a sufficient atonement to the crown or the publick.

I shall admit, Sir, that the parliament ought not to interfere but in cases of great moment: *Nec Deus interfit, nisi dignus vindice nodus*, ought to be a rule in this case, as well as in poetry. But we alone are the judges, whether the case be of such weight as to deserve our notice: and when we think it is, we are not obliged to delay, for any time, our inquiry, in order to give the crown time to exert its prerogative; especially when the publick safety requires an immediate redress; which I take to be the case at present: and as all that is now proposed is only a parliamentary censure upon the proceedings of this court-martial, it can have no other effect than that of preventing such proceedings for the future, and quickening the pace of our ministers in their endeavours to rectify those that are passed.

But were it to be admitted, Sir, that we ought, upon all occasions, to give the crown a sufficient time for exerting its prerogative, before we begin to take any method for making good its neglect; have we not done so upon this occasion? Suppose our ministers had no account of these infamous proceedings before the end of last

month, have they not had a sufficient time to begin, at least, to take some steps for preventing the fatal effects these proceedings may have upon the publick service? have they not already had a whole month, and is not that sufficient in time of war, when we are every moment in danger of suffering by these fatal effects? If the Hon. Gentleman had informed us, that the crown had already begun to take some steps for this purpose, it might have been an argument for our postponing this motion; but from his silence I am convinced, that no such step has been thought on: and the truth, I believe, is, that the same influence which prevailed over this court-martial, has likewise a prevailing effect amongst ministers; therefore it is high time for the parliament to interpose.

Sir, it is easy for a luxuriant fancy to suggest dismal consequences from anything we can resolve on. Tho' my fancy be none of the richest, I could suggest most dismal consequences from our refusing to grant any sum our ministers may please to demand, or to approve of the most infamous treaty they may be pleased to agree to; and experience may convince us, that they are capable of asking extravagant sums, as well as of concluding pernicious treaties. But would this be an argument for our agreeing to every sum demanded, and approving of every treaty concluded? No, Sir; we are not to be frightened by chimerical suggestions of danger, from doing what is right, or from treading in the paths that have been chalked out to us by our predecessors in this assembly. We have upon our records many instances of inquiries into the conduct of officers, even in cases where the crown, or rather the ministers of the crown, could be accused of no neglect, much less of an affected delay. It has always been the practice of this house, to inquire into the conduct of officers, when they were suspected of any misbehaviour that might be, or had been of dangerous consequence to the publick.

This, Sir, has been hitherto the practice, and the effects of this practice we very well know. It has generally made us successful in our wars, the envy of our neighbours, and the terror of our enemies. These effects we may know from reason as