THE

SPEECHES

OF

THE HON. THOMAS ERSKINE

(NOW LORD ERSKINE),

WHEN AT THE BAR,

ON

SUBJECTS

CONNECTED WITH

THE LIBERTY OF THE PRESS,

AND AGAINST

Constructive Treasons.

COLLECTED BY

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IN THREE VOLUMES.

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TRIAL *of Mr.* THOMAS WALKER *of Manchester, Merchant, and six other Persons, indicted for a Conspiracy to overthrow the Constitution and Government of this Kingdom; and to aid and assist the French, being the King's Enemies, in case they should invade this Kingdom.—Tried at Lancaster before Mr. Justice* HEATH, *one of the Judges of the Court of Common Pleas, and a Special Jury, on the 2d of April* 1794.

SUBJECT, &c.

WE have not found it necessary for the full understanding of this interesting and extraordinary case, to print the evidence given upon the trial; because, to the honour of Lord Ellenborough, then Mr. Law, who conducted the prosecution for the Crown, after hearing positive contradiction of the only witness in support of it, by several unexceptionable persons, he expressed himself as follows:

"I know the characters of several of the gentlemen "who have been examined, particularly of Mr.

" Jones. I cannot expect one witness alone, uncon-
" firmed, to stand against the testimony of all these
" witnesses; I ought not to desire it." To which just declaration, which ended the trial, Mr. Justice Heath said,—" You act very properly, Mr. Law."

The Jury found Mr. Walker Not Guilty; and the witness was immediately committed, indicted for perjury, and convicted at the same assizes.

We have printed Mr. Law's able and manly Speech to the Jury, which contains the whole case, afterwards proved by the witness who was disbelieved. The Speech of Mr. Erskine in answer to it states the evidence afterwards given to contradict him.

Mr. Walker was an eminent merchant at Manchester, and a truly honest and respectable man; and nothing can show the fever of those times, more than the alarming prosecution of such a person upon such evidence. It is not to every Attorney General, that such a case could have been safely trusted.—The conduct of Mr. Law was highly to his honour, and a prognostic of his future character as a Judge.

The Indictment having been opened by Mr. JAMES, Mr. LAW addressed the Jury as follows:

GENTLEMEN OF THE JURY,

THE Indictment which has been read to you, imputes to the Defendants a species of treasonable misdemeanor, second only in degree, and inferior only in malignity, to the crime of high treason itself. It imputes to them a conspiracy for the purpose of adhering with effect to the King's enemies, in case the calamity of foreign invasion or of internal and domestic tumult should afford them the desired opportunity of so doing—a conspiracy for the purpose of employing against our country those arms which should be devoted to its defence; and of overthrowing a constitution, the work of long-continued wisdom and virtue in the ages that have gone before us, and which, I trust, the sober-minded virtue and wisdom of the present age will transmit unimpaired to ages that are yet to succeed us. It imputes to them a conspiracy, not indeed levelled at the person and life of our Sovereign, but at that constitution at the head of which he is placed, and at that system of beneficial laws which it is his pride and his duty to administer;—at that constitution which makes us what we are, a great, free, and, I trust, with a few

exceptions only, a happy and united people. Gentlemen, a conspiracy formed for these purposes, and to be effected eventually by means of arms;—a conspiracy which had either for its immediate aim or probable consequence, the introduction into this country, upon the model of France, of all the miseries that disgrace and desolate that unhappy land, is the crime for which the Defendants stand arraigned before you this day; and it is for you to say, in the first instance, and for my Lord hereafter, what shall be the result and effect in respect to persons, against whom a conspiracy of such enormous magnitude and mischief shall be substantiated in evidence.

Gentlemen, whatever subjects of political difference may subsist amongst us, I trust we are in general agreed in venerating the great principles of our constitution, and in wishing to sustain and render them permanent. Whatever toleration and indulgence we may be willing to allow to differences in matters of less importance, upon some subjects we can allow none;—to the friends of France, leagued in unity of council, inclination, and interest with France, against the arms and interests of our country, however tolerant in other respects, we can afford no grains of allowance,—no sentiments of indulgence, or toleration whatsoever; to do so, at a time when those arms and councils are directed against our political and civil, against not our national only, but natural existence (and at such a period you will find that the very conspiracy now under considera-

tion was formed), would be equally inconsistent with every rule of law and every principle of self-preservation :—it would be at once to authorize every description of mischievous persons to carry their destructive principles into immediate and fatal effect; in other words, it would be to sign the doom and downfall of that constitution which protects us all.

I am sure, therefore, that for the *crime*, such as I have represented it to be, my learned friend will not, in the exercise of his own good sense, choose to offer any defence or apology; but he will endeavour to make the evidence I shall lay before you, appear in another point of view :—he will endeavour to conceal and soften much of that malignity which I impute, and I think justly, to the intentions and actings of these Defendants.

It was about the close of the year 1792, that the French nation thought fit to hold out to all the nations on the globe, or rather, I should say, to the discontented subjects of all those nations, an encouragement to confederate and combine together, for the purpose of subverting all regular established authority amongst them, by a decree of the 19th of November 1792, which I consider as the immediate source and origin of this and other mischievous societies. That nation, in convention, pledged to the discontented inhabitants of other countries, its protection and assistance, in case they should be disposed to innovate and change the form of government under which they had heretofore lived. Under the

influence of this fostering encouragement, and meaning, I must suppose, to avail themselves of the protection and assistance thus held out to them, this and other dangerous societies sprang up and spread themselves within the bosom of this realm.

Gentlemen, it was about the period I mentioned, or shortly after, I mean in the month of December, which followed close upon the promulgation of this detestable decree, that the society on which I am about to comment, — ten members of which are now presented in trial before you,—was formed *. The vigilance of those to whom the administration of justice and the immediate care of the police of the country is primarily entrusted, had already prevented or dispersed every numerous assembly of persons which resorted to public-houses for such purposes; it therefore became necessary for persons thus disposed, to assemble themselves, if at all, within the walls of some private mansion. The president and head of this society, Mr. Thomas Walker, raised to that bad eminence by a species of merit which will not meet with much favour or encouragement here, opened his doors to receive a society of this sort at Manchester, miscalled the Reformation Society: the name may, in some senses, indeed import and be understood to mean a society formed for the purpose of beneficial reform; but what the real

* The Manchester Constitutional Society was instituted in October 1790; the Reformation Society, in March 1792; the Patriotic Society, in April 1792.

purposes of this society were, you will presently learn, from their declared sentiments and criminal actings. He opened his doors, then, to receive this society;—they assembled, night after night, in numbers, to an amount which you will hear from the witnesses: sometimes, I believe, the extended number of such assemblies amounting to more than a hundred persons. There were three considerable rooms allotted for their reception. In the lower part of the house, where they were first admitted, they sat upon business of less moment, and requiring the presence of smaller numbers;—in the upper part, they assembled in greater multitudes, and read, as in a school, and as it were to fashion and perfect themselves in every thing that is seditious and mischievous, those writings which have been already reprobated by other Juries, sitting in this and other places, by the Courts of law, and in effect, by the united voice of both Houses of Parliament. They read, amongst other works, particularly the works of an author whose name is in the mouth of every body in this country; I mean the works of Thomas Paine;—an author, who, in the gloom of a French prison, is now contemplating the full effects and experiencing all the miseries of that disorganizing system of which he is, in some respect, the parent—certainly, the great advocate and promoter.

The works of this author, and many other works of a similar tendency, were read aloud by a person of the name of Jackson, who exercised upon those

occasions the mischievous function of reader to this society. Others of the Defendants had different functions assigned them; some were busied in training them to the use of arms, for the purpose, avowedly, in case there should be either a landing of the French, with whom we were then, I think, actually at war or about to be immediately at war; or in case there should take place a revolt in the kingdoms of Ireland or Scotland, to minister to their assistance, either to such invasion or to such revolt. That they met for such purposes is not only clear from the writings that were read aloud to them, and the conversations that were held, but by the purposes which were expressly declared and avowed by those who may be considered as the mouth-pieces and organs of the society upon these occasions.

The first time, I think, that the witness Dunn, whom I shall presently produce to you, saw the Defendant Mr. Walker, Mr. Walker declared to him, "*that he hoped they should soon overthrow the constitution.*" The witness I have alluded to, was introduced to the society by two persons, I think of the names of M'Callum and Smith, and who, if I am not misinformed, have since taken their flight from this country to America. The first night he was there, he did not see their president Mr. Walker, but on the second night that he went there, Mr. Walker met him as he entered the door, and observing, from his dialect, that he was a native of Ireland, Mr. Walker inquired of him how the vo-

lunteers went on, and said, with a smile as he passed him in his way up stairs to the rest of the associated members, "*We shall overthrow the constitution by* "*and by.*" The witness was then ushered into this room, where he saw assembled nearly to the number of a hundred or a hundred and fifty persons. The room was, I understand, a large warehouse at the top of the house; there were about fourteen or fifteen persons then actually under arms, and some of those whose names are to be found in this record were employed in teaching others the military exercise. It would be endless, as well as useless, to relate to you the whole of what passed at these several meetings.

Upon some occasions, Mr. Walker would talk in the most contumelious and abominable language of the sacred person of our Sovereign. In one instance, when talking of monarchy, he said, "Damn Kings! "what have we to do with them, what are they to "us?" and, to show the contempt in which he held the lives of all kings, and particularly that of our own Sovereign, taking a piece of paper in his hand, and tearing it, he said, "If I had the King here, "I would cut off his head, as readily as I tear this "paper."

Upon other occasions, others of the members, and particularly a person of the name of Paul, who I believe is now in Court, held similar language:—damning the King;—reviling and defaming him in the execution of his high office;—representing the

whole system of our public government as a system of plunder and rapacity;—representing, particularly, the administration of a neighbouring kingdom by a Lord-lieutenant, as a scheme and device merely invented to corrupt the people, and to enrich and aggrandize the individual to whose care the government of that kingdom is more immediately delegated;—in short, arraigning every part of our public economy as directly productive of misgovernment and oppression. The King himself was sometimes more particularly pointed at by Mr. Walker. He related of him a strange, incredible, and foolish fable, which I never heard suggested from any other quarter;—"That His Majesty was possessed of seventeen "millions of money in some bank or other at Vienna, "which he kept locked up there, and would not "bestow a single penny of it to relieve the dis-"tresses and indigence of any part of his own sub-"jects." Many other assertions of this sort were made, and conversations of a similar import held, between Mr. Walker and the persons thus assembled.

About three months after the formation, as far as I can collect it, of this society, that is, about the month of March 1793, a person of the name of Yorke—Yorke of Derby, I think he is called,—arrived at Manchester, with all the apparatus of a kind of apostolic mission, addressed to the various assemblies of seditious persons in that quarter of the kingdom. He harangued them upon such topics as were

most likely to interest and inflame them;—he explained to them the object of the journey he was then making through the country;—he said, he was come to visit all the combined societies, in order to learn the numbers they could respectively muster, in case there should be an invasion by the French, which was then talked of, and is yet, I am afraid, talked of but upon too much foundation;—to know, in short, what number they could add to the arms of France, in case these arms should be hostilely directed against Great Britain itself;—he stated that the French were about to land in this country to the number of forty or fifty thousand men, and that he was collecting, in the different societies, the names of such persons as could be best depended upon; in order to ascertain what number in the whole could actually be brought into the field upon such an emergency.

When this person was present, there seems to have been a sort of holiday and festival of sedition: each member strove with his fellow which should express sentiments the most injurious and hostile to the peace and happiness of their country. Dunn, the witness I have already alluded to, will speak to the actual communication of all the several persons who are Defendants upon this record in most of the mischievous councils which were then held, and which are the subject of this prosecution. They met during a considerable length of time he attended (and here you will not be called upon to give credit

to a loose and casual recollection of a few random expressions, uttered upon one or two accidental occasions, capable of an innocent or doubtful construction); but he attended, I believe, at nearly forty of these meetings;—he attended them from about the month of December or January, down to the month of June, when, either through compunction for the share he had himself borne in those mischievous proceedings, or whatever else might be his motive—I trust it was an honourable one, and that it will in its effects prove beneficial to his country,—he came forward and detailed this business to the magistrates of this county. It became them, having such circumstances related to them, and having it also confirmed by other evidence, that there were numerous nightly meetings of this sort held at stated intervals at the house of Mr. Walker, upon having the objects of these meetings detailed and verified to them —it became them, I say, to use means for suppressing a mischief of such extent and magnitude. It was accordingly thought proper to institute this prosecution for the purpose of bringing these enormous proceedings into public discussion and inquiry, before a Jury of the country, and for the purpose of eventually bringing to condign punishment the persons immediately concerned in them.

Gentlemen, the evidence of this person, the witness I have mentioned, will unquestionably be assailed and attacked by a great deal of attempted contradiction;—his character will, I have no doubt, be

arraigned and drawn in question from the earliest period to which the Defendants can have any opportunities of access, for materials respecting it. Upon nothing but upon the effectual impeachment of the character of this witness, can they bottom any probable expectations of acquittal; — to that point, therefore, their efforts will be mainly directed. I wish their efforts had been hitherto directed innocently towards the attainment of this object, and that no opportunities had been recently taken, in occasional meetings and conversations, to attempt to tamper with the testimony of this witness. There are other practices, which, next to an actual tampering with the testimony of a witness, are extremely mischievous to the regular course and administration of justice. I mean attempts to lure a witness into conversations respecting the subject of his testimony; of this we have seen many very blameable instances in the course of the present circuit, where conversations have been set on foot for the purpose of catching at some particular expressions, inadvertently dropt by a witness, and of afterwards bringing them forward, separately and detached from the rest of the conversation, in order to give a different colour and complexion to the substance of his evidence, and to weaken the effect and credit of the whole.

Gentlemen, these attempts are too commonly made;—happily, however, for public justice, they are commonly unsuccessful; because they do and

must, with every honourable mind, recoil upon the party making them. Private applications to a person not only known to be an adverse witness, but to be the very witness upon whose credit the prosecution most materially depends; private conversations with such a witness, for the purpose of getting from him declarations which may be afterwards opposed in seeming contradiction to his solemn testimony upon oath, are of themselves so dishonourable, that, with every well-disposed and well-judging mind, they will naturally produce an effect directly contrary to the expectations of the persons who make them.

I know, Gentlemen, what I have most to fear upon this occasion; I know the vigour and energy of the mind of my learned friend.—I have long felt and admired the powerful effect of his various talents —I know the ingenious sophistry by which he can mislead, and the fascination of that eloquence by which he can subdue the minds of those to whom he addresses himself.—I know what he can do to-day, by seeing what he has done upon many other occasions before. But, at the same time, Gentlemen, knowing what he is, I am somewhat consoled in knowing you. I have practised for several years in this place; I know the sound discretion and judgment by which your verdicts are generally governed; and upon the credit of that experience, I trust that it will not be in the power of my friend, by any arts he is able to employ, to seduce you a single step from the sober paths of truth and justice. You will hear the evidence

with the attention which becomes men who are deciding on the fate of others. If these Defendants be innocent, and my learned friend is able to substantiate their innocence, to your satisfaction, for God's sake let them be acquitted; but if that innocence cannot be clearly and satisfactorily established, I stand here interested as I am in common with him in the acquittal of innocence, at the same time however demanding the rights of public justice against the guilty. It imports the safety of yourselves,—it imports the safety of our country,—it imports the existence and security of every thing that is dear to us, if these men be not innocent, that no considerations of tenderness and humanity,—no considerations of any sort short of what the actual abstract justice of the case may require, should prevent the hand of punishment from falling heavy on them.

Having, therefore, Gentlemen, given you this short detail and explanation of the principal facts which are about to be laid before you in evidence, I will now close the first part of the trouble I must give you. I shall by and by, when my learned friend has adduced that evidence by which he will attempt to assail the character and credit of the principal witness for the prosecution, have an opportunity of addressing you again; and, I trust, in the mean time, whatever attention you may be disposed to pay to the exertions of those who will labour to establish the innocence of the persons now arraigned before you, that you will, at the same time, steadily

bear in mind the duties which you owe to yourselves and to your country;—recollecting, as I am sure you will, that we all look up to your firmness and integrity at this moment, for the protection of that constitution from which we derive every blessing we individually or collectively enjoy.

MR. ERSKINE.

GENTLEMEN OF THE JURY,

I LISTENED with the greatest attention (and in honour of my learned friend I must say with the greatest approbation) to much of his address to you in the opening of this cause;—it was candid and manly, and contained many truths which I have no interest to deny; one in particular which involves in it indeed the very principle of the defence,—the value of that happy constitution of government which has so long existed in this island. I hope that none of us will ever forget the gratitude which we owe to the Divine Providence, and, under its blessing, to the wisdom of our forefathers, for the happy establishment of law and justice under which we live; and under which, thank God, my Clients are this day to be judged: great indeed will be the condemnation of any man who does not feel and act as he ought to do upon this subject; for surely if there be one privilege greater than another which the benevolent Author of our being has been pleased to dispense to his creatures since the existence of the earth which we inhabit, it is to have cast our lots in this age and country:—for myself, I would in spirit prostrate myself daily and hourly before

Heaven to acknowledge it, and instead of coming from the house of Mr. Walker, and accompanying him at Preston (the only truths which the witness has uttered since he came into Court), if I believed him capable of committing the crimes he is charged with, I would rather have gone into my grave than have been found as a friend under his roof.

Gentlemen, the crime imputed to the Defendant is a serious one indeed:—Mr. Law has told you, and told you truly, that this Indictment has not at all for its object to condemn or to question the particular opinions which Mr. Walker and the other Defendants may entertain concerning the principles of this government, or the reforms which the wisest governments may from time to time require: he is indeed a man of too enlarged a mind to think for a moment that his country can be served by interrupting the current of liberal opinion, or overawing the legal freedom of English sentiment by the terrors of criminal prosecution: he openly disavows such a system, and has, I think, even more than hinted to us that there may be seasons when an attention to reform may be salutary, and that every individual under our happy establishment has a right upon this important subject to think for himself.

The Defendants therefore are not arraigned before you, nor even censured in observation, for having associated at Manchester to promote what they felt to be the cause of religious and civil liberty;—nor are they arraigned or censured for seeking to collect the

sentiments of their neighbours and the public concerning the necessity of a reform in the constitution of Parliament; these sentiments and objects are wholly out of the question: but they are charged with having unlawfully confederated and conspired to destroy and overthrow the government of the kingdom by OPEN FORCE AND REBELLION, and that to effect this wicked purpose they exercised the King's subjects with arms, perverting that which is our birthright, for the protection of our lives and property, to the malignant purpose of supporting the enemies of this kingdom in case of an invasion: in order, as my friend has truly said (for I admit the consequence if the fact be established), in order to make our country that scene of confusion and desolation which fills every man's heart with dismay and horror, when he only reads or thinks of what is transacting at a distance upon the bloody theatre of the war that is now desolating the world. This, and nothing different or less than this, is the charge which is made upon the Defendants, at the head of whom stands before you a merchant of honour, property, character, and respect;—who has long enjoyed the countenance and friendship of many of the worthiest and most illustrious persons in the kingdom, and whose principles and conduct have more than once been publicly and gratefully acknowledged by the community of which he is a member, as the friend of their commerce and liberties,

and the protector of the most essential privileges which Englishmen can enjoy under the laws.

Gentlemen, such a prosecution against such a person ought to have had a strong foundation: putting private justice and all respect of persons. wholly out of the question, it should not, but upon the most clear conviction and the most urgent necessity, have been instituted at all;—we are at this moment in a most awful and fearful crisis of affairs;—we are told authentically by the Sovereign from the throne, that our enemies in France are meditating an invasion, and the kingdom from one end to another is in motion to repel it. In such a state of things, and when the public transactions of government and justice in the two countries pass and repass from one another as if upon the wings of the wind, is it politic to prepare this solemn array of justice upon such a dangerous subject, without a reasonable foundation, or rather without an urgent call? At a time when it is our common interest that France should believe us to be, what we are and ever have been, one heart and soul to protect our country and our constitution—is it wise or prudent, putting private justice wholly out of the question, that it should appear to the councils of France,—apt enough to exaggerate advantages,—that the Judge representing the Government in the northern district of this kingdom should be sitting here in judgment in the presence of all the gentlemen whose property lies in this great county, to trace and to punish the existence of a rebellious con-

spiracy to support an invasion from France?—a conspiracy not existing in a single district alone, but maintaining itself by criminal concert and correspondence in every district, town, and city in the kingdom;—projecting nothing less than the utter destruction and subversion of the Government.—Good God! can it be for the interest of Government that such an account of the state of this country should go forth? Unfortunately, the rumour and effect of this day's business will spread where the evidence may not travel with it, to serve as an antidote to the mischief; for certainly the scene which we have this day witnessed can never be imagined in France or in Europe—where the spirit of our law is known and understood;—it never will be credited that all this serious process has no foundation either in fact or probability, and that it stands upon the single evidence of a common soldier, or rather a common vagabond, discharged as unfit to be a soldier;—of a wretch, lost to all reverence for God and religion, who avows, that he has none for either, and who is incapable of observing even common decency as a witness in the Court:—this will never be believed; and the country, whose best strength at home and abroad is the soundness of all its members, will suffer from the very credit which Government will receive for the justice of this proceeding.

What then can be more beneficial than that *you* should make haste, as public and private men, to undeceive the world; to do justice to your fellow-subjects, and to vindicate your country?—what can be

more beneficial, than that you, as honest men, should upon your oaths pronounce and record by your verdict, that, however Englishmen may differ in religious opinions, which in such a land of thinking ever must be the case;—that however they may separate in political speculations as to the wisest and best formation of a House of Commons;—that though some may think highly of the church and its establishment, whilst others, but with equal sincerity, prefer the worship of God with other ceremonies, or without any ceremonies;—that though some may think it unsafe to touch the constitution at this particular moment, and some, that at no time it is safe to touch it, while others think that its very existence depends upon immediate reformation:—what, I repeat, can be more beneficial, than that your verdict should establish, that though the country is thus divided upon these political subjects, as it ever has been in every age and period of our history, yet that we all recollect our duty to the land which our fathers have left us as an inheritance;—that we all know and feel we have one common duty and one common interest? This will be the language of your verdict, whatever you yourselves may think upon these topics connected with, but still collateral to the cause:—whether you shall approve or disapprove of the opinions or objects of the Defendants, I know that you will still with one mind revolt with indignation at the evidence you have heard, when you shall have heard also the observations I have to make upon it, and, what is far more important, the facts I shall bring

forward to encounter it. To these last words I beg your particular attention:—I say, when you shall hear *the facts with which I mean to encounter the evidence.* My learned friend has supposed that I had nothing wherewith to support the cause, but by railing at his witness, and endeavouring to traduce his character by calling others to reproach it: he has told you, that I could encounter his testimony by *no one fact,* but that he had only to apprehend the influence which my address might have upon you;—as if I, an utter stranger here, could have any possible weight or influence, to oppose to him, who has been so long known and honoured in this place.

But although my learned friend seems to have expected no adverse evidence, he appears to have been apprehensive for the credit and consistency of his own; since he has told you that we have drawn this man into a lure not uncommon for the purpose of entrapping witnesses into a contradiction of testimony;—that we have ensnared him into the company of persons who have drawn him in by insidious questions, and written down what he has been made to declare to them in destruction of his original evidence, for the wicked purpose of attacking the sworn testimony of truth, and cutting down the consequences which would have followed from it to the Defendants. If such a scene of wickedness had been practised, it must have been known to the witness himself; yet my learned friend will recollect, that though he made this charge in his hearing before

his examination, he positively denied the whole of it;—I put it to him point by point, pursuing the opening as my guide,—and he denied that he had been drawn into any lure;—he denied that any trap had been laid for him;—he denied that he had been asked any questions by any body.—If I am mistaken, I desire to be corrected, and particularly so by my learned friend, because I wish to state the evidence as it was given.—He has then denied all these things; he has further sworn that he never acknowledged to Mr. Walker that he had wronged or injured him, or that the evidence he had given against him was false;—that he never had gone down upon his knees in his presence, to implore his forgiveness;—that he never held his hands before his face, to hide the tears that were flowing down his cheeks in the moment of contrition, or of terror at the consequence of his crimes: all this he has positively and repeatedly sworn in answer to questions deliberately put to him; and instead of answering with doubt, or as trying to recollect whether any thing approaching such a representation had happened, he put his hands to his sides, and laughed, as you saw, at me who put the questions, with that sneer of contempt and insolence which accompanied the whole of his evidence, on my part at least of his examination:—if nothing therefore was at stake but the destruction of this man's evidence, and with it the prosecution which rests for its whole existence upon it, I should proceed at once to confound him with testimony, the

truth of which my learned friend himself will, I am sure, not bring into question; but as I wish the whole conduct of my Clients to stand fairly before you, and not to rest merely upon positive swearing destructive of opposite testimony; and as I wish the evidence I mean to bring before you, and the falsehood of that which it opposes, to be clearly understood; I will state to you how it has happened that this strange prosecution has come before you.

The town of Manchester has been long extremely divided in religious and civil opinions; and while I wish to vindicate those whom I represent in this place, I desire not to inflame differences which I hope in a short season will be forgotten; I am desirous, on the contrary, that every thing which proceeds from me may be the means of conciliating rather than exasperating dissensions which have already produced much mischief, and which perhaps, but for the lesson of to-day, might have produced much more.

Gentlemen, you all know that there have been for centuries past in this country various sects of Christians worshipping God in different forms, and holding a diversity of religious opinions; and that the law has for a long season deprived numerous classes, even of His Majesty's Protestant subjects, of privileges which it confers upon the rest of the public, setting as it were a mark upon them, and keeping them below the level of the community, by shutting them out from offices of trust and confidence in the country. Whether these laws be wise

or unwise,—whether they ought to be continued or abolished, are questions for the Legislature, and not for us; but thus much I am warranted in saying, that it is the undoubted privilege of every man or class of men in England, to petition Parliament for the removal of any system or law, which either actually does aggrieve, or which is thought to be a grievance:—impressed with the sense of this inherent privilege, this very Constitutional Society, which is supposed by my learned friend the Attorney General to have started up on the breaking out of the war with France, for the purpose of destroying the constitution—this very society owed its birth to the assertion of this indisputable birthright of Englishmen, which the authors of this prosecution most rashly thought proper to stigmatize and resist. It is well known that in 1790 the Dissenters in the different parts of the kingdom were solicitous to bring before Parliament their application to put an end for ever to all divisions upon religious subjects, and to make us all, what I look forward yet to see, one harmonious body, living like one family together. It is also well remembered with what zeal and eloquence that great question was managed in the House of Commons by Mr. Fox, and the large majority with which the repeal of the Test Acts was rejected: it seems therefore strange that the period of this rejection should be considered as an æra either of danger to the church or of religious triumph to Christians; nevertheless, a large body of gentlemen and others

at Manchester, whose motives I am far from wishing to scrutinize or condemn, considered this very wish of the Dissenters as injurious to their rights, and as dangerous to the church and state;—they published advertisements expressive of these sentiments, and the rejection of the bill in the Commons produced a society styled the Church and King Club, which met for the first time to celebrate what they called the glorious decision of the House of Commons in rejecting the prayer of their dissenting brethren.

Gentlemen, it is not for me to say, that it was unjust or impolitic in Parliament to reject the application; but surely I may without offence suggest, that it was hardly a fit subject of triumph, that a great number of fellow-subjects, amounting, I believe, to more than a million in this country, had miscarried in an object which they thought beneficial, and which they had a most unquestionable right to submit to the government under which they lived; yet for this cause alone,—France and every other topic of controversy being yet unborn—the Church and King were held forth to be in danger;—a society was instituted for their protection, and an uniform appointed with the church of Manchester upon the button.

Gentlemen, without calling for any censure upon this proceeding, but leaving it to every man's own reflection, is it to be wondered at or condemned, that those who thought more largely and liberally on subjects of freedom both civil and religious, but who

found themselves persecuted for sentiments and conduct the most avowedly legal and constitutional, should associate for the support of their rights and privileges as Englishmen, and assemble to consider how they might best obtain a more adequate representation of the people of Great Britain in Parliament?

Gentlemen, this society continued with these objects in view until the issuing of the proclamation against Republicans and Levellers, calling upon the magistrates to exert themselves throughout the kingdom to avert some danger with which, it seems, our rulers thought this kingdom was likely to be visited. Of this danger, or the probability of it, either *generally* or at Manchester *in particular*, my learned friend has given no evidence from any quarter but that of Mr. Dunn;—he has not proved that there has been in any one part of the kingdom any thing which could lead Government to apprehend that meetings existed for the purposes pointed at;—but that is out of the question;—Government had a right to think for itself, and to issue the proclamation. The publicans however (as it appears upon the cross-examination of the witness), probably directed by the magistrates, thought fit to shut up their houses opened by immemorial law to all the King's subjects, and to refuse admission to all the gentlemen and tradesmen of the town who did not associate under the banners of this Church and King club. This illegal proceeding was accompanied with an advertisement contain-

ing a vehement libel against all those persons, who, under the protection of the laws, thought themselves as much at liberty to consider their various privileges, as others were to maintain the establishment of the church. Upon this occasion Mr. Walker honourably stood forth, and opened his house to this Constitutional Society at a time when they must otherwise have been in the streets by a combination of the publicans to reject them. Now, Gentlemen, I put it to you as men of honour, whether it can be justly attributed to Mr. Walker as seditious, that he opened his house to a society of gentlemen and tradesmen,—whose good principles he was acquainted with,—who had been wantonly opposed by this Church and King club, whose privileges they had never invaded or questioned,—and against whom, in this day of trial, there is no man to be found who can come forward to impeach any thing they have done, or a syllable they have uttered. Vehement as the desire most apparently has been, to bring this gentleman and his associates, as they are called, to justice, yet not one magistrate,—no man of property or figure in this town or its neighbourhood,—no person having the King's authority in the county, has appeared to prove one fact or circumstance from whence even the vaguest suspicion could arise, that any thing criminal had been intended or transacted: —no constable, who had ever been sent to guard, lest the peace might be broken, or to make inquiries for its preservation; — not a paper seized throughout

England, nor any other prosecution instituted except upon the unsupported evidence of the same miserable wretch who stands before you, the town, neighbourhood, and county, remaining in the same profound state of tranquillity as it is at the moment I am addressing you.

Gentlemen, when Parliament assembled at the end of 1792, previous to the commencement of the war, these unhappy differences were suddenly (and, as you will see, from no fault of Mr. Walker's) brought to the crisis which produced this trial:—a meeting was held in Manchester to prepare an address of thanks to the King for having embodied the militia during the recess of Parliament, and for having put the kingdom into a posture of defence; I do not seek to question the measure of Government which gave rise to this approbation, or the approbation itself which the approvers had a right to bestow;—but others had an equal right to entertain other opinions. On all public measures the decision undoubtedly is with Government; but the people at the same time have a right to think upon them, and to express what they think;—surely war, of all other subjects, is one which the people have a right to consider;—surely it can be no offence for those whose properties were to be taxed, and whose inheritances were to be lessened by it, to pause a little upon the eve of a contest, the end of which no man can foresee,—the expenses of which no man can calculate, or estimate the blood to flow from its calamities. Surely it is a liberty se-

cured to us by the first principles of our constitution, to address the Sovereign, or instruct our representatives, to avert the greatest evil that can impend over a nation.

Gentlemen, one of those societies, called the Reformation Society, met to exercise this undoubted privilege, and in my mind upon the fittest occasion that ever presented itself; yet mark the moderation of Mr. Walker, whose violence is arraigned before you. Though he was no member of that body, and though he agreed in the propriety of the measure in agitation, yet he suggested to them, that their opposition might be made a pretence for tumult,—that tranquillity in such a crisis was by every means to be promoted, and therefore advised them to abstain from the meeting; so that the other meeting was left to carry its approbation of Government and of the war, without a dissenting voice. If ever therefore there was a time when the Church and King might be said to be out of danger at Manchester, it was at this moment:—yet *on this very day* they hoisted the banners of alarm to both;—they paraded with them through every quarter of the town;—mobs by degrees were collected, and in the evening of this very eleventh of December, the houses of Mr. Walker and others were attacked. You will observe, that *before this day* no man has talked about arms at Mr. Walker's:—if an honourable gentleman upon the Jury who has been carefully taking notes of the evidence, will have the goodness to refer to

them, he will find that it was not till near a week after this (so Dunn expresses it), that a single fire-lock had been seen; nor indeed does any part of the evidence go back beyond this time, when Mr. Walker's house was thus surrounded and attacked by a riotous and disorderly mob. He was aware of the probable consequences of such an attack; — he knew, by the recent example of Birmingham, what he and others professing sentiments of freedom had to expect;—he therefore got together a few fire-arms, which he had long had publicly by him, and an inventory of which with the rest of his furniture at Barlow Hall, had been taken by a sworn appraiser, long before any thing connected with this Indictment had an existence; and with these, and the assistance of a few steady friends, he stood upon his defence. He was advised indeed to retire for safety; but knowing his own innocence, and recollecting the duty he owed to himself, his family, and the public, he declared he would remain there, to support the laws and to defend his property,—and that he would perish, rather than surrender those privileges, which every member of the community is bound, both from interest and duty, to maintain:—to alarm the multitude, he fired from the windows over their heads, and dispersed them: but when, the next morning, they assembled in very great numbers before his house, and when a man got upon the churchyard wall, and read a most violent and inflammatory paper, inciting the populace to pull the house down;—Mr. Walker

went out amongst them, and expostulated with them, and asked why they had disgraced themselves so much by attacking him the night before; adding, that if he had done any of them, or any person whom they knew, any injury, he was, upon proof of it, ready to make them every satisfaction in his power:—he also told them, that he had fired upon them the night before, because they were mad as well as drunk; that, if they attacked him again, he would, under the same circumstances, act as he had done before; but that he was then alone and unarmed in the midst of them; and if he had done any thing wrong, they were then sober, and had him completely in their power.

Gentlemen, this was most meritorious conduct. You all live at a distance from the metropolis, and were probably, therefore, fortunate enough neither to be within or near it in 1780, when, from beginnings smaller than those which exhibited themselves at Birmingham, or even at Manchester, the metropolis of the country, and with it the country itself, had nearly been undone: the beginning of these things is the season for exertion: I shall never indeed forget what I have heard the late mild and venerable magistrate Lord Mansfield say upon this subject, whose house was one of the first attacked in London; I have more than once heard him say, that perhaps some blame might have attached upon himself and others in authority, for their forbearance in not having directed force to have been *at the first moment* repelled

by force, it being the highest humanity to check the infancy of tumults.

Gentlemen, Mr. Walker's conduct had the desired effect: he watched again on the 13th of December, but the mob returned no more, and the next morning the arms were locked up in a bedchamber in his house, where they have remained ever since, and where, of course, they never could have been seen by the witness, whose whole evidence commences above a week subsequent to the 11th of December, when they were finally put aside. This is the genuine history of the business; and it must therefore not a little surprise you, that when the charge is wholly confined to the use of arms, Mr. Law should not even have hinted to you that Mr. Walker's house had been attacked, and that he was driven to stand upon his defence, as if such a thing had never had an existence;—indeed the armoury which must have been exhibited in such a statement, would have but ill suited the Indictment or the evidence, and I must therefore undertake the description of it myself.

The arms having been locked up, as I told you, in the bedchamber, I was shown last week into this house of conspiracy,—treason,—and death, and saw exposed to view the mighty armoury which was to level the beautiful fabric of our constitution, and to destroy the lives and properties of ten millions of people.—It consisted, first, of six little swivels purchased two years ago at the sale of Livesey, Hargrave, and Co. (of whom we have all heard so much); by Mr. Jackson, a gentleman of Manchester, who is

also one of the Defendants, and who gave them to Master Walker, a boy about ten years of age:—swivels, you know, are guns so called because they turn upon a pivot; but these were taken off their props, were painted, and put upon blocks resembling carriages of heavy cannon, and in that shape may be fairly called children's toys; you frequently see them in the neighbourhood of London adorning the houses of sober citizens, who, strangers to Mr. Brown and his improvements, and preferring grandeur to taste, place them upon their ramparts at Mile-End or Islington. Having, like Mr. Dunn (I hope I resemble him in nothing else), having, like him, served His Majesty as a soldier (and I am ready to serve again if my country's safety should require it), I took a closer review of all I saw, and observing that the muzzle of one of them was broke off, I was curious to know how far this famous conspiracy had proceeded, and whether they had come into action, when I found the accident had happened on firing a *feu de joie* upon His Majesty's happy recovery, and that they had been afterwards fired upon the Prince of Wales' birthday. These are the only times, that, in the hands of these conspirators, these cannon, big with destruction, had opened their little mouths;—once to commemorate the indulgent and benign favour of Providence in the recovery of the Sovereign, and once as a congratulation to the Heir Apparent of his crown on the anniversary of his birth.

I went next, under the protection of the master-general of this ordnance (Mr. Walker's chamber-maid), to visit the rest of this formidable array of death, and found a little musketoon about so high *(describing it)*; I put my thumb upon it, when out started a little bayonet like the Jack-in-a-box which we buy for children at a fair: in short, not to weary you, Gentlemen, there was just such a parcel of arms of different sorts and sizes as a man collecting amongst his friends, for his defence against the sudden violence of a riotous multitude, might be expected to have collected: here lay three or four rusty guns of different dimensions, and here and there a bayonet or broad-sword, covered over with dust and rust, so as to be almost undistinguishable; for, notwithstanding what this infamous wretch has sworn, we will prove by witness after witness, till you desire us to finish, that they were principally collected on the 11th of December, the day of the riot, and that from the 12th in the evening, or the 13th in the morning, they have lain untouched, as I have described them;—that their use began and ended with the necessity, and that, from that time to the present, there never has been a fire-arm in the warehouse of any sort or description. This is the whole on which has been built a proceeding that might have brought the Defendants to the punishment of death, for both the charge and the evidence amount to high treason,—high treason, indeed, under almost every branch of the statute; since

the facts amount to levying war against the King—by a conspiracy to wrest by force the government out of his hands,—to an adherence to the King's enemies,—and to a compassing of his death, which is a necessary consequence of an invading army of republicans or of any other enemies of the state;—yet notwithstanding the notoriety of these facts, the un-named prosecutors (and indeed I am afraid to slander any man or body of men, by even a guess upon the subject) have been beating up as for volunteers, to procure another witness to destroy the lives of the gentlemen before you, against many of whom warrants for high treason were issued to apprehend them; Mr. Walker, among the rest, was the subject of such a warrant, and as soon as he knew it, he behaved (as he has throughout) like a man and an Englishman:—he wrote immediately to the Secretary of State, who was summoned here to-day, and whose absence I do not complain of, because we have by consent the benefit of his testimony;—he wrote three letters to Mr. Dundas, one of which was delivered by Mr. Wharton, informing him that he was in London on his business as a merchant;—that if any warrant had been issued against him, he was ready to meet it, and for that purpose delivered his address where it might be executed. This Mr. Walker did when the prosecutors were in search of another witness, and when this Mr. Dunn was walking like a tame sparrow through the New Bailey, fed at the public or some other expense, and suffered to go at

large, though arrested upon a criminal charge, and sent into custody under it.

And to what other circumstances need I appeal for the purity of the Defendants, than that, under the charge of a conspiracy, extensive enough to comprehend in its transactions (if any existed) the whole compass of England, the tour of which was to have been made by Mr. Yorke, there has not been one man found to utter a syllable about them, no not one man, thanks be to God, who has so framed the characteristics of Englishmen, except the solitary infamous witness before you, who, from what I heard since I began to address you, may have spoken the truth when he claimed my acquaintance, as I have reason to think he has seen me before in a criminal court of justice.

Having now, for the satisfaction of the Defendants rather than from the necessity of the case, given you an account of their whole proceedings, as I shall establish them by proof; let us examine the evidence that has been given against them, and see how the truth of it could stand with reason or probability, supposing it to have been sworn to by a witness the most respectable.

According to Dunn's own account, Mr. Walker had not been at the first meeting, so that when he first saw Dunn he did not know either his person or his name; he might have been a spy (God knows there are enow of them), and at that season in particular, informers were to be expected:—Mr. Walker

is supposed to have said to him, "What is your bu-
"siness here?" to which he answered, "I am going
"to the society," which entitled him at once to ad-
mission without farther ceremony;—there was no-
body to stop him:—was he asked his name?—was he
balloted for?—was he questioned as to his principles?
No, he walked in at once; but first, it seems, Mr.
Walker, who had never before seen him, inquired
of him the news from Ireland (observing by his voice
that he was an Irishman), and asked what the vo-
lunteers were about, as if Mr. Walker could possibly
suppose that such a person was likely to have been
in a correspondence with Ireland, which told him
more than report must have told every body else.
Mr. Dunn tells you indeed he was no such person,
he was a friend, as he says, to the King and Con-
stitution, which Mr. Walker would have found by
asking another question; but, without further in-
quiry, he is supposed to have said to him at once,
"We shall overthrow the constitution by and by;"
which the moment Dunn had heard, up walked that
affectionate subject of our Sovereign Lord the King
into Mr. Walker's house, where the constitution was
to be so overthrown; but then he tells you he
thought there was no harm to be done, that it was
only for the benefit of the poor, and the public good;
—but how could he think so after what he had that
moment heard? but he did not know, it seems, what
Mr. Walker meant. Gentlemen, do you collect,
from Mr. Dunn's discourse and deportment to-day,

that he could not tell but that a man meant good when he had heard even him express *a wish* to overthrow the government? would you pull a feather out of a sparrow's wing upon the oath of a man, who swears that he believed a person to have been a good subject in the very moment he was telling him of an intended rebellion? But why should I fight a phantom with argument?—Could any man but a driveller, have possibly given such an answer, as is put into Mr. Walker's mouth, to a man he had never seen in his life? However many may differ from Mr. Walker in opinion, every body, I believe, will admit that he is an acute intelligent man, with an extensive knowledge of the world, and not at all likely to have conducted himself like an idiot. What follows next?—another night he went into the warehouse, where he saw Mr. Yorke called to the chair, who said he was going the tour of the kingdom, in order to try the strength of the different societies, to join fifty thousand men that were expected to land from France in this country, and that Mr. Walker then said, "Damn all kings—I know our King has "seventeen millions of money in the Bank of "Vienna, although he won't afford any of it to the "poor." Gentlemen, is this the language of a man of sense and education? If Mr. Walker had the malignity of a demon, would he think of giving effect to it by such a senseless lie?—When we know that, from the immense expense attending His Majesty's numerous and illustrious family and the great

necessities of the state, he has been obliged over and over again to have recourse to the generosity and justice of Parliament to maintain the dignity of the Crown, could Mr. Walker ever have thought of inventing this nonsense about the Bank of Vienna, when there is a Bank too in our own country, where he might legally invest his property for himself and his heirs? But Mr. Walker did not stop there;—he went on and said, "I should think no more of taking "off the King's head than I should of tearing this "piece of paper." All this happened soon after his admission; yet this man, who represents himself to you upon his oath this day, as having been uniformly a friend to the constitution, as far as he understood it;—as having left the society as soon as he saw their mischievous inclinations,—and as having *voluntarily* informed against them, I say this same friend of the constitution tells you, almost in the same breath, that he continued to attend their meetings from thirty to forty times, *where high treason was committing with open doors*; and that, instead of giving information of his own free choice, he was arrested in the very act of distributing some seditious publication.

Gentlemen, it is really a serious consideration, that upon such testimony a man should even be put upon his defence in the courts of this country;—upon such principles what man is safe? I was indeed but ill at ease myself when Mr. Dunn told me he knew me better than I supposed. What security have I at this moment that he should not swear that

he had met me under some gateway in Lancaster, and that I had said to him, "Well, Dunn, I hope you will "not swear against Mr. Walker, but that you will "stick to the good cause: damn all kings: damn "the constitution:" if the witness were now to swear this, into gaol I must go; and if my Client is in danger from what has been sworn against *him*, what safety would there be for *me?*—the evidence would be equally positive, and I am equally an object of suspicion as Mr. Walker: it is said of *him*, that he has been a member of a society for the reform of Parliament; so have *I*, and so am *I* at this moment, and so at all hazards I will continue to be, and I will tell you why, Gentlemen—because I hold it to be essential to the preservation of all the ranks and orders of the state,—alike essential to the prince and to the people: I have the honour to be allied to His Majesty in blood, and my family has been for centuries a part of what is now called the aristocracy of the country; I can therefore have no interest in the destruction of the constitution.

In pursuing the probability of this story (since it must be pursued), let us next advert to whether any thing appears to have been done in other places which might have been exposed by this man's information. The whole kingdom is under the eye and dominion of magistracy, awakened at that time to an extraordinary vigilance; yet has any one man been arrested even upon the suspicion of any correspondence with the societies of Manchester, good, bad, or

indifferent? or has any person within the four seas come to swear that any such correspondence existed? So that you are desired to believe, upon Mr. Dunn's single declaration, that gentlemen of the description I am representing, without any end or object, or concert with others, were resolved to put their lives into the hands of any miscreant who might be disposed to swear them away, by holding public meetings of conspiracy with open doors, and in the presence of all mankind, liable to be handed over to justice every moment of their lives, since every tap at the door might have introduced a constable as readily as a member; and, to finish the absurdity, these gentlemen are made to discourse in a manner that would disgrace the lowest and most uninformed classes of the community.

Let us next see what interest Mr. Walker has in the proposed invasion of this peaceable country: has Mr. Law proved that Mr. Walker had any reason to expect protection from the French from any secret correspondence or communication more than you or I have, or that he had prepared any means of resisting the troops of this country?—how was he to have welcomed these strangers into our land?—what, with this dozen of rusty muskets, or with those conspirators whom he exercised?—but who are they?—they are, it seems, "to the Jurors unknown," as my learned friend has called them who drew this Indictment, and he might have added, *who will ever remain unknown to them*,—But has Mr. Walker no-

thing to lose, like other men who dread an invasion? He has long had the acquaintance and friendship of some of the best men in this kingdom, who would be destroyed if such an invasion should take place.—Has he, like other men, no ties of a nearer description? Alas, Gentlemen! I feel at this moment that he has many: Mr. Dunn told you that I was with Mr. Walker, at Manchester; and it enables me to say, of my own knowledge, that it is impossible he could have had the designs imputed to him. I have been under his roof, where I have seen him the husband of an amiable and affectionate woman, and the happy parent of six engaging children; and it hurts me not a little to think what they must feel at this moment. Before prosecutions are set on foot, those things ought to be considered;—we ought not, like the fool in the Proverbs, to scatter firebrands and death, and say, "Am I not in sport?" Could we look at this moment into the dwelling of this unfortunate gentleman, for so I must call him, I am persuaded the scene would distress us;—his family cannot but be unhappy;—they have seen prosecutions equally unjust as even this is, attended with a success of equal injustice, and we have seen those proceedings, I am afraid by those who are at the bottom of this Indictment, put forward for your imitation. I saw to my astonishment, at Preston, where, as a traveller, I called for a newspaper, that this immaculate society (the Manchester Church and King Club) had a meeting lately, and had published to the world the toasts and senti-

ments which they drank; some of them I like, some of them deserve reprobation: "The Church and "King;" very well. "The Queen and Royal Fa- "mily;" be it so. "The Duke of York and the "Army;" be it so. But what do you think came next?

(Here Mr. Justice Heath interrupted Mr. Erskine, by saying, "We are not to go into this, of which you "cannot give evidence").

Mr. Erskine. I don't know what effect these publications may have upon the administration of justice; why drink "*The Lord Advocate and the* "*Court of Justiciary in Scotland,*" just when your Lordship is called upon to administer justice according to the laws of *England*; if I had seen the King and his Judges upon the northern circuit published as a toast——

Mr. Justice Heath. You know you cannot give this in evidence.

Mr. Erskine. Gentlemen, considering the situation in which my Clients stand at this moment, I expressed the idea which occurred to me, and which I thought it right not to suppress:—but let it pass;—this is not the moment for controversy;—it is my interest to submit to any course his Lordship may think proper to dictate; the evidence is more than enough for my purpose;—so mainly improbable, so contrary to every thing in the course of human affairs, that I know you will reject it, even if it stood unanswered; what then will you say, when I shall prove to you by the oaths of the various persons who

attended these societies, that no propositions of the sort insinuated by this witness ever existed;—that no hint, directly or indirectly, of any illegal tendency, was ever whispered;—that their real objects were just what were *openly professed*, be they right or wrong, be they wise or mistaken, namely, *reformation in the constitution of the House of Commons*, which my learned friend admitted they had a right by constitutional means to promote. This was their object;—they neither desired to touch the King's authority, nor the existence or privileges of the House of Lords; but they wished, that those numerous classes of the community, who (by the law as it now stands) are excluded from any share in the choice of members to the Parliament, should have an equal right with others, in concerns where their interests are equal. Gentlemen, this very county furnishes a familiar instance; there are, I believe, at least thirty thousand freeholders in Lancashire, each of whom has a vote for two members of Parliament; and there are two boroughs within it (if I mistake not), Clithero and Newton, containing a handful of men who are at the beck of *two individuals*; yet these two little places send for themselves, *or rather for these two persons*, two members each, which makes four against the whole power and interest of this county in Parliament, touching any measure, how deeply soever it may concern their prosperity. Can there be any offence in meeting together to consider of a representation to Parliament, suggesting

the wisdom of alteration and amendment in such a system?

Mr. Justice Heath.—There can be no doubt but that a petition to Parliament, for reform or any thing else, can be no offence.

Mr. Erskine. Gentlemen, I expected this interruption from the learning of the Judge; certainly it can be no offence, and consequently my Clients can be no offenders.

Having now exposed the weakness of Dunn's evidence, from its own intrinsic defects, and from the positive contradiction every part of it is to receive from many witnesses, I shall conclude with the still more positive and unequivocal contradiction which the whole of it has received from Dunn himself.—You remember that I repeatedly asked him whether he had not confessed that the whole he had sworn to-day was utterly false; whether he had not confessed it to be so with tears of contrition, and whether he had not kneeled down before Mr. Walker, to implore his forgiveness. My learned friend, knowing that this would be proved upon him, made a shrewd and artful observation, to avoid the effects of it;—he said, that such things had fallen often under the observation of the Court upon the circuit, where witnesses had been drawn into similar snares by artful people to invalidate their testimony;—this may be true, but the answer to its application is, that not only the witness himself has positively denied that any such snare was laid for him, but the wit-

nesses I have to call, both in respect of number and credit, will put a total end to such a suggestion; if I had indeed but one witness, my friend the Attorney General might undoubtedly put it to you in reply, whether his or mine was to be believed; but I will call to you, *not one* but *four or five*; or, if necessary, *six witnesses*, ABOVE ALL SUSPICION, in whose presence Dunn voluntarily confessed the falsehood of his testimony, and, with tears of apparent repentance, offered to make any reparation to these injured and unfortunate Defendants.—This I pledge myself to prove to your satisfaction.

Gentlemen, the object of all public trial and punishment is the security of mankind in social life. We are not assembled here for the purposes of vengeance, but for the ends of justice;—to give tranquillity to human life, which is the scope of all government and law;—you will take care therefore, how, in the very administration of justice, you disappoint that which is the very foundation of its institution;—you will take care, that in the very moment you are trying a man as a disturber of the public happiness, you do not violate the rules which secure it.

The last evidence I have been stating ought by itself to put an instant end to this cause: I remember a case, very lately, which was so brought to its conclusion, where, upon a trial for perjury of a witness who had sworn against a captain of a vessel in the African trade, it appeared that the witnesses, who swore to the perjury against the defendants, had

themselves made deliberate declarations, which materially clashed with the testimony they were giving; Lord Kenyon, who tried the cause, would after this proceed no further, and asked me, who was counsel for the prosecution, whether I would urge it further, saying emphatically, what I hope every Judge under similar circumstances will think it his duty to say also, "No man ought or can be convicted in England, "unless the Judge and the Jury have *a firm assurance* "that innocence cannot by any possibility be the "victim of conviction and sentence." And how can the Jury or his Lordship have that assurance here, when the only source of it is brought into such serious doubt and question? Upon the whole, then, I cannot help hoping, that my friend the Attorney General, when he shall hear my proofs, will feel that a prosecution like this ought not to be offered for the seal and sanction of your verdict. Unjust prosecutions lead to the ruin of all governments. Whoever will look back to the history of the world in general, and of our own particular country, will be convinced, that exactly as prosecutions have been cruel and oppressive, and maintained by inadequate and unrighteous evidence, in the same proportion, and by the same means, their authors have been destroyed instead of being supported by them;—as often as the principles of our ancient laws have been departed from in weak and wicked times, so often the governments that have violated them have been suddenly crumbled into dust; and therefore wishing

as I most sincerely do, the preservation and prosperity of our happy constitution, I desire to enter my protest against its being supported by means that are likely to destroy it. Violent proceedings bring on the bitterness of retaliation, until all justice and moderation are trampled down and subverted;—witness those sanguinary prosecutions previous to the awful period in the last century, when Charles the First fell: that unfortunate prince lived to lament those vindictive judgments by which his impolitic, infatuated followers imagined they were supporting his throne:—he lived to see how they destroyed it;—his throne, undermined by violence, sunk under him, and those who shook it were guilty in their turn (such is the natural order of injustice) not only of similar but of worse and more violent wrongs; witness the fate of the unhappy Earl of Strafford, who, when he could not be reached by the ordinary laws, was impeached in the House of Commons, and who, when still beyond the consequences of that judicial proceeding, was at last destroyed *by the arbitrary wicked mandate of the Legislature.* James the Second lived to ask assistance in the hour of his distress, from those who had been cut off from the means of giving it by unjust prosecutions; he lived to ask support from the Earl of Bedford after his son the unfortunate Lord Russell had fallen under the axe of injustice: "I once "had a son," said that noble person, "who could "have served your Majesty upon this occasion," but there was then none to assist him.

I cannot possibly tell how others feel upon these subjects, but I do know how it is their interest to feel concerning them; we ought to be persuaded that the only way by which government can be honourably or safely supported, is by cultivating the love and affection of the people;—by showing them the value of the constitution by its protection;—by making them understand its principles by the practical benefits derived from them;—and above all, by letting them feel their security in the administration of law and justice. What is it in the present state of that unhappy kingdom, the contagion of which fills us with such alarm, that is the just object of terror? —what, but that accusation and conviction are the same, and that a false witness or power without evidence is a warrant for death! Not so here;—long may the countries differ! and I am asking for nothing more, than that you should decide according to our own wholesome rules, by which our government was established, and by which it has been ever protected. Put yourselves, Gentlemen, in the place of the Defendants, and let me ask, if you were brought before your country, upon a charge supported by no other evidence than that which you have heard to-day, and encountered by that which I have stated to you, what would you say, or your children after you, if you were touched in your persons or your properties by a conviction?—may you never be put to such reflections, nor the country to such disgrace! The best service we can render to

the public is, that we should live like one harmonious family, that we should banish all animosities, jealousies, and suspicions of one another; and that, living under the protection of a mild and impartial justice, we should endeavour, with one heart, according to our best judgments, to advance the freedom and maintain the security of Great Britain.

Gentlemen, I will trouble you no further; I am afraid indeed I have too long trespassed on your patience, I will therefore proceed to call my witnesses.

On the examination of the witnesses, to the matters mentioned by Mr. Erskine in his Speech, the witness for the Crown, Thomas Dunn, was so entirely contradicted, that Mr. Law interposing, in the manner stated in the preface, the trial ended, and Mr. Walker and the other Defendants were acquitted.

THE

TRIAL

OF

THOMAS HARDY,

FOR HIGH TREASON,

AT THE SESSIONS HOUSE IN THE OLD BAILEY.

The Trial began on the 28th of October, and ended on the 5th of November, 1794.

SUBJECT OF THE TRIAL, &c.

WE have not been without considerable difficulties in preparing the introduction to Mr. Erskine's Speech upon this most memorable State Trial.

It was our original intention, as we have before stated, to have published such of Mr. Erskine's Speeches as we were able to collect, in the same manner as those of the Master of the Rolls in Ireland had been printed in Dublin, which led, as we have said, to the present publication—prefixing only, as in that collection, a short account of the occasions on which they were delivered. But as we advanced in the work, we found some of the Speeches, which we had collected, so closely connected with political differences in our own times, that, to avoid even the appearance of partiality, or of any desire to render the work subservient to the sentiments or views of any particular class of persons, however eminent;—above all, to avoid the most distant appearance of entering into the imputed *or* supposed

designs of the persons prosecuted by Government, and defended in the Speeches in question, we found it advisable, because in those instances practicable, to print not only the Speeches for the Crown, but the whole substance of the evidence. This could not be done, upon the present occasion, without printing the whole Trial, which occupies three large volumes: yet, to give to Mr. Erskine's Speech—the publication of which is our principal design—its true spirit and effect, we found that it would be necessary to explain the nature of the arguments it opposed, and of the evidence which it appealed to, and had prepared a concise statement of the whole case.—Still apprehensive, however, that we might be suspected of leaning to the side of the parties accused by Government—and be charged with giving a garbled publication from motives foreign toour professions—we resolved to print the entire Speech of the Attorney General, in which he detailed the whole body of the evidence, and also the law respecting high treason, as he meant to apply it against the Prisoners, which, with the answer to it by Mr. Erskine, brings forward the whole outline of this interesting proceeding.

Never, perhaps, were any persons accused of high treason (certainly not since the government became settled at the Revolution) exposed to such great difficulties in making their defence.—It will be seen by the following Speeches, and by the Indictment prefixed to them, that the Prisoners were charged with compassing and imagining the death of the King, the overt act

being a conspiracy, which, though masked under the pretence of procuring by legal means a reform in the Commons House of Parliament, had for its real object the subversion by rebellious force of the whole frame of the constitution of the country.

*In support of this Indictment it will be seen by the following Speeches, that the evidence for the Crown was divided into two distinct branches, viz. to establish, first, that such a conspiracy existed, and secondly, to prove that the Prisoners were parties to it. This course of proceeding had been sanctioned by the opinions of the Judges upon other trials, but the adoption of it upon this occasion, however legal, undoubtedly exposed the Prisoners to great peril of prejudgment, because almost the whole of the evidence given by the Crown against them had been collected by both Houses of Parliament just before the trial, and printed by their authority, and a Statute * had even been passed, declaring that the treacherous conspiracy which constituted the first and very important branch of the evidence, did in fact exist within the kingdom. We say a very important branch of the evidence, because undoubtedly, if the Jury had considered that the evidence supported the truth of the preamble to the Act of Parliament, the Prisoners must have been in a*

* 34 Geo. III. c. 54. The preamble to the Bill states, that "whereas a treacherous and detestable conspiracy has been "formed for subverting the existing laws and constitution, and for "introducing the system of anarchy and confusion, which has so "lately prevailed in France," &c.

manner without a defence. Authority was also given to detain, without bail, persons already in custody, on suspicion of being engaged in the above conspiracy, or who should be thereafter committed on that account.

With regard to this Act of Parliament, it is impossible, on the one hand, to deny the constitutional competency of Parliament to declare the existence of a dangerous and extended conspiracy, endangering not only the safety, but the very existence of the State. On the other hand, the persons who may become obnoxious to suspicion, and be subjected to a public prosecution in consequence of such a legislative proceeding, come to a trial under seemingly insurmountable disadvantages.

In the very case before us, the two Houses of Parliament had collected and arranged the greater part of the written evidence afterwards produced by the Crown against the Prisoners, and in the preamble of the Act had given it the character of a detestable conspiracy, to subvert the monarchy, although, as has been already stated, the inquiry of the Jury was to be divided into two branches—First, whether the evidence, great part of which had been so collected and arranged in Parliament and published, substantiated the declaration made in the preamble of the Bill, of the existence of such a conspiracy to subvert the Government: and secondly, whether the Prisoners had any and what share in it. Now it is most obvious, that if, in deference to the judgment of Parliament, the first part of this division had been found by the

Jury, and the law of high treason, as stated by the Counsel for the Crown, had been adopted, the Prisoners could scarcely have had any defence, as they then must have been taken, upon the whole of the evidence, to have been privy to proceedings throughout the whole kingdom, directed to the subversion of the monarchy, and destruction of the King.

All that can be said upon such a case is, first, that dependence must be had upon the sacred trust of the Legislature, not without urgent necessity to adopt such a proceeding, and carefully to consider the fair result of the evidence, when made the foundation of an Act of Parliament; and secondly, that the British constitution provides for the safety of all who have the happiness to live under its protection, by giving to twelve men, to be taken from the mass of the people, the privilege and the duty to sit in judgment upon all that the authority of Parliament may have decided to be the fact, *and all that the learning of the Judges may consider to be the application of the* law.

In that respect, whatever may be the merits of this case, and whatever, amidst the variety of judgments in a free country, may be the prevailing opinion concerning it, the trial by Jury must ever be dear to Englishmen.—The verdict of Acquittal, instead of giving encouragement to whatever spirit of sedition might have existed at that period, produced an universal spirit of content and confidence in the people. Nothing indeed could more properly excite such sentiments, than so memorable a proof of safety under the laws.

SESSION HOUSE IN THE OLD BAILEY,

Saturday, October 25th, 1794.

PRESENT,

Lord Chief Justice EYRE;
Lord Chief Baron MACDONALD;
Mr. Baron HOTHAM;
Mr. Justice BULLER;
Mr. Justice GROSE;
And others His Majesty's Justices, &c.

THOMAS HARDY, JOHN HORNE TOOKE, JOHN AUGUSTUS BONNEY, STEWART KYD, JEREMIAH JOYCE, THOMAS HOLCROFT, JOHN RICHTER, JOHN THELWALL, and JOHN BAXTER, were arraigned, and severally pleaded Not guilty.

The Indictment charged, that the Prisoners, being subjects of our Lord the King, not having the fear of God in their hearts, nor weighing the duty of their allegiance, but being moved and seduced by the instigation of the devil, as false traitors against our said Lord the King, their supreme, true, lawful, and undoubted lord, and wholly withdrawing the cordial love and true and due obedience which every true and faithful subject of our said Lord the King should and of right ought to bear towards our said Lord the King, and contriving, and with all their strength intending, traitorously to break and disturb the peace and common tranquillity of this kingdom of Great Britain, and to stir, move, and excite insurrection,

rebellion, and war against our said Lord the King within this kingdom, and to subvert and alter the legislature, rule, and government now duly and happily established in this kingdom, and to depose our said Lord the King from the royal state, title, power, and government of this kingdom, and to bring and put our said Lord the King to death, on the first day of March, in the thirty-third year of the reign of our Sovereign Lord the now King, and on divers other days and times, maliciously and traitorously, with force and arms, &c. did amongst themselves, and together with divers other false traitors, to the said Jurors unknown, conspire, compass, imagine, and intend to stir up, move, and excite insurrection, rebellion, and war against our said Lord the King, within this kingdom of Great Britain, and to subvert and alter the legislature, rule, and government now duly and happily established within this kingdom of Great Britain, and to depose our said Lord the King from the royal state, title, power, and government of this kingdom, and to bring and put our said Lord the King to death. And that to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they, with force and arms, maliciously and traitorously did meet, conspire, consult, and agree among themselves, and together with divers other false traitors, to the said Jurors unknown, to cause and procure a convention and meeting of divers subjects of our said Lord the

King to be assembled and held within this kingdom, with intent and in order that the persons to be assembled at such convention and meeting should and might wickedly and traitorously, without and in defiance of the authority, and against the will of the Parliament of this kingdom, subvert and alter, and cause to be subverted and altered, the legislature, rule, and government now duly and happily established in this kingdom, and depose and cause to be deposed our said Lord the King from the royal state, title, power, and government thereof. And further to fulfil, perfect, and to bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, and in order the more readily and effectually to assemble such convention and meeting as aforesaid, for the traitorous purposes aforesaid, and thereby to accomplish the same purposes, they, together with divers other false traitors, to the Jurors unknown, maliciously and traitorously did compose and write, and did then and there maliciously and traitorously cause to be composed and written, divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings, and did then and there maliciously and traitorously publish, and did then and there maliciously and traitorously cause to be published, divers other books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings, the said books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings so respectively composed, written, published, and caused to be composed, written,

and published, purporting and containing therein, among other things, incitements, encouragements, and exhortations to move, induce, and persuade the subjects of our said Lord the King to choose, depute, and send, and cause to be chosen, deputed, and sent, persons as delegates, to compose and constitute such convention and meeting as aforesaid, to be so holden as aforesaid, for the traitorous purposes aforesaid. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, and in order the more readily and effectually to assemble such convention and meeting as aforesaid, for the traitorous purposes aforesaid, and thereby to accomplish the same purposes, they did meet, consult, and deliberate among themselves, and together with divers other false traitors, to the said Jurors unknown, of and concerning the calling and assembling such convention and meeting as aforesaid, for the traitorous purposes aforesaid, and how, when, and where such convention and meeting should be assembled and held, and by what means the subjects of our said Lord the King should and might be induced and moved to send persons as delegates to compose and constitute the same. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compasings and imaginations aforesaid, and in order the more readily and effectually to assemble such convention and meeting as aforesaid, for the traitorous purposes aforesaid, and thereby to

accomplish the same purposes, maliciously and traitorously did consent and agree that the said Jeremiah Joyce, John Augustus Bonney, John Horne Tooke, Thomas Wardle, Matthew Moore, John Thelwall, John Baxter, Richard Hodgson, one John Lovett, one William Sharp, and one John Pearson, should meet, confer, and co-operate among themselves, and together with divers other false traitors, to the Jurors unknown, for and towards the calling and assembling such convention and meeting as aforesaid, for the traitorous purposes aforesaid. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they maliciously and traitorously did cause and procure to be made and provided, and did then and there maliciously and traitorously consent and agree to the making and providing of divers arms and offensive weapons, to wit, guns, muskets, pikes, and axes, for the purpose of arming divers subjects of our said Lord the King, in order and to the intent that the same subjects should and might unlawfully, forcibly, and traitorously oppose and withstand our said Lord the King in the due and lawful exercise of his royal power and authority in the execution of the laws and statutes of this realm, and should and might unlawfully, forcibly, and traitorously subvert and alter, and aid and assist in subverting and altering, without and in defiance of the authority and against the will of the Parliament of this kingdom, the legislature, rule, and govern-

ment now duly and happily established in this kingdom, and depose, and aid and assist in deposing, our said Lord the King from the royal state, title, power, and government of this kingdom. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they with force and arms maliciously and traitorously did meet, conspire, consult, and agree among themselves to raise, levy, and make insurrection, rebellion, and war within this kingdom of Great Britain, against our said Lord the King. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they maliciously and traitorously did meet, conspire, consult, and agree amongst themselves, and together with divers other false traitors, to the Jurors unknown, unlawfully, wickedly, and traitorously to subvert and alter, and cause to be subverted and altered, the legislature, rule, and government now duly and happily established in this kingdom, and to depose and cause to be deposed our said Lord the King from the royal state, title, power, and government of this kingdom. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, and in order the more readily and effectually to bring about such subversion, alteration, and deposition as last aforesaid, they maliciously and traitorously did prepare and compose, and did then and there mali-

ciously and traitorously cause and procure to be prepared and composed, divers books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, and did then and there maliciously and traitorously publish and disperse, and did then and there maliciously and traitorously cause and procure to be published and dispersed, divers other books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, the said several books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings so respectively prepared, composed, published, dispersed, and caused to be prepared, composed, published, and dispersed, as last aforesaid, purporting and containing therein (amongst other things) incitements, encouragements, and exhortations, to move, induce, and persuade the subjects of our said Lord and King to aid and assist in carrying into effect such traitorous subversion, alteration, and deposition as last aforesaid, and also containing therein (amongst other things) information, instructions, and directions to the subjects of our said Lord the King, how, when, and upon what occasions the traitorous purposes last aforesaid should and might be carried into effect. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they did maliciously and traitorously consent and agree to the procuring and providing arms and offensive weapons, to wit, guns,

muskets, pikes, and axes, therewith to levy and wage war, insurrection, and rebellion against our said Lord the King within this kingdom, against the duty of their allegiance, against the peace of our said Lord the now King, his crown and dignity, and against the form of the statute in that case made and provided.

Mr. Attorney General stated to the Court, that he had been informed by the Counsel for the Prisoners, it was their wish the Prisoners should be tried separately. It was therefore his intention to proceed first on the trial of Thomas Hardy.

At the request of the Prisoners' Counsel, the Court adjourned to Tuesday, October the 28th.

On Tuesday the 28th of October, the Attorney General opened the case for the Crown against the Prisoner Thomas Hardy, in the following Speech.

MAY IT PLEASE YOUR LORDSHIP AND GENTLEMEN OF THE JURY,

In the course of stating what I have to offer to your most serious attention in this great and weighty cause, affecting, as it certainly does, the dearest interests of the community, affecting, as you will remember throughout this business, every interest which can be valuable to the Prisoner at the bar, I shall have frequent occasion to call that anxious attention to the

different parts of the Indictment which has just been opened to you. I forbear to do so at this moment, because I think that attention will be more usefully, both with respect to the public, and to the Prisoner, given and required in another part of what I am to address to you.

Gentlemen, the Prisoner, who is before you, stands charged (to state the Indictment generally) with the offence of compassing His Majesty's death; he was committed, upon that charge, by His Majesty's Privy Council: I will explain to you presently why I state this and the following facts. In consequence of the apprehension of this Prisoner, of several others charged by this Indictment, and of others, whose names do not occur in this Indictment, proceedings of some notoriety were had in Parliament, and an Act passed, empowering His Majesty to detain such persons as he suspected were conspiring against his government. That Act has asserted, that a traitorous and detestable conspiracy had been formed for subverting the existing laws and government of the country, and for introducing that system of anarchy and confusion, which had so fatally prevailed in France; the Act, upon the spur of the emergency, which it contemplated, authorized the detention without bail, mainprize, or discharge, of the persons then in prison for high treason, or treasonable practices, or who should afterwards be committed, for high treason or treasonable practices, by warrants from the Privy Council or Secretary of State, until the first of February 1795.

Gentlemen, this measure, which did not suspend the operation of the Habeas Corpus Act, that great palladium of English liberty, but with reference to particular persons, under particular commitments, for particular offences, is a measure never adopted in this country by Parliament but in cases, in which it is understood, after giving all possible attention to secure the right of the subject from being broken in upon, to be of the last possible necessity, and which has been repeatedly put in force, in the best of times, in such cases, where the wisdom of Parliament apprehended that it was matter of their duty to provide that the nation should part with its liberty for a while, that it might not lose it for ever.

Gentlemen, appearing before you this day in discharge of that duty, which I have been commanded to execute, and the execution of which appears to me to be absolutely necessary, you will collect from the fact that I do appear here this day, that, according to the true constitutional meaning of such an Act of Parliament, it is not that the trial of such persons shall be delayed during the period of the suspension of the Act, but that the Act shall, with reference to the time of trial, be allowed, in the right execution of it, an operation only to that extent, in which the due consideration of the public safety, tempered with a due attention to the liberty of the individual subject, may require.

Gentlemen, the proceedings of the Legislature having been such as I have stated to you, His Ma-

jesty, constitutionally advised in the exercise of his duty, as the great conservator of the public peace, directed a commission to issue to inquire whether any such treasons, as the presumption of such a traitorous conspiracy must necessarily suppose to have existed, had been committed by any persons, and by whom. In the execution of the duties of that commission, a Grand Jury of this county, upon their oaths, have declared that there is ground of charge against the person at the bar, and against others, sufficient to call upon them, in a trial to be had before you, their country, to answer to an accusation of high treason, in compassing His Majesty's death.

Gentlemen, I have stated these circumstances, that I may convey to you, in as strong terms as I can express it, this observation, that, as the proceedings of Parliament ought to have had (and I am persuaded, from the deliberation which they gave the subject, that they had) no influence upon the judicial mind of the Grand Inquest, neither ought these proceedings to affect your inquiries, or to induce you to any determination, which you are to make upon the issue, which you are now sworn to try.

Gentlemen, there is no one circumstance of any proceedings before Parliament, with reference to which you ought to suffer yourselves to be influenced in the trial of this issue. It is obvious that such proceedings, as were had in Parliament, providing for great emergencies, may be required and autho-

rized by the genuine spirit of the constitution, even in cases in which a Grand Jury might not, upon any thing that could be offered to their consideration, be justified in finding a bill: it is much more obvious, that, in a proceeding before you, a consideration of the wisdom and propriety of the acts of the Legislature is not called for.

You therefore, Gentlemen of the Jury, will consider the Prisoner as standing before you in full possession of an absolute right to the presumption of innocence, notwithstanding he is charged with guilt by this Indictment, as you will hear, except so far as that presumption is met by the single simple fact, that he has been accused by a Grand Jury of his country.

Gentlemen, before I conclude these general observations, you will permit me to say, on the other hand, that, if there has been any thing that has fallen under your observation, by act or publication—any attempt to make any impression upon the minds of those who are this day impannelled to try this great cause, to disparage that advice, which, under the most responsible sanction, may be given you in matter of law, to work in your minds any prejudice either against the Prisoner, or on the Prisoner's behalf; on the one hand I am perfectly sure that your integrity will be security to the public, that you will not permit any attempt of that kind to have any operation: on the other hand, Gentlemen of the Jury, I am equally sure that I need not ask from an English Jury,

that they would permit no such attempt to prejudice them against the Prisoner at the bar,—no, not even an injudicious or ill-executed attempt, to influence them in his favour.

Gentlemen, in order to understand the law of treason, and the Indictment, I shall take the liberty first to state to you the character which I apprehend the King, for the protection of whose person and government the statute in question was made, has in the state and constitution of this country.

Gentlemen, the power of the State, by which I mean the power of making laws, and enforcing the execution of them when made, is vested in the King; enacting laws, in the one case, that is, in his legislative character, by and with the advice and consent of the Lords Spiritual and Temporal, and of the Commons in Parliament assembled, assembled according to the law and constitutional custom of England; in the other case, executing the laws, when made, in subservience to the laws so made, and with the advice, which the law and the constitution have assigned to him in almost every instance, in which they have called upon him to act for the benefit of the subject. The King's authority, under the check of constitutional and legal provisions and limitations, convenes and regulates the duration and existence of Parliament, convening those whom, according to the law and custom of the country, he is bound to convene. The King, in his Parliament, sitting in his royal political capacity, and the Lords and Com-

mons there assembled, form the great body politic of the kingdom, by which is exercised sovereign authority in legislation. Gentlemen, whilst the present law, the present constitution, and present government of Great Britain, exist, no law can be made but by that authority; no legislative power can be created against the will, and in defiance, of that authority. Whether in any, or in what circumstances, an attempt to create such a power is a treason forbidden by the statute of the 25th of Edward III. I propose to examine presently.

Gentlemen, as in the King the power of legislation is vested, as well as the executive power of the state, to be exercised with consent and advice, to be exercised according to those laws, which are the brithright and inheritance of the subject, having upon him the care and protection of the community; to him, in return, the allegiance of every individual is, according to the law of England, due; that allegiance, by which the subject is bound, in the language of the statutes of this country, "to defend him "against all traitorous conspiracies and attempts "whatsoever, which shall be made against his per-"son, his crown, or his dignity."

Gentlemen, to ascertain to whom this care and protection is committed—to ascertain to whom this allegiance is due, the breach of which, according to the venerable Lord Hale, constitutes high treason, is necessary to the peace of the community—to ascertain and to define accurately what constitutes a

breach of that allegiance, is essentially and absolutely necessary to the security of all that our ancestors have claimed, demanded, and insisted upon, as the ancient, undoubted rights and liberties of our country.

Gentlemen, the former of these objects is secured by the law and constitutional custom of England; that law, which alike secures to you every right, whether it be a right of person, or of property. It has made the crown, which His Majesty wears, hereditary (and I beg your attention to that), subject to limitation by Parliament. The latter object has been most anxiously secured by the statute referred to in the Indictment, which brings forward the charge, the truth of which you are now to try.

Gentlemen, the King having this hereditary crown, the law and constitution have also ascertained his duties—those duties, which it is incumbent upon him to execute, for the benefit of the subject, in the execution of which duties they have aided him with counsel, and in consideration of which duties they have clothed him with dignity, and vested him with high prerogatives. With respect to the duties of the King, they attach upon him the instant he becomes such; from the moment that his title accrues, in the same instant the duty of allegiance (the breach of which is high treason) attaches to it; he recognises these as his duties in that oath, to which, throughout this business, I must again call your attention, in that oath which he is bound to take

upon him, at his coronation, to promise and swear "to govern the people of this country," mark the words, Gentlemen, "*according to the statutes in "Parliament agreed upon, and the laws and customs "of the same*; that to his power he will cause law "in justice and mercy to be administered; that he "will maintain the laws of God and the true profes- "sion of religion established by law."

Gentlemen, this oath, stated by that great and venerable constitutional Judge, Mr. Justice Foster, to be a solemn and a public recognition, not only of the duties of the King, but of the fundamental rights of the people, imposeth upon him (and throughout this case it cannot be too strongly recollected that it imposeth upon him) the most sacred obligation to govern according to the laws and statutes *in Parliament* agreed upon, according to the laws and customs *of the same*, and no other.

Gentlemen, addressing this Court, which is a court of law, in which you, the Jury, are sworn to make a true deliverance according to the law of England, can I impress it too strongly that it cannot be supposed by possibility—not by possibility—that the King can, consistently with his oath, and with the antecedent duty recognised in the explicit engagement, the terms of which you have heard, either act, or permit himself to act, as King, according to any rules of government, formed by any bodies of men, assuming any character, functions, or situations, those rules of government being meant to

operate as laws, *the statutes agreed upon in Parliament, and the laws and customs of the same, only excepted?*

Gentlemen, it seems to me to follow, as a necessary conclusion from the reasoning, to be addressed to a court of law, not only that those, who conspire to remove the King out of the government altogether, but that those, who conspire to remove him, unless he will govern the people according to laws, which are not statutes in Parliament agreed upon, and the laws and customs of the same, or as the head of a government, framed and modified by any authority, not derived from that Parliament, do conspire to depose him from *that royal state, title, power, and government, which the Indictment mentions*, and to subvert and alter the rule and government *now established* in these kingdoms. He *ought not* so to govern—I say he cannot so govern—he is bound to resist such a project at the hazard of all its consequences; he must resist the attempt; resistance necessarily produces deposition, it endangers his life.

Gentlemen, to that King, upon whom these duties attach, the law and constitution, for the better execution of them, have assigned various counsellors, and responsible advisers: it has clothed him, under various constitutional checks and restrictions, with various attributes and prerogatives, as necessary for the support and maintenance of the civil liberties of the people: it ascribes to him sovereignty, imperial dignity, and perfection: and because the rule and government, as established in this kingdom, cannot

exist *for a moment* without a person filling that office, and able to execute all the duties from time to time, which I have now stated, it ascribes to him also that he never ceases to exist. In foreign affairs, the delegate and representative of his people, he makes war and peace, leagues and treaties: in domestic concerns, he has prerogatives, as a constituent part of the supreme legislature; the prerogative of raising fleets and armies: he is the fountain of justice, bound to administer it to his people, because it is due to them; the great conservator of public peace, bound to maintain and vindicate it; every where present, that these duties may no where fail of being discharged; the fountain of honour, office, and privilege; the arbiter of domestic commerce, the head of the national church.

Gentlemen, I hope I shall not be thought to mispend your time in stating thus much, because it appears to me that the fact, that such is the character, that such are the duties, that such are the attributes and prerogatives of the King in this country (all existing for the protection, security, and happiness of the people in an established form of government), accounts for the just anxiety, bordering upon jealousy, with which the law watches over his person—accounts for the fact that, in every indictment, the compassing or imagining his destruction, or deposition, seems to be considered as necessarily co-existing with an intention to subvert the rule and government established in the country: it is a purpose to

destroy and to depose *him*, in whom the supreme power, rule, and government, under constitutional checks and limitations, is vested, and by whom, with consent and advice in some cases, and with advice in all cases, the exercise of this constitutional power is to be carried on.

Gentlemen, this language, the tenour and charge of every indictment, is most clearly expressed by Lord Hale, when he says that high treason is an offence more immediately against the *person* and *government* of the King: I cannot state it more strongly to you, or from an authority, the authenticity of which will be less questioned by those who are to defend the Prisoner at the bar, than when I state to you the language of one of the counsel for Lord George Gordon upon the last trial for high treason; indeed it is no more than what follows the law of England, as delivered by all those great lawyers, whose authority, I am persuaded, will not be attempted to be shaken in the course of this trial, when it states this principle thus:—"To compass or imagine "the death of the King, such imagination or pur- "pose of the mind, visible only to its great Author, "being manifested by some open act, an institution "obviously directed not only to the security of his "natural person, but to the stability of the govern- "ment, the life of the Prince being so interwoven "with the constitution of the state, that an attempt "to destroy the one is justly held to be a rebellious "conspiracy against the other."

Gentlemen, it will be my duty to state to you presently what is in law an attempt against the life of the King. It seems, therefore, that when the ancient law of England (and I would beg your attention to what I am now stating to you), that when the ancient law of England was changed, which, even in the case of a subject, held the intent to kill homicide, as well as, in the case of the King, the intent to kill or depose, without the fact, where a measure was taken to effectuate the intent, treason, with a difference however as to the nature of the acts deemed sufficient, in the one case, or in the other, to manifest the one or the other intent, that, to use the words of a great and venerable authority, I mean Mr. Justice Foster, "it was with great propriety that the statute of treason retained the rigour of the law in its full extent in the case of the King. In the case of him," says he, "whose life must not be endangered, because it cannot be taken away by treasonable practices, without involving a nation in blood and confusion: levelled at him, the stroke is levelled at the public tranquillity."

Gentlemen, that it may be fully understood what it is that I have to contend for in the course of this trial, I put you in mind again that I have before stated, that, as it is absolutely necessary to the security of individuals, not less necessary to the security of individuals, than it is necessary to the security of the nation which they compose, that the person and

government of the King should be thus defended; on the other hand, for the security of the subject, it is equally necessary that the crime of high treason should not be indeterminate, that it should not be unascertained, or undefined, either in the law itself, or in the construction to be made of that law.

Gentlemen, this necessity is not to be collected merely in this country from reasoning, though it may obviously enough be collected from reasoning; the experience of your ancestors has informed you, I admit it, and I beg to press it upon your attention, as much as any man in this Court can press it upon your attention, the experience of your ancestors has informed you, in the just and bitter complaints which are to be found in their annals, of the periods, in which no man knew how he ought to behave himself, to do, speak, or say, for doubt of pains of treason,—in the anxiety with which the statute of Edward III. reserved the judgment of all treasons not there expressly specified—"that the justices should tarry without going to judgment of the treason, till the cause be showed and declared before the King and his Parliament;"—in the expressive language, which our ancestors have used, when the provisions of the statute of Edward were first introduced into the code of law under which we live, and of those statutes, by which treasons were brought back to the provisions of that statute, the experience of your ancestors, thus handed down to you, has demonstrated this necessity. I admit too (and my treating the

subject thus in the outset may ultimately save your time), that before the statute was made, upon which the Indictment proceeds, the security of the subject was not sufficiently provided for. I admit that security is not sufficiently provided for now, if construction can be allowed to give an exposition to the statute, which the Legislature did not intend it should receive.

Gentlemen, upon each of these heads it was necessary for me to trouble you with some, and but with a few observations.

That the law of treason should be determinate and certain, though clearly necessary for the security of the subject, is not more necessary for their security, than that there should be a law of treason, and that this law should be faithfully, duly, and firmly executed.

Gentlemen, every state must have some form or regimen of government; in other words, it must determine by whom, and under what modifications, the sovereign power is to be exercised in the country; for no government can exist, unless this power is placed somewhere: and the attempt to subvert that power is, in the nature of the thing, an attempt to subvert the established government. It is of necessity that an attempt of this sort should be guarded against, by severer penalties than offences, which being breaches of particular laws, do not endanger the very existence of the state itself, which do not involve, in the destruction of the state, the

destruction of all laws, but which leave the law, though violated in particular cases, sufficient, in general cases, for the protection of the personal security, the liberty and happiness of the subject.

Gentlemen, this is also the reasoning of that great Judge, whose name I before mentioned to you, my Lord Hale:—"The greatness of the offence," he says, "and the severity of the punishment is upon "these reasons:—First, because the safety, peace, "and tranquillity of the kingdom is highly concerned "in the safety and preservation of the person, dig- "nity, and government of the King, and therefore "the laws of the kingdom have given all possible "security to the King's person and government, "and under the severest penalties."

Gentlemen, to describe this great offence with precision and accuracy, was what the Legislature in Edward's time proposed, when they enacted the sacred statute, upon which this Indictment is founded; that statute was made for the more precise definition of this crime, which, by the common law, had not been sufficiently extended, and "the plain unex- "tended letter of it," you will mark the words, "the plain unextended letter of it was thought to be "a sufficient protection to the person and honour "of the Sovereign;" but not only to the person and honour of the Sovereign, but "*an adequate security* "*to the laws committed to his execution.*"

Gentlemen, in addressing a Jury in a court of law, sworn to make deliverance according to that law

which constitutes the court in which they sit, there are two propositions, which appear to me to be alike clear:—the first is, that I ought not, that I cannot dare to call upon you to say, that there has been committed under this statute any offence, if the facts of the case to be laid before you, by plain, manifest, authorized interpretation of the statute, do not constitute an offence under it—if the statute should seem to any man, or to you, not to be a sufficient and adequate security to the person and honour of the Sovereign, and the due execution of the laws, it is nevertheless all the security which the law has authorized you to give them, and God forbid that you should think of giving more. On the other hand, you are bound by your oaths, if this law has been violated in fact, if the fact of violation is proved by evidence, convincing in its nature, and such in its form, as the law requires (for the law in this case requires not only convincing, but formal evidence), then you are bound to give to the person and honour of the Sovereign, and to the laws of your country, that protection, which a verdict, asserting in substance that the statute has been violated, would give, and which the statute intended should be given.

Gentlemen, men of honour and of conscience, acting under the sanction of the oath they have taken, must come to the same conclusion, judging of the same facts, by the same law, whatever their principles of government may be, unless they differ

upon the effect of facts laid before them. In the trial of a person, whose name I shall have abundant reason to mention to you in the course of this proceeding, I mean the author of the Rights of Man, charged with a libel against the monarchy of the country, it was judiciously, truly, justly, and strongly admitted in effect, that, if the Jury had been composed (if there are twelve such men in this country) of republicans, wishing to overturn the government of the country, yet administering the law of England, in a court of English law; if they were convinced that the crime had, alluding to that law, been committed, no man would have the audacity to say they could be capable of that crime against the public, to think for a moment of not coming to the conclusion, which the facts called for, according to the law by which they were sworn to decide upon the matter before them.

Gentlemen, the statute upon which this Indictment proceeds, is to the following effect—it states (and it states most truly), "That divers opinions "had been had before this time," that is, the 25th Edward III. "in what case treason should be said, "and in what not; the King, at the request of the "Lords and of the Commons, hath made a declaration in the manner as hereafter followeth, that "is to say, when a man doth compass or imagine "the death of our Lord the King, or of our Lady his "Queen, or of their eldest son and heir; or if a "man do violate the King's companion, or the King's

" eldest daughter, unmarried, or the wife of the " King's eldest son and heir; or if a man do levy " war against our Lord the King in his realm, or be " adherent to the King's enemies in his realm, giv- " ing to them aid and comfort in the realm or else- " where, and thereof be provably attainted"—by which words I understand be attainted by evidence, that clearly and forcibly satisfies the minds and consciences of those who are to try the fact—" attainted " of open deed by people of their condition,"—then there is this, to which you will be bound to give your attention for the sake of the Prisoner, as well as for the sake of the public, the interests of both being blended in this great cause;—" and because that " many other like cases of treason may happen in " time to come, which a man cannot think nor " declare at this present time, it is accorded that, " if any other case, supposed treason, which is not " above specified, doth happen before any justices, " the justices shall tarry without any going to judg- " ment of the treason till the cause be showed and " declared before the King and his Parliament, whe- " ther it ought to be judged treason, or other " felony."

Gentlemen, I desire to point out here, in the most marked way in which I can state it, the anxiety, with which the Parliament wished to preserve to itself the judgments of treasons, not being the specified treasons in the statute, but being like treasons, those which, by a parity of reasoning, might be said to be

treason. They would not trust the subjects of the country in the hand of any court of justice upon that point. I mark the circumstance, because it appears to me to give a degree of authority to the law of England upon the subject of treason, and to the constructions, which have been made upon it, and to the distinctions, which have been made between like treasons, and overt acts of the same treason, that perhaps does not belong to constructions and distinctions adopted in the course of judicial proceedings upon any other law in the statute-book.

Gentlemen, having read the statute to you, it is not unimportant, as it seems to me, to observe that Lord Hale and Mr. Justice Foster, who have stated the judicial and other expositions of this statute, have stated them, and have expounded the statute, under the weighty caution, which they most powerfully express: under the solemn protests, which they most strongly state, against extending this statute by a parity of reason. This circumstance alone appears to me to give infinite authenticity to the expositions, which they state of it, as sound, and as being such as, according to the interpretation, which the legislature in Edward the Third's time meant, should be put upon this statute.

Gentlemen, I think it may also save your time, and that of the Court, if I trouble you here by reading, before I state to you the expositions of the statute which Lord Hale has given us, deducing them from judgments which had been actually made

in the history of the country, the language which he holds, as describing the obligations, which courts of justice, and men looking at this statute for the purpose of executing it, are under, to construe it according to the real specified meaning, not by a parity of construction as to the reason itself, when they came to construe it.

Lord Hale states it thus—"Although the crime "of high treason is the greatest crime against faith, "duty, and human society, and brings with it the "greatest and most fatal dangers to the government, "peace, and happiness of a kingdom or state, and "therefore is deservedly branded with the highest "ignominy, and subjected to the greatest penalties "that the law can inflict, yet by those instances"—he is stating those that had occurred before the statute of Edward III. and between that and the first of Henry IV.—"yet by those instances, and more "of this kind that might be given, it appears—first, "how necessary it was that there should be some "fixed and settled boundary for this great crime of "treason, and of what great importance the statute "of the 25th of Edward III. was in order to that "end; secondly, how dangerous it is to depart from "the letter of that statute, and to multiply and en-"hance crimes into treason by ambiguous and gene-"ral words—as accroaching of royal power, subvert-"ing of fundamental laws, and the like; and thirdly, "how dangerous it is by construction and analogy to "make treasons, where the letter of the law has not

"done it; for such a method admits of no limits or "bounds, but runs as far as the wit and invention "of accusers, and the odiousness and detestation of "persons accused, will carry men."

In another passage, after having given his comment upon this statute—after having stated what are the overt acts, which fall within the letter of it, and the sound interpretation of it, he says, "It has been "the great wisdom and care of the Parliament to "keep Judges within the bounds and express limits "of this act, and not to suffer them to run out upon "their own opinions into constructive treasons, "though in cases that seem to have a parity of rea-"son *(like cases of treason)*, but reserves them to "the decision of Parliament. This is a great secu-"rity as well as direction to Judges, and a great "safeguard even to this sacred act itself; and there-"fore, as before I observed, in the chapter of levying "of war, this clause of the statute leaves a weighty "memento for Judges to be careful that they be not "over-hasty in letting in constructive or interpretative "treasons, not within the letter of the law, at least "in such new cases as have not been formerly ex-"pressly resolved, and settled by more than one "precedent."

Gentlemen of the Jury, I am persuaded, as those were persuaded who conducted the defence of Lord George Gordon, that we live in days, in which the Judges of the country neither have the inclination nor the courage to stretch the law beyond its limits. I think myself bound to state that; and those, who dare

to state the contrary in any place, do not do the justice to the country, which is due from every individual in it.

Gentlemen, having stated thus much to you, I now state, in order to be perfectly understood, that I do most distinctly disavow making any charge of *constructive treason*; that I do most distinctly disavow stating in this Indictment *any like case of treason* not specified in the statute; that I do most distinctly disavow stating any thing that can be called *cumulative treason*, or *analogous treason*; that I do most distinctly disavow *enhancing any thing, by a parity of reason, into treason, which is not specified in that statute*; that I do most distinctly disavow *enhancing crimes of any kind, or a life spent in crimes*, if you choose so to put it, into treason, if it be not treason *specified in the statute*; and the question between us I state distinctly to be this—Whether the Defendant is guilty of a treason *specified in the statute*, and whether the evidence that is to be brought before you amounts to that proof, that will be satisfactory to your minds and consciences, your minds and consciences being prepared to admit no proof, but what you think you ought to receive under the obligation of an oath, proof high enough that he may be provably attainted of open deed, of a treason specified in the statute.

Then, Gentlemen, to state the charge to you:—The Indictment charges the Defendant with compassing and imagining the King's death, and with having taken measures to effectuate that purpose.—Now, that it may be thoroughly understood, you will

permit me to state to you here, that there is not only a manifest distinction in reason, but a settled distinction in the course of judicial practice, settled for no other cause but that it was a manifest distinction in reason, between—"like cases of treason," constructive, analogous, or cumulative treasons, and various overt acts of the same treason.

Gentlemen, whether the acts laid as overt acts of treasons, specified in the statute, and specified in the Indictment, amount, in all their circumstances, to an open deed, or deeds, by which a person may be provably attainted of the specified treason, is the question which a Jury are to try. To explain myself upon this, I take it to be clear, and I will not, in this stage of the business at least, enter into the discussion of what I call the clear and established law of England, because I will not, in a case of high treason, any more than I would in a dispute about the estate of any gentleman who hears me, for the purpose of arguing points, enter into discussions upon what I take to be the clear and established law of England; and not only the security of the subject in this respect, but the security of the subject in no respect, in his person, his life, or his property, can be taken to exist in this country, if I am not as fully authorized to state to you, with as much confidence, what the law is, in case of treason, from the decisions, which for centuries have been made in courts respecting it, as I am to state to you, from decisions of courts respecting property, what the law of property is; I say I take it to be clear that deposing the

King, entering into measures for deposing the King, conspiring with foreigners and others to invade the kingdom, going to a foreign country to procure the invasion of the kingdom, or proposing to go there to that end, and taking any step in order thereto—conspiring to raise an insurrection, either to dethrone the King, imprison the King, or oblige him to alter his measures of government, or to compel him to remove evil counsellors from him, are, and have all been held, as Mr. Justice Foster says, to be deeds proving an intent to do that treason, which is mentioned in the statute to be overt acts of treason in compassing the King's death.

It would be very extraordinary if these great Judges, Foster and Hale, after holding the language they have stated, were to be represented by any man, as not acting themselves under the effect and influence of that weighty memento, which they held out to those, who were to succeed them in the seat of judgment; yet I state all this to you in the words, in which these learned Judges have handed down the exposition of the statute, who would have suffered death, for they both valued the liberties of their country, before they would have charged "a like "case of treason" in an Indictment; and yet they have concurred (as all the Judges of England have done, and the Parliament into the bargain) in the construction and exposition of the statute (and in fact executions have been made upon it), that all these things are overt acts of the same treason, that is specified in the statute. What is the reason of it?

because the law holds that he, who does an act, meaning to do it, which may endanger the King's life, compasses and imagines the death of the King, if he does an act which may endanger his life, if, in the ordinary course of things, and according to the common experience of mankind, the measure which he takes, in pursuance of a purpose to take it, will bring the King to his grave.

This therefore is not raising constructive treason, it is not raising treason by analogy, it is not stating "like cases of treason" not specified in, but reserved by the statute to the judgment of Parliament, but it is stating overt acts, which are measures taken in pursuance of treasonable purposes, which measures must necessarily be as various in their kinds, as the ways and means, by which, in facts and open deeds, taken in pursuance of its purposes, the human heart manifests its intent to commit some one or other of the treasons specified in the statute.

Gentlemen, the reserving clause in the act is extremely material; and, if courts and juries have done wrong in the manner in which they have executed this statute, if the interpretations, which they have made of the statute, are not right, they have done it against a prohibition in the statute, which they were called upon by their oaths duly to expound, and they have done it in the presence and under the eye of that Parliament, which had expressly forbidden them to do it. I say the conclusion upon that is, that they have done it rightly.

. . . . . .

Gentlemen, the judgments of the courts of law are in this country perfectly familiar to Parliament. Acts have been made, over and over again, in order to bring back the expositions of the law to the true construction, to the letter, which is the true construction, in a sound judicial sense, to bring it back again to the statute of Edward III.; but we have lived to this hour without Parliament thinking that they were to make so perfectly a dead letter of the letter of the statute, as that they should say that an overt act, which expressed and imported the imagination of the mind to do the treason specified, should not be taken to be an act of high treason within the statute; because the statute only mentions the thing which is to be compassed and imagined, and does not mention the ways and means, by which the human heart may show and manifest that it does compass and imagine what the statute speaks of.

Gentlemen, this is not all, because this is not only according to the law of England, as it is administered in courts of justice, but also to the proceedings in Parliament, which are a parliamentary exposition, if I may so state it, of the law. Proceedings in Parliament have been had, where the statute has been thus construed, and where this distinction that I am stating between overt acts of the specified treason and the "like cases of treason," has been expressly taken, expressly acted upon, proposed by one House of Legislature to the other House, and acted upon by the Crown in executing the sentences of that House.

Gentlemen, the distinction then is only this—" a " like case of treason" is a case of treason not specified in the statute, a case of the like mischief, as a case specified in the statute; but the identical case specified in the statute must be before you, or, to avoid all dispute upon the subject, I say, if it is a case that is not specified in the statute, it is a case that must be shown to Parliament according to the directions of the statute; but that facts alike in their nature, that open deeds alike in their nature and tendency, however various in their circumstances, may prove the same intention to exist in the minds of those who do them, and may be measures, taken in pursuance of the same purpose, and to effectuate the same thing, is a distinction that appears to my mind to be perfectly obvious.

Gentlemen, I conceive, therefore, that the question of compassing the King's death is this—whether the Jury are fully satisfied, conscientiously satisfied, that they have that evidence, by which they find that the acts, laid as overt acts of compassing the particular specified treason mentioned in the Indictment, were measures taken in pursuance of and to effectuate that treason, specified at once in the statute and in the Indictment.

Gentlemen, I protest for myself I am sorry to trouble you thus much at large by general reasoning, but you will find that it has an application, and a close application to the case. This is an important public cause, and therefore we should be thoroughly understood. I cannot understand what constructive

overt acts mean, though I do understand constructive treasons. Levying war against the King, not against his person, but against his royal majesty, is constructive treason; that is, if men assemble together without any intent to do an act, which in the natural consequence of things will affect the King's life, such as pulling down all prisons or houses of any other description, that is constructive treason; it being, by construction, as Mr. Justice Foster says, against the King's royal majesty, not levied against his person; not one of the acts of a more flagitious kind, wilfully done or attempted to be done, by which the King's life may be in danger, but which are levelled against his royal majesty; these have by construction been held to be treason: but even these the Legislature has never considered as not authorized by the letter of the statute; these they have permitted to be proceeded upon in the country as sound decisions and constructions upon the act of Parliament: many have been convicted upon them; execution hath followed; and no one hath ever doubted either the law or the justice of these determinations. But, as to constructive overt acts of compassing and imagining the death of the King, where the Indictment lays the imagining and compassing as the offence, the overt act is not constructive, the step taken to effectuate it must be such an act, wilfully and deliberately done, as must satisfy the conscience of a Jury, that there was an intention, by deposing, or otherwise, to put the King in cir-

cumstances, in which, according to the ordinary experience of mankind, his life would be in danger.

Gentlemen, I have before stated to you, for another purpose, various acts, which are overt acts of compassing the King's death. I will repeat them shortly: "Deposing him,—entering into measures "to depose him,—conspiring to imprison him,"—which you observe is an act that may be done without an actual intent to put him to death,—a man may conspire to imprison the King without an actual intent to put him to death, but you will find the reason why that is held to be compassing and imagining the death of the King, with the sanction of all times since this statute of Edward III. and with the sanction of every species of judicial authority, which the country could give; "to get his person "into the power of conspirators"—Why is all this treason? "Because," says Mr. Justice Foster, "the "care, which the law hath taken for the personal "safety of the King, is not confined to actions or "attempts of a more flagitious kind, such as attempts "either to assassinate, or to poison, or other at-"tempts, directly and immediately aiming at his life; "it is extended to every thing, wilfully and delibe-"rately done, or attempted, whereby his life may "be endangered; and therefore the entering into "measures for deposing, or imprisoning him, or to "get his person into the power of the conspirators, "these offences are overt acts of treason within this "branch of this statute; for experience hath shown

" that between the prisons and the graves of kings " the distance is very small," and experience has not grown weaker upon this subject in modern times: offences, which are not so personal as those already mentioned, have been, with great propriety, brought within the same rule, as having a tendency, though not so immediate, to the same fatal end.

Lord Hale, upon this, says, " Though the con- " spiracy be not immediately, and directly, and ex- " pressly the death of the King, but the conspiracy " is of something that in all probability must induce " it, and the overt act is of such a thing as must in- " duce it, this is an overt act to prove the com- " passing the King's death." The instance he gives, as expository of his text, is this: " If men conspire to " imprison the King by force and a strong hand till " he hath yielded to certain demands, and for that " purpose gather company or write letters, this is an " overt act to prove the compassing of the King's " death." What is the reason? he gives the same in substance, though different in the terms of it, as that which has been assigned by Mr. Justice Foster: " for it is in effect to despoil him of his kingly go- " vernment." These are the words of Lord Hale; and, though the reasons given by Lord Hale and Mr. Justice Foster are different in words, they are the same in substance. It may be said, with equal truth, between despoiling a king of his kingly government and the graves of kings the distance is very small. Imprisonment is the same as deposition, and he who

compasses the deposition of the King, according to all judicial construction, compasses his death; it is the same as deposition, because it is a temporary despoiling him of his kingly government, which, according to this interpretation of the law, usually ends in death.

Gentlemen, offences not so personal as those enumerated fall within the same rule, as having a tendency to the same fatal end: if foreigners are not at war with you, the offence of going into a foreign country, or proposing to go there, or taking any step thereto in order to invite foreigners into this kingdom for a treasonable purpose, can only fall within that branch of treason of compassing the King's death: if they are at war with you, then the same act amounts to another species of treason, which is an "adhering to the King's enemies;" and perhaps you will find that the case I have to state is not without pregnant evidence of this species of overt act.

Gentlemen, having stated thus much to you, I proceed now to consider the Indictment; and what I have stated, before I mentioned the substance of the Indictment, I have stated to lay in my claim to full credit with you, when I say, that no man living can wish to express to you more strongly than I wish to do (we have indeed, each of us, as great an interest in the true construction of this law, as any other man can have in it), that the law of treason, in considering the charge, that I have brought before you

under the command that has authorized me to bring it here, must not be extended one single iota beyond what is the established law in this country, as established as the law is, that says that the property, that you bought yesterday, you may give to whom you please to-morrow.

Gentlemen, the Indictment, finding several persons entitled to be tried separately, though indicted jointly, combined in a particular act, which I will state by and by, has charged them with compassing the King's death: it has then proceeded, because the compassing and imagination of the heart cannot be known to man—and there must be an overt act to manifest it—it has charged them with meeting among themselves to cause and procure a convention of divers subjects of the King, to be held within this kingdom, and not only a convention to be held within the kingdom, but to be held *with intent and in order that the persons to be assembled at such convention and meeting should and might, wickedly and traitorously, without and in defiance of the authority, and against the will of the Parliament of this kingdom, subvert and alter the legislature, rule, and government established in it, and depose the King from the royal state, title, power, and government thereof.*

It then charges them with having composed, written, and published, and caused to be composed, written, and published, divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses and writings, such books, pamphlets, letters, instructions, resolutions, orders, declarations,

addresses and writings, so respectively composed, written, published, and caused to be composed, written, and published, purporting and containing therein (among other things) incitements, encouragements, and exhortations, to move, induce, and persuade the subjects of the King to choose, deputé, and send persons, as delegates, to compose, not a convention, but SUCH a convention and meeting, that is, *a convention to act in the manner that the first overt act has stated it, to be holden for the traitorous purposes before mentioned.*

It then states, as a third overt act, consultations among them, how, when, and where, *such* convention and meeting should be assembled and held, and by what means the subjects of the King might be induced and moved to send persons as delegates to constitute it.

It then charges, that these persons did consent and agree, that Mr. Joyce and several other persons named, should meet, confer, and co-operate among themselves, and with other traitors, to cause the calling and assembling *such* convention and meeting for *such traitorous purposes.*

It then charges the providing of arms, of different descriptions, for these purposes; and then it charges a conspiracy to make war in the kingdom, and it charges a conspiracy to subvert and alter the legislature and government of the kingdom, and to depose the King; that is, as I understand it, that, if you should not be satisfied that the calling such a convention, as is mentioned in the first part of the In-

dictment, was a mean to effectuate that compassing and imagination, which is mentioned in the introductory part of the Indictment, yet you will find in the evidence, which is to be laid before you, even if you pay no attention to that circumstance of calling a convention, sufficient evidence *of a conspiracy to depose the King.*

It then states again, that they published several books, and other matters of the same kind, in order to bring about the traitorous purposes *last mentioned*; and charges, as a further overt act, providing arms for that purpose.

Now, Gentlemen, having before stated to you, that a conspiracy to depose the King, and I have not stated it to you in my own words, but in the words of the authorities I mentioned, that a conspiracy to depose the King, that a conspiracy to imprison the King, a conspiracy to procure an invasion, with steps taken to effectuate such a conspiracy (a conspiracy indeed itself being a step for that purpose), is treason, you will observe that, in this Indictment, a conspiracy to depose the King is expressly charged, and, I think, it will be clearly proved. If a conspiracy to depose the King be an overt act of high treason, permit me then to ask you, what can a conspiracy to subvert the monarchy of the country, including in it the deposition of the King, be, but an overt act of high treason? In the object of such a conspiracy the King is necessarily involved, and it is already shown that conspiring to depose him is compassing his death.

Gentlemen, read as you are in the history of the country, give me leave to ask you, if measures had been taken, after the Revolution, to effectuate a conspiracy to dethrone King William, and to restore King James, without all doubt, the measure taken, would have constituted the crime of high treason within the clause of compassing the King's death, although the conspirators could have been shown satisfactorily to have no more meant the actual natural death of King William, than they meant the actual natural death of King James, whom they intended to replace on the throne—but what says the law to that? —the law says you cannot mean to depose the King without meaning to endanger his life; and, if you mean to endanger his life, you must abide the consequences of it.

Put it another way—If the project had been to depose the same King William, and measures had been taken upon it—not with a view to bring back to the throne King James II. but merely to send back King William to his former character of Prince of Orange, and not to restore King James, but to restore a commonwealth, which is, what I think, I shall satisfy you, those, who are charged by this Indictment, meant by "a full and fair representation "of the people," whether you call it "a full and fair "representation of the people *in Parliament*," or do not use the words "in Parliament," can a lawyer be found to say, that it could be stated in law, that it is not high treason? I don't know what may not be

stated—all that I mean to say at present is, that according to the best lights which I can get of the law—under which I have lived, it does not appear to me to be probable, that any man will so state it. Far be it from me, however, to have the vanity to say that (avowing that I should certainly not think of encountering the current authorities of the country for centuries) I am, without the possibility of contradiction, stating that I am following the authorities of the country for centuries; but I am ready to say this, that I cannot conceive or imagine by what species of reasoning, or upon what principle, or upon what authority, it is to be contended, that this would not have been high treason.

Gentlemen, take it another way—If the regicides of King Charles I. had been tried for compassing the death of King Charles I. supposing they had only deposed him, instead of putting him to death, could they have contended, that, though they would have been guilty of high treason, if they had placed another individual upon the throne (which would have been alike to the case I have put, of conspiring to put James in the place of William), could they have contended then, that they were not guilty of high treason, because they deposed the King, without substituting another King in his place, and because they left the government to be filled up by the commonwealth, without a king?

Give me leave to ask another thing—Suppose it had happened after King William came to the

throne, that not those events, that did actually happen, took place, but that any set of men in this country should have ventured to meet in a convention of delegates from affiliated societies, for the purpose of deposing King William, under pretence of assembling a convention of the people, having, or claiming the civil and political authority of the country, and intending to have no king in the country, would it have been possible in King William's time to have contended, because they met, under pretence of being a convention of the people, assuming to themselves civil and political authority, and with such meaning, that the conspiracy was not as completely a compassing the death of King William, as if the conspiracy had been, by the same persons, in the case of affiliated societies, forming the like convention of delegates, to bring King James again to the throne?

If I levy war in this country against the King, with intent to bring another upon the throne, I am guilty of high treason. If I levy war, that is an overt act of compassing the King's death. If I conspire to levy direct war, that is a compassing of the King's death, unless all the branches of the legislature have put a man to death upon an error. If I hold a fortress against the King to put another upon his throne, I am guilty of high treason. Am I guilty of no offence if I do the same acts, not for the purpose of continuing the monarchy of the country in another person, but for the purpose of destroying the mo-

narchy altogether? What is this but doing an act involving in it high treason, and more? High treason in deposing the King! more—in bringing about all that additional anarchy, which we know, which the experience of mankind proves to be consequent upon the change, where the change is not only of the persons who administer the government, but of the government itself, if *destruction* can be called a *change?*

Gentlemen, to assert therefore that measures, taken for a total subversion of the monarchy of the country, including in it an intention to depose the King (mark the words, I state, including in it an intention to depose the King), are not overt acts of compassing the King's death, merely because the statute of Edward III. has not included all overt acts in words, but has left to juries to determine what are overt acts, by which they can provably attaint—to assert that the statute does not include the case, because it is compassing the death of the King, *and more*; if this were to be asserted in a court of justice (what is asserted out of a court of justice no man pays much attention to), I should certainly say of it, that it was the assertion of those who had ill considered the law; and if asserted out of a court of justice, and with a reference to what is to be done in a court o justice, I should say it deserved to have an observation of a harsher kind made upon it.

This Indictment, besides charging a conspiracy to depose the King, in express terms, of which I shall insist before you there is abundant evidence, charges

a conspiracy to call a convention *against the will, in defiance of, and against the authority of Parliament*, for the *purpose of deposing the King*; it charges further acts, namely, that they caused to be composed and written divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings, containing incitements, inducements, and exhortations, to move, seduce, and persuade the subjects of the King to send delegates to *such convention*; as to which I say of many of them, though I did not know their real character till I had seen them all together, that they are both overt acts, and evidence of overt acts of high treason.

Now, before I state to you the particulars of the evidence, I am afraid I must, however painful it is to me to ask so great a portion of your attention, trouble you with some general observations, that I think will have a tendency to render intelligible to you the complicated mass of evidence, which I have to lay before you.

Gentlemen, the convention, meant to be called by those who are charged with the conspiracy in this Indictment, was, as I collect from the effect of the evidence, a convention of persons, who were to assume the character of a convention of the people, claiming, as such, all civil and political authority, proposing to exercise it by altering the government, otherwise than by acts of the present constituted Legislature, otherwise than by those statutes, according to which the King has sworn at the hazard of his life to govern.

Gentlemen, if this is made out, it appears to me to follow necessarily on the part of all who took a step to assemble it, that they are guilty of a conspiracy to depose the King, to depose him from the character, which he holds in the constitution of the sovereign power of this kingdom, as by law established, that law by which I again repeat to you, he is sworn to govern.

Gentlemen, if they conspired to assemble in a convention, which was of its own authority, and against the will of the Legislature, and in defiance of it, to act as an assembly to constitute a government, and to assume so far sovereign power, it is, I conceive, according to the law of England, a conspiracy to depose from the sovereignty him, who, under the restraints of the constitution and the law, now holds that sovereignty. There cannot be two sovereign powers in a state; there may be a complication of authorities vested in a great variety of persons, making up one sovereign power, but there cannot be two sovereign powers in a state: it is impossible. If a meeting assembled, as a convention of the people, arrogating to themselves all civil and political authority as such, and meaning to exercise it, one or other of these consequences must follow: the King and the Parliament must be obedient to the meeting, or the meeting, assembled as a convention, must be obedient to the King and Parliament: if the meeting is to be obedient to the King and Parliament, it cannot effect its purposes; it is impossible: if its pur-

pose be to depose the King, I say, a conspiracy to call such a meeting is an overt act of high treason.

Gentlemen, I beg your attention to my expressions: if the meeting means to oblige the King and Parliament to be obedient to them by the exertion of open force, though it may not effect its purpose, that makes no difference, the law must be the same —I may be wrong perhaps in stating the law, but it appears to me that the law must be the same if the meeting projects the purpose, whether the force of the meeting is sufficient to effect the purpose or not.

This, I say, is a conspiracy to assume the sovereign power: it is a conspiracy therefore of necessity meant to depose the existing power, and of necessity to depose the King. I say meant to depose; for I repeat it, that whether the conspiracy is successful or not, is immaterial.

Gentlemen, though the particular fact of calling such a convention, now alleged as an overt act of treason, may be represented to be new in the history of this country, it is not therefore, and because it is new, only inasmuch as it is more than ordinarily audacious, less an overt act of compassing the death or deposition of the King, if the intent of it was to subvert the sovereign ruling power.

Gentlemen, there is another distinction, which I would beg your attention to. It is of no consequence whether the first meeting, proposed to be assembled, *was designed to be a convention, that should assume all civil and political authority*, or *was only to devise*

the means of forming a constituent assembly, a body, which should assume it; for any act taken towards assuming it against the will, in defiance of, and against the authority of the King and Parliament, and removing him from that situation in the character of sovereign, which he has in this country; any act taken towards the formation of a body, which was to assume such authority, is an act of conspiring the deposition of the King; any act towards convening a national assembly, to act with sovereign power, not formed by the Legislature, is an act done towards deposing the King, who now has, under the restraints of the constitution, and the provisions and limitations of the law, the sovereign power vested in him. You cannot set about organizing a body, which is thus to act, without meaning to depose the King, without meaning to form a body that is to usurp the powers of government.

Gentlemen, I think the evidence, that I shall lay before you, will most abundantly satisfy you that the convention, which the persons charged conspired to form, was a convention to alter the whole form of the sovereign power of this country, that it was to form, or to devise the means of forming *a representative government*—to vest in a body, founded upon universal suffrage and the alleged unalienable, and, as they are called, imprescriptible rights of man, *all the legislative and executive government of the country*; that a conspiracy to this end would be an overt act of high treason, I presume cannot be disputed;

it deposes the King in the destruction of the regal office in the constitution of the state.

Gentlemen, I go further: if it had been intended to have retained the name and office of the King in the country, and to have retained it in the person of the present King, creating, however, by the authority of the intended convention, a new legislature, to act with him, provided they would allow him to act with such new legislature, and thus calling upon him to act against the express obligations of his coronation oath, if he could forget it, it still would have been a conspiracy to depose him from his royal authority, as now established: if he refused to act, he must necessarily be deposed from that authority; if he did accept, he was not the King of England, as he is established by law the King of England. But he could not accept; he could not so govern; he is sworn not so to govern; he must refuse, must resist, and, in consequence of resisting, his life must be in danger.

Take it either way, that persons conspired to form a convention to assume all civil and political authority, as pretending to be a convention of the people (I care not with how much audacity they pretend to be a convention of the people), or to devise the means of constituting such a convention, in order, and with the intent, and against the authority of Parliament, that there should be no King, or in order to the erecting, by their own authority, a new legislature to act together with a King, and together

with *the* King, if they permitted *the present* to be *the King*, I submit that such a conspiracy is an overt act in the true construction of law, and high treason in compassing the King's death. The King must be deposed while such a new constitution was framing; he could not treat with such a convention till he had been deposed; it could be those only, that had sovereign authority, that could frame a constitution: then he is surely, by this, despoiled of his kingly government, even as in a case of temporary imprisonment. I repeat again, that he could not, consistently with his coronation oath, do otherwise than reject it when framed: it must be taken for granted he would reject it; his life, therefore, could not but be in danger. To suppose that such a meeting, which proposed a new constitution, would depart quietly home, and not act, if it was not accepted, is out of the reach of all human credulity; it is not according to the ordinary course and experience of mankind, to suppose that they should meet in numbers, and make no use of their numbers, if the show of them did not produce the effect intended: this is not according to the ordinary course and experience of mankind.

Gentlemen, the King in his Parliament could not be the sovereign power the moment the meeting could act as a national constituting assembly, or could direct, with effect, such an assembly to meet. The power so to act, or to organize with effect such a meeting, that should so act, must *pro tempore* de-

pose every other power. This is the character of a convention of the people, I think, as given in the evidence I have to lay before you. With respect to the Defendant, I think I shall satisfy you he conspired to call such a convention; and that he said that The convention, which I am to call, is irresistible, it is unlimited, it is uncontrollabe, and that by such a convention, my *full and fair representation of the people*, or *a full and fair representation in Parliament* (if you choose to take that expression, for it is not mere expression that determines what men mean), is to be accomplished.

Gentlemen, in the country in which I am speaking, when a vacant throne was given (I am now alluding to the time of King William) by those, who, as they are stated in the Bill of Rights, represented all the estates of the people of this realm, to King William and Queen Mary, they, who gave it, ceased to have or to exercise the power of sovereignty: in that instant, as every lawyer must speak of it, in that instant the sovereign power of this country became vested in *the King and Queen* upon the throne, to be exercised in legislation, undoubtedly, with the advice and consent of Parliament, formed according to the law and custom of the country—incapable of being exercised otherwise, and, as to the executive authority, exercised under the control of provisions and limitations of the law and constitution, and with the advice which, in every act which the King does, makes somebody responsible.

I insist that the design of conspiring to assemble the people, who were to act as a convention of the people, claiming all civil and political authority, or claiming power to alter, against its will, the constituted legislature, or a meeting to form the means of bringing together such a convention so to act, is an attempt to create a power subversive of the authority of the King and Parliament, a power, which he is bound by oath to resist at all hazards. But it will not rest here: this will be sufficiently proved; but evidence will likewise be offered to you as satisfactory to prove that the express object of calling this convention, the express object of appointing a committee of conference and co-operation, which was to devise the means of constituting such a convention, was ultimately, and finally, and in their prospect, *the deposition of the King*.

Gentlemen, beyond this, and supposing it not to be proved, the Indictment has charged as overt acts, a conspiracy, without the mean of a convention, and not through that medium, to depose the King; if that conspiracy is made out by other acts, though neither a convention, assuming all political authority, nor a meeting to devise the means of calling a convention, which should assume all political authority, was intended, yet the Indictment is made good.

Gentlemen, the Indictment further charges as an overt act of compassing the King's death, which without question it is, the conspiracy to levy war; I do not mean constructive war. This I state, with-

out question, to be an overt act of compassing the King's death. A rising to oblige the King to alter his measures of government amounts to levying war within the statute. A conspiracy to levy war for this purpose is an overt act of compassing the King's death. If they conspired to form a *representative government*, excluding the King entirely, which I say is the fact, or, if they conspired not to form a representative government, excluding the King entirely, but yet to compel him, by their own strength and force, to govern with others, and without those, which he chose to remain with him, by whose advice and consent alone he is sworn and bound to govern, I mean the great Council of the nation, the Lords in Parliament assembled, the Commons in Parliament assembled, according to the constitution of the country, and to substitute against his will, and against the will of the present constituted authority of the country another authority, formed on the principles of universal suffrage and annual representation, and so formed without the authority of Parliament, I must submit to the Court, and to you, that conspiring to do this would be an overt act of treason of deposing the King, and therefore of compassing his death.

Gentlemen, you will also observe the Indictment has charged, and proof will be offered to you to make it out, that these objects were meant to be carried by force, by actual force.

Gentlemen, the case, as I have hitherto repre-

sented it, is not a case aiming merely at intimidating the Legislature, and inducing it by an act done, which was, according to the forms of the constitution, to bury the constitution in its grave, to new-mould the sovereign power; the case goes far beyond this; application in any shape to Parliament was not only disavowed, but the very competency of Parliament, if applied to, to make a law to new-model the government, was disputed, and denied: the idea of that competency was held to be irreconcilable to the very principle upon which these persons assembled. I must however insist, and I mean to do it, with the full concurrence of my humble opinion, that a conspiracy to compel the King, by force, against his will, to give his assent to an act obtained from the Houses of Parliament in order to alter the government and frame of the constitution of the country, whether it was obtained from the two Houses of Parliament, or either of them, by overawing them, or not overawing them,—that a conspiracy, by force, to compel the King, in the exercise of the highest and most essential act of the sovereignty of this country, in the act of giving his consent to such an act,—to compel him, by force, to do that, is unquestionably an overt act of treason in deposing him, and in compassing his death. It is neither more nor less, to explain it in a word, than to substitute the will of those, who conspired to force him, in the room of that royal will, in which, and by which alone, the laws of this country, and the constitution of this country, have said

that a bill (however obtained before it comes to him) shall receive the authority of a statute.

Gentlemen, I have thought it necessary to state thus much before I come to state the circumstances of the case, and I will state to you in a word why. It is not to be expected by persons, who execute the great and important duty in the great and important station, the functions of which you are now called upon to execute, that counsel at the bar shall be able to state to you law, that no man can question the soundness of: nay, Gentlemen, it is not to be expected by you that counsel at the bar should be able to state to you in all cases law, which men of grave character, and excellent understandings, of great reason, and great experience in their profession, may not dispute the soundness of. It is the duty of counsel, more particularly it is the duty of that counsel, who ought to remember that, if, in prosecuting the subject, he presses him unfairly, he betrays in the most essential point the duty which he owes to the sovereign: it is his duty to endeavour faithfully and honestly to explain and expound the law, that is, to apply to the facts of the particular case, reasoning upon the law, according as he is able to do it, in the exercise of painful industry, exerted under the reflection that he is under much obligation at least to endeavour to represent the law truly.

Gentlemen, I have thought it my duty, in a prosecution, the principles of which interest the civil happiness of all mankind, to mention distinctly and

fairly what are the principles upon which I proceed: I have no doubt in my own mind, but that I have stated these doctrines as the law of England would state them, and I claim from you and from the public that, in the fair exercise of my duty, conducted under such a sense and understanding of that duty, as I have now explained to you, you and they will do me the credit at least to think, that the principles which I have stated are such as I believe to be sanctioned by the law of England.

Gentlemen, I shall presume for a moment, after having read to you the Indictment, and given you that exposition of it, which I humbly offer to your attention, that the law has (at least, according to my judgment, it certainly has) been complied with in these respects; namely, the Indictment has told you with sufficient certainty what it is, that is meant to be imputed as an overt act of compassing the King's death. It is not necessary to be disputing that now, because, if I have failed in the due execution of my duty in that respect, the Prisoner cannot be injured by it.

Gentlemen, I have before said to you, that, in a case of high treason, the evidence must not only be convincing, but it must be formal; and, though the object of the security of the person and government of the King is the highest object that the law has looked to, yet I must, at the same time, inform you, that the law for the security of the public, which is in truth part of the object involved in the

object of the security of the *person* and government of *the* King—is essentially united with it—and inseparable from it: the law has required not only that you shall have one witness, if he were the most credible man in the world, to give convincing evidence of the fact, but that that convincing evidence must be rendered yet more conclusive by the testimony of two witnesses; that you should at least have one witness to one overt act, and another to another overt act of the same species of treason.

Gentlemen, having stated to you the project, in a general way, to which I apprehend this Indictment applies, I presume that you may possibly reason thus: When this Indictment charges, that these persons compassed the death of the King and to depose him, —that they conspired to assemble a convention in defiance of the authority of Parliament,—to subvert the rule and government of the kingdom, against the will and in defiance of the Legislature,—to dethrone the Monarch, reigning in the hearts of a great majority of his people, you will naturally ask,—by what process was it, that such persons, as these, could effectuate such a purpose? When the Indictment charges, that they composed a great variety of books, containing incitements to choose persons, as delegates, to compose a convention for such traitorous purposes,—in what language, you will naturally ask, could such incitements to such a momentous project, have been conveyed, and to whom could that language have been addressed? When it

charges, that they met, and deliberated among themselves, together with divers other false traitors,—at what time, in what manner, and in what place, it may be asked, have these people met to deliberate upon that project, for the accomplishment of which so many persons must be engaged?—By what means were they to bring together the subjects of the country, to send delegates to such a traitorous convention, to assume such sovereign power? This sort of question may be pursued. I shall not pursue it by observations upon every overt act in this Indictment.

Now, Gentlemen, my answer to this is a short one. I think it will be proved to your satisfaction, that, as they meant, in the words of the act of Parliament, to introduce that system of misery and anarchy, which prevailed in France, they meant to introduce it by the same means,—to proceed upon the same principles to the same end,—and by the same acts to execute the same purposes.

Gentlemen, if the experience of Europe had not manifested what has passed in France (and this project might perhaps be brought from France into Great Britain by but an individual or two), if that experience had not shown us what has passed in France, to the destruction of its old government—to the destruction alike of that government, which they substituted in the room of its old government—and which, in the last act of its power, protested against the existence of clubs, as incompatible with the security of any country, I say, till the subversion of

government in France took place, and upon principles, to a blind admiration of which in this country, —a country which, under the peculiar favour of Providence, is alike in its blessings, as it is in its situation, "*toto divisos orbe Britannos*," but in which we have found a disposition to sacrifice all those blessings—it could not perhaps have entered into the heart of man to conceive, that a project so extensive should have been set on foot by persons in number so few;—that a project, existing almost every where, should yet be visible no where;—that a project should be so deeply combined, and complicated,—should exist to such an almost inconceivable extent,—should be formed with so much political craft—it could not enter into the heart of man to conceive, that it should have existed in any country, much less, that it was possible that it should exist in this country of Great Britain to the extent in which I am sure, whatever your verdict may say upon the guilt of the Prisoner, you will be satisfied it has existed in this country.

But the law of England does not require that any such case, as this, should be proved before you. If you are satisfied that what the Indictment charges was imagined, and that a step was taken to effectuate that intent, it is enough—it is not the extent, in which the project was proceeded upon—it is not the extent, to which the project was ruinous—it is not necessary to prove, that the means were as competent to the end proposed, as they were thought to

be, by those who used them. No, Gentlemen, the providence of the law steps in upon their first motion, whether they furnish themselves with means adequate or inadequate to their purposes—the law steps in then, conceiving its providence at that moment to be necessary for the safety of the King and the security of the subject.

The project, the general character of which I shall give you, proving it by the particular facts, and applying the particular facts (for I have no right to give you the general project, unless I can so apply the particular facts) to the person now accused, seems to me to have been this. Imported from France in the latter end of the year 1791 or 1792, by whom brought hither it does not much matter, the intent was to constitute in London, with affiliated societies in the country, clubs which were to govern this country upon the principles of the French government, the alleged unalienable, imprescriptible rights of man, such, as they are stated to be, inconsistent in the very nature of them, with the being of a King or of Lords in a government—deposing, therefore, the moment they come into execution, in the act of creating a sovereign power, either mediately or immediately, the King, and introducing a republican government with a right of eternal reform, and, therefore, with a prospect of eternal revolution.

Gentlemen, we have all heard of a club called the Jacobin Club at Paris. This, with its affiliated societies,—however impossible it was thought that it

should effect such things,—however wild the man would have been thought, into whose head such an imagination could have entered as that it could effect them, first overset the old constitution, then introduced another, which could not exist upon the principles which gave it birth, and has finally introduced government after government, till it has at last left the country in that undescribable state of things, in which we now see it.

Gentlemen, the great end of the persons concerned in this project, though not altogether visible, or not much disclosed upon its first formation, was, when they had sufficiently diffused their principles through this country,—by artifice,—by union,—by combination,—by affiliation,--by fraternization (those who formed the project, whoever they were, endeavouring to force it into execution by means which perhaps would shock the minds of men that are not always dwelling upon political subjects), to assemble a convention of delegates from clubs, to assume the power of the people, supported in the assumption and exercise of that power by the individual members of the affiliated societies, and by their combined strength.

Gentlemen, we have no occasion in this cause to be disputing upon abstract questions, as to the power of the people to change their government. I state to you that the intention was, to assemble a convention of delegates from those clubs, to assume the powers of government. The people, the infinite

majority of the people, adverse to any change, distinguishing between abuses in the administration of the government, and vices in the form of the government administered, nay, ardently attached to the old government, must have been averse to have been subdued by a convention of the delegates from these societies, who meant to have assumed the representation of the people, and to have exercised the powers which they stated to be inherent in those whom they professed to represent.

Gentlemen, it is not difficult to conceive, after what has happened in fact in France, how it should happen that the opinion of these fraternizing societies should have the force of the will of a majority of the nation, though they consituted a vast and infinite minority indeed. You will find, in the evidence to be laid before you, that it was perfectly understood how this might be by those who are named in this Indictment. The great bulk of the community, engaged in different pursuits, are therefore incapable of being combined in opposition to the execution of a purpose, which is to be brought about by great bodies of men, that are combined. I need not give you a stronger instance of it than this. It is within the memory of most of us living, that a few thousand men in St. George's Fields, combined in one purpose, reduced this metropolis to an absolute state of anarchy, a state in which no government existed. If any man had been asked, a fortnight before the event to which I am now allud-

ing, Is it possible for four or five thousand men to assemble in St. George's Fields, and to rob and plunder every body they choose in London and ten miles round it? That would have been thought utterly impossible—but yet it happened—why? because a combination of the few will subdue the many, who are not combined, and with great facility; and combined bodies of men have had, as you will find, an existence in this country, to an extent which few men had any idea of.

You will find them organized,—prepared for emergencies and exigencies,—relying upon their own strength,—determined to act upon their combined strength, in a system of acting together,—in some instances acting with a secrecy calculated to elude observation—in other instances, proceeding, by directly contrary means, to the same end,—representing their numbers as greater than they were, and therefore increasing their number by the very operation of the influence of the appearance of strength upon the minds of others, without a possibility that that misrepresentation should be set right. You will find them inflaming the ignorant, under pretence of enlightening them;—debauching their principles towards their country, under pretence of infusing political knowledge into them;—addressing themselves principally to those whose rights, whose interests are, in the eye of the law and constitution of England, as valuable as those of any men, but whose education does not enable them immediately

to distinguish between political truth and the misrepresentations held out to them,—working upon the passions of men, whom Providence hath placed in the lower, but useful and highly respectable situations of life, to irritate them against all whom its bounty hath blessed by assigning to them situations of rank and property,—representing them as their oppressors, as their enemies, as their plunderers, as those, whom they should not suffer to exist;—and, in order at the same time to shut out the possibility of correcting original error, or rectifying the opinions of those whom they had so inflamed, misinformed, debauched, and misled, not admitting them into these affiliated societies till they had subscribed tests —the principles of which they were not to examine after they had been admitted, but the principles of which they were to carry into execution, when assembled in a convention—to carry into execution those principles, as acting for the people, by a great majority of whom they were held in utter detestation.

Gentlemen, to say that an act done was meant to be done as a means taken in the execution of such a project as this is, till the person, who takes it, thinks the scheme practicable, I admit is not reasonable, but undoubtedly he may think it practicable long before it is really so. Now, you will be abundantly satisfied, that these conspirators thought that the time was now come—that the time for a convention, which had been the object of anxious expectation, doubting for a year or two whether it would

ever be gratified, that that time was *now* come, and the measures taken were taken upon that supposition —that the opportunity had arrived, which, if not laid hold of now, would be lost for ever.

Gentlemen, the people of this country have in general a rooted attachment to its government. The public opinion of government is in this country, as well as in every other, its principal support: and therefore it became necessary to infuse, where so much could be safely suggested, where the mind was prepared for it, an opinion, that the form of the British government was radically vicious—that it was founded on principles of oppression—that it was founded on the destruction of natural, imprescriptible, and unalienable rights.—With others, you will find, they thought it necessary to use a little more caution—not to alarm them, but to humour their attachment to the form of the constitution, by taking advantage of well-meaning ignorance, under pretence of instructing it, to inlist them also alike in the project of destroying that constitution to which they were attached. To them, therefore, the form of the government was not spoken of in terms which they might understand to be a condemnation of it, though they were really such, but by making use of general expressions, such as obtaining "a full and "fair representation of the people in Parliament"— "a full representation of the people," sometimes without mention of Parliament—never with actual mention of the King and Lords, as co-existing toge-

ther with Parliament—by using terms, which certainly may mean what it may be contended in the defence they did mean—but terms the same in their expression, certainly the same in their import, as those, which were used in every act which passed in this country during the time of the Commonwealth, when we neither had King nor Lords—that may signify a government existing without Lords or King, by declaring the obtaining such a representation of the people as necessary to the natural, unalienable, imprescriptible rights of man, as stated by Mr. Paine; by these means and artifices they attempted to engage in their service the physical strength of men, who might not and did not discover the real nature of the plan, which that strength was to be employed in executing—who had not information enough to discover what the representation was meant finally to do or to execute. But you will find the persons mentioned in this Indictment had no doubt about it.—I mark these circumstances to you, because, in the evidence that is to be laid before you (and I am now stating the general character of the evidence, and not the principles upon which the charge is made)—in the evidence to be laid before you of the plan for the execution of these purposes, some very remarkable particulars occur; and when you come to decide upon this case, I humbly beg your attention to those particulars;—some very remarkable particulars will occur.

You will find that the leading clubs, by which I

mean the Constitutional Society, judging of its conduct for the purpose of this cause, though in some other cases we must go further back, but, for the purpose of this cause, judging of its conduct from about the beginning of the year 1792, and the London Corresponding Society, which was formed, whether created, I will not say, but which was modelled by some leading members of the Constitutional Society, and received its corporate existence, if I may use the term, as it will be proved, under their own hand-writing—most distinctly from the hand-writing of some, who yet belong, and some, who have ceased to belong to the Constitutional Society; these leading societies, you will find, enlisting into their affiliation many societies in the country, composed of men who expressed their doubts as to the views of these societies in London, —who expressed their fears as well as their doubts about those views—who required information as to the purposes of those societies in London—some of these societies in the country professing one set of principles, some another;—but all assistance is taken that is offered: accordingly you will see that the London societies enlist persons who profess, "that "they ought to submit to no power but what they "have themselves immediately constituted:"—to these they give answers, couched in dark, cautious, prudent, but satisfactory and intelligible terms: those, who profess still to have attachments to the monarchy of the country, and who express appre-

hensions about its safety from the principles of the London societies, and the conflicting principles of various country societies, they sooth into fraternization, by telling them that all would be set right "by a full "and fair representation of the people in Parlia- "ment;"—a name which was given to the Commons under Cromwell, as well as to the legitimate Parliaments of this country at different periods,—without telling them either what these words meant, or how that Parliament was to operate to reconcile these differences, which you will find amounted *only* to the differences between an attachment to an absolute republic, and an attachment to a limited monarchy.

They enlist alike those, who expressed a wish to know whether they proposed *to reform the House of Commons*, and those who wished to know whether they intend to *rip up monarchy by the roots*; their answers were calculated to satisfy each of them, to satisfy whatever might be the disposition of those, who address the questions to them, requiring information upon subjects so totally different.

Gentlemen, this is not all: you will find again, that, for these purposes, publications upon the government of the country, which are alluded to in this Indictment, and which will be given to you in evidence, that publications upon the government of the country were adopted by those societies as their own, and circulated, if I may so express myself, in a mass, round the country, circulated in a manner, that totally destroys the liberty of the press in this country—The liberty of the press in this country

never ought to be under an undue correction of the law, but it must always be, for the sake of the people, subject to the correction of the law: you will find that these publications are either brought into the world with such a secrecy as baffles all prosecution,—published without names of authors or of printers,—published by contrivance, I am sorry to say by contrivance published in the dead of night (though they are the works of men who have talents to state them to open day, if fit to be stated to open day), and published in quantities, which make the application of the wholesome provisions of the law utterly incompetent to the purpose of allowing the correction of the law to be as frequent as the commission of the offences against it.

Gentlemen, with respect to many of these publications I may take notice of what has happened in the history of this country, and though no man wishes less to talk of himself than I do, yet I am speaking in the presence of many, who have heard me both in Court and in Parliament respecting those publications to which I allude (and which will be offered to you in evidence), express the difficulty that my mind laboured under to concede that such a publication as the Address to the Addressers, was not, according to law, an overt act of high treason. —It did appear to me that the publication of the book called the Address to the Addressers was an overt act of high treason, for the purpose of deposing the King; at least I thought it required an ingenuity

and subtlety, much beyond that which belonged to my mind, to state satisfactory reasons why it was not so; but there were reasons satisfactory to those who can judge better than I can, and therefore that book was treated only as a libel;—but when I come to see it, as connected with the mass of publications alluded to in this Indictment,—as connected with measures that I have to state to you in the course of opening this cause,—and as connected with the project which this Indictment imputes to depose the King, I say it is either most distinct evidence of an overt act of high treason, or it is an overt act of high treason itself.

Gentlemen, you will also not fail to observe (and I state it as a general feature and character of the evidence that I have to lay before you)—the malignant art, and, if I may so express myself, the industrious malignity, with which discontent has been spread by these two societies in London, and the means of spreading it have been studiously and anxiously taught from society to society:—the means of spreading sedition, fresh as from London, in every town, all with reference (for they are not material, if you do not find they had such a reference) to the final accomplishment of the same purpose: you will not fail to observe, how the passions and interests of individuals have been assailed and the method of assailing them taught, according to their stations in life—not merely upon government,—but, for the purpose of subverting government, upon tithes—

corn-bills—taxes—game-laws—impress service—any thing that could be represented as a grievance, as well as the government itself, and to this intent—that, in aid and assistance of each other, societies, as they expressed it, "might overspread the whole face of "the island," and "that the island might become "free"—you will mark their expressions—"by the "same means, by which France became so."

Gentlemen, in stating to you the character of the evidence, it is necessary for me to make one observation, and it is the last I shall trouble you with: it is with respect to the principles upon which construction is to be given to the written evidence that will be adduced in this cause. Now, I desire to state this to your minds, as a principle perfectly reasonable in the administration of justice towards men, who are called upon to answer for offences, that the language, which they use, ought to be considered according to its obvious sense. If the language admits, and naturally admits, of a double interpretation, it must then be considered according to the nature of the *principle*, which that language is calculated to carry into execution; each paper must be considered with reference to the context of the same paper, and with reference to the contents of all other papers, that form the evidence of the same system, which the paper produced is meant to prove.

Now, if you should find that, in *detailing* the objects of this Society, in detailing what they meant to do, and in detailing how they meant to execute

what they purposed, they should in fact have stated, that they meant neither that which was legal,—nor that which was constitutional,—nor that which was other than treason, it will be in vain that they have thought fit (for the greater prudence, the greater care, and the greater caution, which you will have most abundant evidence to prove they exercised occasionally, but add to the guilt by increasing the danger) to assert at other times, when they have used general language, that what they meant to effect was legal, and that they meant to effect it in a legal and constitutional manner. It will become those, who have the defence upon their hands, to state to you how, in a legal and constitutional manner, those things could be done, which were intended to be done, and which this Indictment states were intended to be done, if I prove to your satisfaction that they were intended to be done by the means and instruments, which the Indictment refers to.

Gentlemen of the Jury, their principle, as you will find, was, that equal active citizenship is the right of all men, and that upon this principle their representation of the people was to be asked for. Now, it requires no reasoning to state, that a representation of the people founded upon the principle of equal active citizenship of all men, must form a Parliament into which no King, nor Lords, could enter. There is an end of equal active citizenship the moment that either of them exists, according to my construction of equal active citizenship, and ac-

cording to *their construction of it*; for they state that the effect of it is *a representative government*. But it is not enough for me to tell you that, in reasoning, this is the consequence;—it is a circumstance to be taken into your consideration; but I say I shall satisfy you, if I am bound to go further, that the application of the principle of equal active citizenship, *according to them*, was to be the foundation of *a representative government*, rejecting the King and Lords out of the system. The principles were the principles upon which the constitution of France, in the year 1791, was formed: the principles of that constitution were the principles of equal active citizenship: they attempted indeed to preserve a King in the constitution, and to form what I may call a royal democracy: but I shall prove to demonstration, that the leaders of these clubs in London knew that that constitution could not exist, that their principles led them to a distinct knowledge that that constitution could not exist: it was in the month of August 1792 entirely overturned; and you will find from the transactions of this Society in the months of October and November 1792, unless I mistake the effect of the evidence, the clearest demonstration that these societies meant in applying those principles, which they themselves state had destroyed the existence of a King in France,—because they must destroy the existence of a King in any country, you will find that, from October 1792 at least, these societies meant to destroy the King in this country, and that

this was the natural effect of their own principles, as they understood them.

Gentlemen, you will now give me leave to state to you, as well as I can, and as intelligibly as I can, the mass of evidence, and the case which I have to lay before you.

The particular act, the nature of which will be to be explained by all the rest of the evidence, which has led to the including these particular persons in one Indictment, arose out of a letter, dated the 27th of March 1794, which was written by the Prisoner, then the secretary to the London Corresponding Society, to the Society for Constitutional Information. The words of it are these:

"I am directed by the London Corresponding So-
"ciety to transmit the following resolutions to the
"Society for Constitutional Information, and to re-
"quest the sentiments of that Society respecting the
"important measures which the present juncture of
"affairs seems to require. The London Corre-
"sponding Society conceives that the moment is ar-
"rived"—mark the words; for, in the rest of what I have to state, you will frequently hear of the time to which that alludes—"when a full and explicit de-
"claration is necessary from all the friends of free-
"dom, whether the late illegal and unheard-of pro-
"secutions and sentences shall determine us to
"abandon our cause, or shall excite us to pursue a
"radical reform with an ardour proportionate to the
"magnitude of the object, and with a zeal as distin-

" guished on our part as the treachery of others in " the same glorious cause is notorious. The Society " for Constitutional Information is therefore required " to determine whether or no they will be ready, " when called upon, to act in conjunction with this " and other societies, to obtain a fair representation " of the people." Gentlemen, give me your attention presently to what they conceive to be a fair representation of the people, when I come to state the resolutions which they transmit! " Whether " they concur with us in seeing the necessity of a " speedy *Convention* for the purpose of obtaining" (then they use the words) " in a constitutional and " legal method"—of the effect of which you will judge presently, for the method will not be the more constitutional and legal for their calling it so, if the method is in fact unconstitutional and illegal—" a " redress of those grievances under which we at " present labour, and which can only be effectually " removed by a full and fair representation of the " people of Great Britain. The London Corre- " sponding Society cannot but remind their friends " that the present crisis demands all the prudence, " unanimity, and vigour, that ever may or can be " exerted by men or Britons; nor do they doubt but " that manly firmness and consistency will finally, and " they believe shortly, terminate in the full accom- " plishment of all their wishes."

They then resolve, and these resolutions are enclosed: " 1st, That dear as justice and liberty are to

"Britons, yet the value of them is comparatively "small without a dependency on their permanency, "and there can be no security for the continuance "of any rights but in equal laws.

"2d, That equal laws can never be expected but "by a full and fair representation of the people; to "obtain which, in the way pointed out by the con- "stitution"—you will see what that is in the third resolution—"has been and is the sole object of this "Society: for this we are ready to hazard every "thing, and never but with our lives will we relin- "quish an object which involves the happiness, or "even the political existence of ourselves and poste- "rity.

"3d, That it is the decided opinion of this So- "ciety, that, to secure ourselves from the future "illegal and scandalous prosecutions, to prevent a "repetition of wicked and unjust sentences, and to "recall those wise and wholesome laws which have "been wrested from us, and of which scarcely a "vestige remains"—Gentlemen, you will permit me to call your attention to what the objects were which were to be accomplished—"there ought to be im- "mediately"—what?—"*a Convention of the people* "*by delegates deputed for that purpose from the* "*different societies of the friends of freedom.*" And what are the purposes which this convention, which they themselves represent as a convention of the people, are to execute? Why they, the delegates, forming a convention of *the people*, are to recall those

wise, wholesome laws, which they say have been wrested from them. Before I have done, I shall prove distinctly that this is the meaning of the passage, and the meaning of the passage will be to be collected from the whole of the evidence undoubtedly, not from this particular part of it.

The Constitutional Society, there being present at that time six of the persons mentioned in this Indictment, without any deliberation whatever, upon a proposition so material as this is—and therefore it must be left to you, upon the whole of the evidence, whether it is fairly to be inferred or not, that this, like a great many other papers of the London Corresponding Society, really came from the Constitutional Society—they immediately ordered that their secretary shall acquaint the London Corresponding Society, that they had received their communication, that they heartily concur with them in the objects they have in view, and that for that view, and for the purpose of a more speedy and effectual co-operation, they invite them to send to this Society, next Friday evening, a delegation of some of their members.

Without now going into the particulars of what followed upon this, give me leave to state, that some members of the Society, included in this Indictment, were named to compose that delegation; that there was named at the same time a Committee of Correspondence of six members of this Society; that afterwards the London Corresponding Society

formed another committee; that the two committees met; that the two committees meeting, came to a determination that this project of calling a convention of the people should be carried into effect; and then, that a joint committee of co-operation of both societies was formed by resolutions of both.

Having stated what happened upon the 27th of March 1794, and connecting it, as I shall do presently, with the very singular facts, which you will find also happened in that year, you will give me leave, in order to show what the true construction of this act is, as well as to state the grounds upon which the Indictment, even without this act, charges a conspiracy to depose the King—you will give me leave to state the transactions of these societies from the month of March 1792.

Gentlemen, in or about the month of March 1792, —whether before that time the London Corresponding Society had existed or not, seems to me to be dubious, and therefore I will make no assertion of that one way or other; but supposing it to have existed, it will be made extremely clear that this Society existed at that time without a constitution, as they call it, and was indebted to a gentleman of the name of Tooke for the constitution under which the Society was modified, and was indebted, I think, to a gentleman of the name of Vaughan, for his assistance in the composition of the code of its laws.

The first correspondence that I find between the Constitutional Society and the London Correspond-

ing Society, which I have to state to you, is in the communication of the principles of the Corresponding Society, sent with a letter signed by the Prisoner at the bar, which letter is in the following words: "I am ordered by the Committee to send to the "Society for Constitutional Information in London "a copy of our motives for associating, and the re- "solutions we have come to: we mean to persevere "in the cause we have embarked in, that is, to have "(if possible) an equal representation of the people "of this nation in Parliament."

I observe here for a moment that you will not be surprised, when I get to the conclusion of this business, that this cautious language was used in the outset: it will be for you to judge whether a studied caution is fairly imputable to the language. It proceeds thus: "We should be exceedingly happy to "enter into a correspondence with that Society, if "it is not too much presumption in us to expect "such an honour; but, as our cause is one, we "hope that they will deign to take some notice of "us, who are now entering upon a matter of such "vast importance."

This is extremely condescending language on the part of Mr. Hardy to the Constitutional Society: it accompanies the resolutions of that Society, which resolutions purported to be signed "Thomas Hardy, "Secretary." It happened, by an accident not very easy to be accounted for at present, and, notwithstanding which, I shall prove distinctly to you that

the resolutions are the act of Mr. Hardy; that this signature—"Thomas Hardy, Secretary"—is a signature, as I am instructed, in the hand-writing of Mr. Horne Tooke; that is, Mr. Hardy, in the London Corresponding Society, sends the resolutions of the London Corresponding Society (apologizing extremely for the liberty he takes in presuming to send them) to the Constitutional Society, the signature to those resolutions bearing the name of Thomas Hardy in the hand-writing of Mr. Tooke: whether those resolutions were finally settled by that gentleman or not I do not know, but you will find that there exists a paper which contains, I think, distinct evidence upon the face of it, that those resolutions have been settled, with a good deal of deliberation, by the same gentleman whose hand-writing occurs in the signature which I have been stating.

Gentlemen, before these resolutions were sent, and before I state the matter of them to you, you will allow me to mention that there had been a correspondence between other societies and the Society for Constitutional Information, of such a nature, as, in order to make this case intelligible, will require some observations from me, and some attention from you; it is the correspondence of other societies, but which correspondence I shall connect in such a manner with the London Corresponding Society, as in fact to make the acts of the other societies the acts of that Society.

Upon the 23d of March 1792, with a view to show you what were the principles of this Constitutional Society, I must state that they come to a resolution, "That the thanks of this Society be given "to Mr. Thomas Paine, for his most masterly book "entitled The Rights of Man, in which not only "the malevolent sophistries of hireling scribblers are "detected, and exposed to merited ridicule, but "many of the most important and beneficial political "truths are stated so irresistibly convincing as to "promise the acceleration of that not very distant "period, when usurping borough-sellers and profli-"gate borough-buyers shall be deprived of what "they impudently dare to call their property—the "choice of the representatives of the people. The "Constitutional Society cannot help expressing their "satisfaction that so valuable a publication has pro-"ceeded from a member of that Society, and they "sincerely hope, that the people of England will "give that attention to the subjects discussed in Mr. "Paine's treatise, which their manifest importance "so justly deserves."

Then they resolved, for what purpose you will judge of, when I come to state to you the subsequent evidence in this business—"That the foregoing resolutions, "and all future proceedings of this Society, be re-"gularly transmitted by the Secretary to all our Cor-"responding Constitutional Societies in *England*, "*Scotland*, and *France*."

Now, Gentlemen, as I shall prove what the book was to which this resolution alluded, I shall take the liberty at present to state in a few words to you, as far as they affect the existence of a King in this country, those subjects, which, according to the language of this resolution, the Constitutional Society sincerely hope that the people of England would give attention to, as discussed in Mr. Paine's first book. In that book these doctrines, with respect to Great Britain, are laid down: "A consti- "tution is not a thing in name only, but in fact; it "has not an ideal, but a real existence;" and you will find this extremely important, because in the result of the whole evidence that I have to lay before you, it will appear that they did not only distinctly disavow making any application to Parliament, but the competence of Parliament to do any thing by way of reform, because the country had as yet no constitution formed by the people. Mr. Paine proceeds: "Can "Mr. Burke produce the English constitution? If "he cannot, we may fairly conclude that no such "thing as a constitution exists."

After stating that the Septennial Bill showed that there was no such thing as a constitution in England, the book states a further fact, not immaterial, that the bill, which Mr. Pitt brought into Parliament some years ago to reform Parliament, was upon the same erroneous principle, that is, upon *the principle that Parliament was able to reform itself.* With respect to other subjects, to which the attention of

the people of England was called, you will find that this book, speaking of modes of government (and this is also extremely material with reference to the construction of what is afterwards to be stated to you) represents that "the two modes of government "which prevail in the world are, first, governments by "election and representation; secondly, governments "by hereditary succession: the former is generally "known by the name of republican, the latter by "that of monarchy and aristocracy."

He divides Government into government by election and representation;—a representation founded upon election, and election founded upon universal suffrage;—and government by hereditary succession. He then states that, from the revolutions of America and France, and the symptoms that have appeared in other countries, it is evident the opinion of the world is changing with respect to government, and that revolutions are not within the progress of political calculation; and that the British government, not existing upon the principles he recommends, is not a government existing upon such principles that a nation ought to submit to it; and that the Parliament of the country is not *able to form a government*, that will exist upon those principles.

Gentlemen, it is a very remarkable circumstance, as it strikes me, that, though various societies had existed in other parts of Great Britain, till about the time of the formation of the London Corresponding Society, none of these societies had asked or invited

the affiliation with the London Constitutional Society, which you will find they all ask and all invite about March 1792, whether by management or not, I do not pretend to determine, it will be for you to judge; but they all ask and all invite affiliation with the Constitutional and Corresponding Societies, as soon as the latter is formed.

Upon the 16th of March 1792, you will find a resolution of the Society for Constitutional Information, which states and returns thanks for a communication from Manchester, signed "Thomas Walker, "president," and "Samuel Jackson, secretary;" in which "they return the thanks of the society to Mr. "Thomas Paine," who appears to have been a member, a visitor of this Constitutional Society, "for "the publication of his Second Part of the Rights "of Man, combining *Principle* and *Practice*." I shall endeavour to state to you in a few words what is the combination of the practice, stated in the Second Part of the Rights of Man, with the principle in the First Part, "a work," they say, "of the highest "importance to every nation under heaven, but "particularly to this, as containing excellent and "practicable plans for an immediate and considerable "reduction of the public expenditure, for the pre-"vention of wars, for the extension of our manu-"factures and commerce, for the education of the "young, for the comfortable support of the aged, "for the better maintenance of the poor of every "description, and, finally, for lessening, greatly,

" and without delay, the enormous load of taxes,
" under which this country at present labours.

" That this Society congratulate their country at
" large on the influence which Mr. Paine's publica-
" tions appear to have had in procuring the repeal
" of some oppressive taxes in the present session of
" Parliament; and they hope that this adoption of a
" small part of Mr. Paine's ideas will be followed by
" the most strenuous exertions to accomplish a com-
" plete reform in the present inadequate state of the
" representation of the people, and that the other
" great plans of public benefit, which Mr. Paine has
" so powerfully recommended, will be speedily car-
" ried into effect."

Now, Gentlemen, as Mr. Paine's plan for the remedy of the present inadequate state of the representation of the people was alluded to, and this book was alluded to, which combined " principle" and " practice," and as it is stated that the other great plans of public benefit, which he had so powerfully recommended, would be speedily carried into effect, it will be necessary to show you, from this letter, what were those plans for the remedy of the inadequate state of the representation of the people, and other plans of public benefit, which this Society, receiving the thanks of the Constitutional Society, hoped would be carried into effect.

Gentlemen, I do not take up your time in stating the passages to you, but represent to you the substance of that book; that it is a book distinctly and

clearly recommending the deposition of the King: if the passages in that book do not prove that assertion, there is no evidence that can prove any assertion: it is a book, moreover, which not only puts the King out of the system of the government of the country, but, according to which, if a perfect representation of the people is to be formed, it is to be formed not by a Parliament existing in a country—in which that gentleman states that no constitution exists—not by that Parliament, which he states to be totally and absolutely inadequate to the great work of forming the constitution upon the rights of man and equal active citizenship, which he recommends: it is a work, which calls upon the people of England to do themselves justice in another way of proceeding, and to form a constitution for themselves before they can have any government, which is to exist upon true principles. There is then, I say, in the beginning of this thing, a developement of these purposes; and I say, beyond that, that if I understand the effect of evidence at all, I shall satisfy you that those, who voted this resolution of thanks, knew that the principles there referred to, were principles that would have this operation, and meant that they should have this effect.

The next thing I have to state, which I shall not go through very particularly, is contained in a resolution of the Constitutional Society (some of the members of which, I shall prove to you, began to leave the Society about this time, stating distinctly

that they understood its principles to be now different from the principles it had formerly acted upon, and to be such principles as I have stated) entered into upon the 23d of March 1792. They resolved that another communication, which is from Sheffield, should be published in the Morning Chronicle, and in several other newspapers, which they mention.

With respect to the communication from Sheffield, (and it is a remarkable thing that, from Sheffield, and from Norwich, they should be writing, on the same day, for the same purpose—that the societies of Sheffield and Norwich might be affiliated with the London Constitutional Society, and the Sheffield people were so anxious about it, if it were their own act and deed, that they wrote more than one letter in order to ask it), it is to this effect:

"It is now about four months since this Society "first formed itself into a regular body; they were "then but very few in number; the enclosed will "inform you of their increase, and, which is most "probable, will soon become very numerous; and "not only this large and populous town, but the "whole neighbourhood for many miles round about, "have an attentive eye upon us: most of the towns "and villages indeed are forming themselves into "similar associations, and strictly adhere to the "mode of copying after us: you will easily conceive "the necessity for the leading members of this body "to pay strict attention to good order and regularity, "and the need we have of consulting and communi-

"cating with those, who are sincere friends and able "advocates for the same cause; for these reasons we "took the liberty to write to Mr. Horne Tooke, "that worthy friend and patriot for the rights of the "people, informing him of our earnest desire of en- "tering into connexion with the Society of the same "denomination of ours in London; his very oblig- "ing and affectionate answer favours us with your "address; in consequence, we have taken the liberty "herewith to transmit to you some resolves, which "were passed at our last meetings by the whole "body, and the committee was charged with the "dispatch of printing and forwarding them to you "accordingly, for the purpose of submitting them "to the consideration of your Society, and to make "use of them as they think most prudent. You "will also notice the Belpar address: they applied "to us about two months ago for instructions as to "our mode of conducting, &c. had not then formed "themselves into any regular association. Belpar is "nearly thirty miles from this place, in Derbyshire, "and eight or ten miles from Derby.

"If the Society for Constitutional Information in "London should vouchsafe so far to notice us, as to "enter into a connexion and correspondence with us, "it cannot fail of promoting honour, and adding "strength to our feeble endeavours, and to the "common cause, which is the entire motive we "have in view."

They then, upon the 14th of March 1792, know-

ing that there was a connexion between the London Constitutional and London Corresponding Society (and that they should know that fact on the 14th of March, which is sixteen days before the 30th, when Mr. Hardy sent to Mr. Tooke the resolutions which were signed in the name of Mr. Hardy by Mr. Tooke, as a communication to him that there was such a body as the London Corresponding Society, is a circumstance that affords observation); they then add, "We have taken the liberty of enclosing "a parcel for Mr. Hardy, in answer to a letter from "him to this Society, requesting some information "concerning our method of conducting the business "we had embarked in, &c. also informing us there "are in London a number of mechanics, shopkeepers, "&c. forming themselves into a society on *the broad* "*basis of the rights of man.* You will be so obliging "as to let the packet remain with you until he call "for it, as by this post I have wrote him thereof. "We have given him our manner of proceeding "from our setting out to this time, and hope it may "be of some use. The improvement we are about "to adopt is certainly the best for managing large "bodies, as in great and populous towns, viz. di-"viding them into small bodies or meetings of ten "persons each, and these ten to appoint a delegate; "ten of these delegates form another meeting, and "so on, delegating from one to another, till at last "they are reduced to a proper number for constitu-"ting the Committee or Grand Council."

There is another letter, of the same date, which has a remarkable circumstance about it. It is addressed to the Constitutional Society. Gentlemen, it states that "this Society," that is, the same Sheffield Society, "feeling, as they do, the grievous "effects of the present state defects and abuse of our "*country*"—(the word originally in this letter was *constitution*, but the word constitution, not being that which was liked, by some very odd accident in the letter from Sheffield, the word *country*, in the hand-writing of Mr. Tooke, is substituted for *constitution*)—"the great and heavy oppressions, which "the common people labour under, as the natural "consequence of that corruption, and at the time "being sensible to a degree of certainty, that the "public minds and the general sentiments of the "people are determined to obtain a radical reform of "the country," you will mark these words, "as "soon as prudence and discretion will permit, be"lieves it their duty to make use of every prudent "means, as far as their abilities can be extended, to "obtain so salutary and desirable an object, as a "thorough reformation of our country," the word *country* being again in the hand-writing of Mr. Tooke, "established upon that system, which is consistent "with the rights of man"—for these reasons they state their forming into clubs, as the former letter did, and they conclude thus—"that being thus "strengthened, this Society may be better enabled "to govern itself with more propriety, and to render

"assistance to their fellow-citizens in this neigh-
"bourhood, and in parts more remote, that they in
"their turn may extend useful knowledge still fur-
"ther from town to village, and from village to
"town, until the whole nation be sufficiently en-
"lightened and united in the same cause, which
"cannot fail of being the case, wherever the most
"excellent works of Mr. Thomas Paine find re-
"sidence."

Those works are the works which have held an hereditary monarchy, however limited, to be inconsistent with the rights of man; which have held the constitution of Parliament in this country to be inconsistent with the rights of man; and those works, upon the principles of that inconsistency, have held even the Parliament itself incompetent to reform any abuses in government.

The paper they transmit states as a fact, that the number of members at Sheffield were, in March 1792, two thousand. That the Constitutional Society in London and the Constitutional Society at Sheffield, thus numerous, should have had no connexion by affiliation till the 14th of March 1792, though, on that 14th of March 1792, it appears that the Sheffield Society had had correspondence, and had become connected with the London Corresponding Society, prior to the London Corresponding Society sending the paper I before stated to the Constitutional Society, is somewhat remarkable.

The paper proceeds thus: "This Society, com-

"posed chiefly of the manufacturers of Sheffield, "began about *four months ago*, and is already in- "creased to nearly two thousand members." In this letter, dated March 14, 1792, they state it to have amounted to two thousand, exclusive of neighbouring towns and villages, who were forming themselves into similar societies. They then state the principles upon which the societies are formed, and that "they "have derived more true knowledge from the two "works of Mr. Thomas Paine, entitled Rights of "Man, Part the First and Second, than from any "other author on the subject. The practice as well "as the principle of government is laid down in those "works, in a manner so clear and irresistibly con- "vincing, that this Society do hereby resolve to "give their thanks to Mr. Paine for his two said "publications entitled Rights of Man."

Gentlemen, I beg your pardon for addressing you so much at length on this case, but I feel it my bounden duty to the public, to you, and to the Prisoner at the bar, to warn you fully of the whole of it. There is nothing which, I am sure, would more certainly happen, than that I should go, not only out of this Court, but to my grave, with pain, if I should have stated to you in a proceeding of this nature the doctrines of Mr. Paine, otherwise than as I think of them. If that is meant to be intimated, that we may have no dispute about them, and that we may not misunderstand what is that principle, and that practice, to which the passage I have now read

alludes, you will allow me to read a few passages out of this Second Part of the Rights of Man, said to contain both the principle and practice of government, and then I ask you what those must have intended, with respect to the government of this country, who meant to take any step in order to make a change in it, in such a way as the principle and practice laid down in that book would require them to make it, recollecting that the government of this country is a government consisting in a King, having an hereditary crown, together with Lords and Commons, forming a Parliament according to the laws and constitution of England.

Now, that author, in the first place, expresses a great deal of what possibly may be differently thought of by other persons, but what I cannot call good will to the people of England—for he says, "that during "the time of the American war, he was strongly "impressed with the idea, that if he could get over "to England without being known, and only remain "in safety till he could get out a publication, that "he could open the eyes of the country with respect "to the madness and stupidity of its government."

Let us see in what that madness consisted according to him: having stated in his former book that a government ought to exist in no country, but according to the principles of the rights of man—he repeats again the distinction he had stated in his former book, between what he calls the two systems: he says, "that the one now called the old is heredi-

"tary, either in whole or in part," which is that of England; "and the new is entirely representative,"—that is, a government consisting of a Commons House, if you choose so to call it.—We know, that in 1649 the ruling government in this country was called a Parliament, called a Commons House, and it was then enacted, that if any persons should attempt to put a King into this country, they should be deemed traitors, with much less of an overt act manifested, than is necessary at this day. Again it is stated, "an heritable crown, or an heritable throne, or by "whatever fanciful name such things may be called, "have no other significant explanation than that "mankind are heritable property. To inherit a go-"vernment, is to inherit the people, as if they were "flocks and herds."

"Hereditary succession is a burlesque upon mo-"narchy. It puts it in the most ridiculous light "by presenting it as an office, which any child "or idiot may fill. It requires some talents to be "a common mechanic, but to be a King requires "only the animal figure of man, a sort of breathing "automaton. This sort of superstition may last a "few years more, but it cannot long resist the "awakened reason and interest of man;" then, "in "whatever manner the separate parts of a constitu-"tion may be arranged, there is one general prin-"ciple, that distinguishes freedom from slavery, "which is, that all hereditary government over a "people is to them a species of slavery, and repre-

" sentative government is freedom ;" then, speaking of the crown of England, that crown, in which, according to the law and constitution of this country, according to its principle and practice, is vested the sovereignty in the manner in which I have stated it, he says, " having thus glanced at some of the defects " of the two Houses of Parliament, I proceed to " what is called the Crown, upon which I shall be " very concise.

" It signifies a nominal office of a million sterling " a year."—Again, Gentlemen, give me leave to observe that this, which has been so often detailed for the worst of purposes, cannot but be known to those who know any thing of the constitution of the country—(I charge nobody else—those who know any thing of the constitution—I charge not those who do not know it)—to be in substance a gross misrepresentation—" the business of which consists " in receiving the money. Whether the person be " wise or foolish, sane or insane, a native or a fo- " reigner, matters not. Every minister acts upon " the same idea that Mr. Burke writes, namely, that " the people must be hoodwinked, and held in su- " perstitious ignorance by some bugbear or other ; " and what is called the Crown answers this purpose, " and therefore it answers all the purposes to be ex- " pected from it."

Gentlemen, in another part of this work, you will find that Mr. Paine was very well aware of what these Sheffield correspondents were aware of, if they

were the composers of the letter to which I have alluded; that the principles, laid down in the constitution of France, which these two books were to recommend, and the principles, stated in Paine's first book, were absolutely inconsistent with the constitution itself of France, as it existed at that moment; and Paine prophetically (he would not have had common sense if he had stated it otherwise), even in the beginning of 1792, when he publishes this book, foretels that the government of France, with a King a part of it, upon his principles, and the principles professed by the constitution of France, could not exist: he foresaw that in August 1792, and I will prove, that those persons, who were thus approving the principles and practice of Paine, knew that a King could not exist consistently with those principles; and they adopted them therefore, as we insist, in order that a King should not exist in this country.

Gentlemen, these resolutions, being received perhaps from Sheffield, a step is taken upon them in the Constitutional Society, and a step, which gives an authenticity to the book I have in my hand, namely, the book of their proceedings, which is remarkable enough, for in this Society's book there are these resolutions, which are supposed to be received from Sheffield, wafered to the book, and then with a view of a publication of them, in the Morning Chronicle, World, Post, Times, Argus, English Chronicle, and General Evening Post, for the pur-

pose of circulating the principles of Mr. Thomas Paine, and for the purpose of circulating the representation, which is made in these resolutions. There is first of all, in Mr. Tooke's hand-writing,—"*Society for Constitutional Information, London, March 23d, 1792. This Society having received the following and other communications from Sheffield, viz.*"—his hand-writing—then, "*March 14th, 1792,*"—his hand-writing—then the words "*two thousand members,*" scored under, I cannot say by him, but by somebody, I suppose for the purpose of being printed in Italics; and there is at the conclusion of this minute in the hand-writing of Mr. Tooke, "*That the secretary do return the thanks of this Society to the Society for Constitutional Information established at Sheffield, and that he express to them with what friendship and affection this Society embraces them, as brothers and fellow-labourers in the same cause;*"—of principle and practice I suppose. "*That he do assure them of our entire concurrence with their opinion, viz. that the people of this country are not, as Mr. Burke terms them, swine;*"—the writer of this must have known very well the sense in which an improper word, I readily admit, was used by the person to whom he now alludes,—"*but rational beings, better qualified to separate truth from error than himself, possessing more honesty, and less craft.*

"*Resolved, that this Society will on Friday next, March 31st, ballot for the twelve associated mem-*

"*bers recommended by the Sheffield committee, and* "*approved at this meeting.*"—Then this paper is thus ordered to be published for the primary purpose, I submit, of recommending that principle and practice, which makes the Sheffield people "fellow-"labourers" with the Constitutional Society in the same cause of principle and practice, and which both, in the principle and practice, was aimed at the destruction of the government of the country;—of that hereditary monarchy, which Paine represents as tyranny;—of that limited monarchy, which he represents as tyranny; and for the purpose of recommending that *representative government*, which, I say, is the true sense of all the words which these people use: but this is not all—you will observe, that this paper of resolutions was accompanied by a letter, in which letter there is also the hand-writing of Mr. Tooke, and that the paper states that two thousand members belong to the Society at Sheffield, and that this number is to be stated by publication, as the number of persons belonging to the Society at Sheffield. In another publication they are stated to amount to two thousand four hundred—in November 1793, it is stated, that they were many thousands: now you will see from the witnesses, some of these correspondents, these able men, who are so little corrupt, in the course of examination—you will see, unless I am mistaken in the effect of the evidence I have to offer, the truth of an observation that I made, that mankind were to be misled, and

societies were to be invited to be created, by the misrepresentation of numbers, and by giving to existing societies a colour in that respect, which did not belong to them; for to this hour, after all the pains which have been taken with the Sheffield people (and what pains you will hear), those persons, who were two thousand, have yet arrived to but about six hundred.

Gentlemen, this Society, having in this letter expressed an inclination that they should have some associated members in the Constitutional Society, that affiliation begins in the Constitutional Society in London, which I have alluded to; and accordingly you will find, that upon the 31st of March, twelve persons were ballotted for as from the Sheffield Society, and became associated members of this Society: you observe, that this letter had stated from Sheffield that they had received before a communication from Mr. Tooke, and Mr. Tooke afterwards writes a draught of a letter which is sent to them, in which he states, "I am directed by the Society for Consti-"tutional Information to acknowledge the receipt "of your letter, and to express to you that very great "pleasure and satisfaction which they received from "your communication; the Society have unani-"mously elected twelve" (here follow the names of the persons), "as associated members of this So-"ciety."—These persons being certainly, Gentlemen, extremely respectable men as subjects of Great Britain, but at the same time men, that one won-

ders a little should, upon such a purpose as this, without a little more instruction being infused into their minds, have been associated as members into this Society—" and we flatter ourselves, that when " any business or other occasion shall lead any of " those gentlemen to London, they will be kind " enough to honour the Society by their presence, " and give us an opportunity of cementing that " friendship between us, which all the zealous " friends of public freedom and the happiness of man- " kind ought to feel and exercise towards each other.

" P. S. I am desired, by Mr. Horne Tooke, to " request each of the associated members to honour " him with the acceptance of the books which ac- " company this letter;"—which were, I apprehend it appears, so many parts of the Rights of Man.

Gentlemen, upon the 24th of March 1792, a paper appears to have been sent to the Constitutional Society from a nest of societies, the United Constitutional Societies at Norwich: this was the 24th of March 1792, and it appears, as I am instructed, that the words " 24th *March* 1792," are also in the hand-writing of Mr. Tooke.

" At a meeting of the delegates of the United " Constitutional Societies, held the 24th March " 1792, at the Wheel of Fortune, St. Edmund's, " in the city of Norwich, it was unanimously agreed " to communicate to the gentlemen of the London " Society for Constitutional Information, the follow- " ing resolutions:

"1st. We are happy to see the success of the "Sheffield Society for Constitutional Reform, and "approve of the delegations, which you and they "have made in order to form a plan of general in- "formation. We humbly beg that you would grant "to us the same favour; and it is our wish, that all "the societies of a similar kind in England were "only as so many members strongly and indissolubly "united in one political body.

"2dly. We believe that instructing the people in "political knowledge, and in their natural and in- "herent rights as men, is the only effectual way to "obtain the grand object of reform, for men need "only be made acquainted with the abuses of go- "vernment, and they will readily join in every law- "ful means to obtain redress; we have the pleasure "to inform you that our societies consist of some "hundreds, and new societies are frequently form- "ing, which, by delegates, preserve a mutual inter- "course with each other, for mutual instruction and "information; and the greatest care has been taken "to preserve order and regularity at our meetings, "to convince the world that riot and disorder are no "parts of our political creed.

"3dly. We believe, and are firmly persuaded," (and if any man thought so, he had a right to say so if he pleased,) "that Mr. Burke, the once friend of "liberty, has traduced the greatest and most glo- "rious revolution ever recorded in the annals of "history; we thank Mr. Burke for the political dis-

" cussion provoked, and by which he has opened " unto us the dawn of a glorious day.

" 4thly. To Mr. Thomas Paine our thanks are " especially due for the first and second parts of the " Rights of Man, and we sincerely wish that he may " live to see his labours"—that is, the destruction of hereditary government and limited monarchy, and consequently the government of England—" crowned " with success in the general diffusion of liberty and " happiness among mankind."

Gentlemen, this letter does not appear (though the words, the 24th of March, are in the handwriting of Mr. Tooke) to have been read in the Constitutional Society till the 14th of May 1792, when they read this letter, and also another, which I will now state to you, from the society called the Norwich Revolution Society.

" The Norwich Revolution Society wishes to open " a communication with you at this time, when cor- " ruption has acquired a publicity in the Senate, " which exacts from the honour of the British nation " renewed exertions for parliamentary reform—with- " out prejudging the probable event"—(this is a material passage, when you connect it with what is found in other subsequent papers)—" even of such " an application to the Legislature, the Society is " willing to circulate the information, and to co- " operate in the measures, that may seem best " adapted to further so desirable and so important an " end; it is willing to hope the redress of every

"existing grievance at the hands of a government "resulting from an extraordinary convocation in "1688—an extraordinary convention of all, who "had at any preceding time been elected representa- "tives of the people, assisted by the hereditary "counsellors of the nation, and a peculiar deputa- "tion from the metropolis; which national consti- "tuting assembly cashiered for misconduct a King "of the House of Stuart."

The opinions and principles of this Society are best explained by an appeal to their literary representative —"To James Mackintosh, author of the Vindiciæ "Gallicæ, the Society offers the tribute of its appro- "bation and gratitude for the knowledge, the elo- "quence, and the philosophical spirit, with which "he has explained, defended, and commented on "the revolution of France; it hesitates to assent to "this only of his opinions—that there are but two "interests in society, those of the rich, and those of "the poor—if so, what chance have the latter? "Surely the interests of all the industrious, from "the richest merchant to the poorest mechanic, are, "in every community, the same to lessen the num- "bers of the unproductive, to whose maintenance "they contribute, and to do away such institutions "and imposts as abridge the means of maintenance "by resisting the demand for labour, or by sharing "in reward, as the means most conducive to this "comprehensive end, the Norwich Revolution So-

"ciety desires an equitable representation of the "people.

"The Rights of Man by Thomas Paine, and the "Advice to the Privileged Orders by Joel Barlow," a book which I shall give in evidence, and therefore shall state some passages from presently, "have also "been read with attention and circulated with avi- "dity."—Now Barlow's book you will find is, in the plainest and most unequivocal language, as I understand it, an exhortation to all people to get rid of kingly government, and addressed more particularly to the two societies I have mentioned, as containing the substance of the business, in which they are interested, as you will see when I come to state the transactions of October 1792.

"The Rights of Man by Thomas Paine, and the "Address to the Privileged Orders by Joel Barlow, "have also been read with attention and circulated "with avidity; they point out with clearness most "of the abuses which have accumulated under the "British government; they attack with energy most "of the prejudices which have tended to perpetuate "them."

Now, how any man living could thank these people without informing them that, if they really meant well to their country, they must be ignorant in the extreme, or something worse, if they could reconcile either the Rights of Man or Joel Barlow's book on the Privileged Orders with the principles of that Convention in 1688, which is the foundation of the

liberties of this country, is to me quite inexplicable. But, after stating the constitution of this country, in a letter fabricated with great art, there follow the twelve names of the intended associated members from Norwich, and the description of some of these twelve happens also, from a singular circumstance, to be in the hand-writing of Mr. Tooke. Then this Society returns thanks to the societies at Sheffield and Norwich for these communications.

The resolutions of the London Corresponding Society, which I told you were sent on the 30th of March, are to this effect:

"Resolved, That every individual has a right to "share in the government of that society of which "he is a member, unless incapacitated.

"Resolved, That nothing but non-age, or privation of reason, or an offence against the general "rules of society, can incapacitate him.

"Resolved, That it is not less the right, than the "duty of every citizen, to keep a watchful eye on "the government of this country, that the laws, by "being multiplied, do not degenerate into oppression, and that those who are intrusted with the "government do not substitute private interest for "public advantage.

"Resolved, That the people of Great Britain are "not properly represented in Parliament.

"Resolved, That in consequence of a partial, unequal, and inadequate representation, together "with the corrupt method in which representatives

" are elected, oppressive taxes, unjust laws, restric-
" tions of liberty, and wasting of the public money,
" have ensued.

" Resolved, That the only remedy to those evils
" is a fair and impartial representation of the people
" in Parliament.

" Resolved, That a fair and impartial representa-
" tion can never take place until partial privileges
" are abolished, and the strong temptations held
" out to electors afford a presumptive proof, that
" the representatives of this country seldom procure
" a seat in Parliament from the unbought suffrages
" of a free people.

" Resolved, That this Society do express their ab-
" horrence of tumult and violence; and that, as they
" aim at reform not anarchy, reason, firmness, and
" unanimity, be the only arms they employ, or per-
" suade their fellow-citizens to exert against abuse of
" power."

Gentlemen, in this, which I have now read to you, I am willing, if you please, that you should construe every word of it, though certainly it is not consistent with the principles of British government, upon this principle, that those, who sent that paper to the Constitutional Society, if it even was sent there at all, really understood it to be consistent with the principles of the British government; and I claim no credit for the veracity with which I assert, that this conspiracy has existed, unless I show you by subsequent acts of this Society, that, at this moment, they

meant what Mr. Paine says, in principle, and practice, is the only rational thing—a *representative government*; the direct contrary of the government which is established here.

You will find, by what I shall lay before you, that there was a Society in Southwark—To this Society the London Corresponding Society, in a letter which I have to read to you presently, stated their adoption of all Mr. Paine's *principles*, with a view, as I think, to the *practice* recommended in his works; this Society also received the thanks of the Constitutional Society for a communication which I am about to state to you; and the London Corresponding Society afterwards entered, as it seems to me, into a combination with them, upon the principles stated in that communication: I say it is impossible, attending to these facts, for any man who reasons fairly, to doubt that the principle of the London Corresponding Society and of the Constitutional Society was to form a *representative government* in this country.

A declaration from a Society in Southwark was read;—"Resolved, That the thanks of this Society "be given to the Southwark Society for the following "communication, and that it be published in the "newspapers:

"April 19, 1792, at the Three Tuns Tavern, "Southwark—Resolved, That we do now form our-"selves into a society for the diffusion of political "knowledge,

"Resolved, That the Society be denominated the "Friends of the People.

"Resolved, That the following be the declaration "of this Society"—which is the preamble to the constitution in France, in the year 1791.

"Considering that ignorance, forgetfulness, or "contempt of the rights of men, are the sole causes "of public grievances, and the corruption of govern- "ment, this Society, formed for the purpose of in- "vestigating and asserting those rights, and of unit- "ing our efforts with others of our fellow-citizens "for correcting national abuses, and restraining un- "necessary and exorbitant taxation, do hereby de- "clare—

"First, That the great end of civil society is "general happiness.

"Secondly, That no form of government is good, "any further than it secures that object.

"Thirdly, That all civil and political authority is "derived from the people"—that people, of whom they were afterwards to form a convention.

"Fourthly, That equal active citizenship is the "unalienable right of all men; minors, criminals, "and insane persons excepted."

Now will my friend dispute with me what these principles, according to the ideas of those who state them, lead to?

"Fifthly, That the exercise of that right, in ap- "pointing an *adequate representative government*"— that is, the government, which Mr. Paine tells you,

rejects every thing that is hereditary—is what?—"the wisest device of human policy"—not only that, but it is—"the only security of national freedom."—Then, is not that a direct assertion, that the British government exists upon principles not reconcilable with the principles of a government that can have any security, or such a security as it ought to have for general freedom?

The Society for Constitutional Information return their thanks upon that also, and then those persons who write this letter say farther in the same paper—

"We call upon our fellow-citizens, of all descrip-"tions, to institute societies for the same great "purpose"—that is, the purpose of introducing representative government—"and we recommend a "general correspondence with each other"—but attached and rivetted to the Constitutional Society—"and with the Society for Constitutional Informa-"tion in London, as the best means of cementing "the common union, and of directing with greater "energy our united efforts to the same common "objects."

What were the objects of this Society? You will find that the objects of this Society were the objects of the Constitutional Society; and you will find presently, that they were the objects of the Corresponding Society:—The Constitutional Society resolved, "that every society, desiring an union, or corre-"spondence with this, and which doth not profess "any principles destructive to truth or justice"—now

this gives occasion for the first remark I have to make upon language—" or subversive to the liberties of " our country; but which, on the contrary, seeks, " as we do, the removal of corruption from the Le- " gislature and abuses from the Government, ought " to be, and we hope will be embraced with the most " brotherly affection and patriotic friendship by this " Society."

I observe upon this, that all this handsome language is perfectly consistent with this principle, in the minds of those who write it, and they do not venture to explain it, because I think they durst not explain it—with this idea in their minds, that those principles were destructive of truth and justice, were subversive of the liberties of the country, which were principles in opposition to those of Mr. Paine; and that all practice, that was in opposition to the practice he recommends, was subversive of the liberties of the country.

I come now to a circumstance or two, which lead me to state shortly what will be proved to be the original constitution of the London Corresponding Society—the plan, (the efficacy of which had been tried in France, and which men, who came from that country, were probably well acquainted with)—was to unite, first, small bodies of men—as soon as they came to a greater number, to divide them into smaller parties, and so to spread themselves by degrees (as you will find in the letters, was the purpose of these societies), from town to town, from village to village, from hamlet to hamlet, till, as they ex-

plain it, there should not be an unenlightened man in the country.

The constitution of the London Corresponding Society was formed upon this principle; it will appear from the written evidence which will be produced to you, that a gentleman of the name, I think, of Felix Vaughan, was appointed a delegate upon the 30th of April, for No. 63; that Mr. Hardy consulted him; and, being also appointed to form a constitutional code of laws for the London Corresponding Society, Mr. Hardy consulted him upon that subject. The preamble to the resolutions which formed their constitution was this: "Whereas it is notorious that very "numerous burdensome and unnecessary taxes are "laid on the persons and families of us and others "the industrious inhabitants of Great Britain, an "exceedingly great majority of whom are, notwith-"standing, excluded from all representation in Par-"liament; and as, upon inquiry into the cause of "this grievance, which is at once an obstruction to "our industry, and a diminution of our property, "we find that the constitution of our country, which "was purchased for us at the expense of the lives of "our ancestors, has, by the violence and intrigue of "criminal and designing men, been injured and un-"dermined in its most essential and important parts, "but particularly in the House of Commons, where "the whole of the supposed representation of the "people is neither more nor less than an usurped "power".—I hope, Gentlemen, it cannot be re-

quired that I should contend against such an assertion in this place, if a court of law in this country has not lost all the character that belongs to law; how that usurped power was ever to be employed as an organ in the constitution of that new representative body that this Society aimed at, consistent with their own principles, remains to this moment unintelligible to me—" arising either from abuses in the " mode of election and duration of Parliaments, or " from a corrupt property in certain decayed corpo- " rations, by means of which the liberties of this " nation are basely bartered away from the bribed " profit of the Members of Parliament: and as it " further appears to us, that, until this source of " corruption shall be cleansed by the determination, " perseverance, firmness, and union of the people " at large, we are robbed of the inheritance so ac- " quired for us by our forefathers, and that our " taxes, instead of being lessened, will go on in- " creasing, as they will furnish more bribes, places, " and pensions, to Ministers and Members of Par- " liament: we therefore, having resolved to unite " ourselves into one firm and permanent body, for " the purpose of informing ourselves and others of " the exact state of the present parliamentary repre- " sentation, for obtaining a peaceable but adequate " remedy to this intolerable grievance, and for cor- " responding and co-operating with other societies, " united for the same objects, have unanimously " adopted the following regulations for the internal

"order and government of our Society." They then state their regulations; and their constitution having been thus formed, they publish it afterwards in the month of May. What observations they state to the public upon it in the month of May, I shall have occasion to represent presently; you will see the manner of proceeding with respect to the election of their delegates, by the production of a particular paper. On the 13th of April, a person, whom you have heard much of, Mr. Margarot, is appointed a delegate; upon the 30th of April, Mr. Vaughan was, as far as the paper is evidence of the fact, appointed delegate for No. 63; Mr. Richter, a party named in this Indictment, and Mr. Martin, another party, against whom the Grand Jury have found a bill, but who is not named in this Indictment, are also appointed delegates. Mr. Hardy is not only secretary, but he is appointed, upon the 13th of April, a delegate; and there is a choice of delegates for the whole of these bodies. You will find they afterwards met from time to time, to pursue the great purposes of their incorporation, at an alehouse, I think, the Bell in Exeter Street, in the Strand, from which place some of the correspondence I am about to state to you comes.

Gentlemen, the Society for Constitutional Information, having affiliated several societies very suddenly with themselves—whether Mr. Paine remained in this country or not I cannot tell—they felt an inclination to affiliate with another Society, which is to be, as

it appears to me, in justice to them, very strongly distinguished indeed with respect to the principles upon which they acted, I mean the Society calling itself the Friends of the People, meeting at Free Masons' Tavern; with what prudence or discretion that Society formed itself is a subject which I shall not discuss, but it is a most important fact, that in the first attempt, which the Society for Constitutional Information made (and it ought to be known in justice to the Friends of the People), the first attempt they made to affiliate themselves with the Society of the Friends of the People, that Society, in correspondence that will be read to you, acts as some individual members of the Constitutional Society had done, they say—"No, we discover your design "from what you are doing; you tell us, from your "approbation of resolutions entered into at Man-"chester, signed by Mr. Walker and Mr. Jackson, "that you approve the sort of schemes Mr. Paine "has set forth;—that you approve projects of giving, "in loose and indefinite terms, the full extent of "what you call the rights of the people, to the people: "that is not our intent; we think"—and, Gentlemen, many a man may very honestly think it, but he must go about the execution of his thoughts in a legal way, if he does so think, if he means to reduce his thoughts into practice—"we think that Parliament "is not adequate to all the ends for which it is "instituted as a body, through which is to be "spoken, as far as the constitution requires, the

" will of the people"; but we do not mean what you " mean; we mean to preserve the forms of the con- " stitution, which it is clear you do not; we mean," says Lord John Russell, in a letter, which will be read, " to preserve the forms of the constitution, " and therefore must decline all correspondence with " you."

Gentlemen, it happens—it belongs to societies of this nature, and I desire to be understood therefore, in stating it, only as stating a circumstance, which in its nature does belong to those societies, and which will happen—that it was thought necessary, for the great purpose of doing that which was eventually to be done, that a Society which had rejected co-operation with the Society for Constitutional Information, should still be kept, for the purposes of the Society for Constitutional Information, in fact and effect corresponding and connected with it. Accordingly you will find that this Society of the Friends of the People, rejecting upon principle the plan which they thought abandoned the forms of the constitution, that this Society retained, in its own bosom, according to the account I have of it, many members, who happened to belong to the other Society, and the work of both societies went on by the same instruments: they were thus therefore connected in fact, though they did not choose as a body to have one Society in connexion with the other.

Gentlemen, having stated that, you will allow me now to mention, though it is a little out of date, but

it also connects itself with and illustrates the last observations I made, that the Society at Sheffield, which had connected itself by affiliation with the Society for Constitutional Information, and you will also find with the London Corresponding Society, had received, about the 24th of May, intelligence from the Society of the Friends of the People, which stated to them very correctly what their objects were, the means by which they meant to accomplish them, and the attention which they meant to pay to the forms of the constitution. You will now see what the Society for Constitutional Information understood to be the objects of the Sheffield Society, and what the Sheffield Society understood to be the objects of the Society for Constitutional Information. The Sheffield Society (though I do not know that they kept their word) distinctly disavowed, in a letter of the 26th May, to the Constitutional Society, having any thing more to do with that Society—called the Friends of the People—which meant to preserve the forms of the constitution; represented that they had totally misunderstood them, and would have nothing more to do with them, but to the extent, to which the Society for Constitutional Information permitted.

You will find in a letter from Sheffield, of the 26th May, and this corrected by Mr. Tooke, that they thank the Constitutional Society for accepting their members. They then state that they had increased to two thousand four hundred.—" On Sa-

"turday last, the 19th instant, we received a packet "of printed addresses, resolutions, &c. from the "Society (Free Masons' Tavern), which on mature "consideration we find ourselves not so well recon- "ciled to the ideas they convey to us as we could "wish, if they had appeared in a different point of "view; nor do they afford us such a flattering pro- "spect, as we were apprehensive might be expected "from an association of so respectable a body, under "the high denomination of the Friends of the "People. In our opinion, their answer of the 12th "instant to your letter of the 27th ultimo is no "ways compatible with that appellation; from the "known respectability of many names which appear "amongst them, we had entertained great hopes of "their real use"—mark the words, Gentlemen—"in obtaining a thorough reform"—now mind what that reform is—"in obtaining a thorough reform "upon the principles of the rights of man,"—that is, a representative government, rejecting the King, and rejecting every other part of the constitution of this country, except so far as it was consistent (indeed it is not consistent with any part of it) with the principles of the rights of man—"which can never "be accomplished until every man enjoys his lawful "and just privileges.

"Previous to the reception of this packet, we did "communicate to them by letter the pleasing hopes "it reflected on us on looking forward, viewing "such respectable characters signalizing themselves

" in support of the people's rights, agreeable to the " above principles, and the denomination by which " they have entitled themselves, &c. In due course " they would receive our letter last Thursday seven- " night; and in consequence, we apprehend the " packet was forwarded to us on the same day, but " without any written communication. We shall " not attempt any further communication with them, " until we are favoured with your sentiments upon " the subject, or until matters of doubt which are " at present entertained be removed." Then there is a note, which shows the necessity of this fostering care of the Constitutional Society: they say—" Bir- " mingham in particular claims all the assistance " from established societies, which possibly can be " administered."

Having written to the Constitutional Society upon the 26th of May, they find it expedient, for the same purpose, to trouble their correspondents of the London Corresponding Society: " We were favoured " with your very affectionate letter of the 7th ultimo, " and communication, in due course; and I am di- " rected by this Society to inform you, that it is " with infinite satisfaction they receive the informa- " tion, that your firm and laudable endeavours are " directed to that effectual and necessary purpose, " of opening and enlightening the public mind, and " disseminating useful knowledge amongst the ge- " neral mass of the people: by an orderly proceeding " in a firm pursuit of truth and equity, there cannot

"be a doubt but that our joint endeavours will in "due time be crowned with success.

"As brothers and fellow-labourers we congratu- "late you on the rapid progress of useful and real "knowledge in the various parts of this nation, "which sufficiently indicates that the time cannot "be far distant when truth will be more predomi- "nant, equity more generally administered, and "sound wisdom more universally sought after. "When pride, ambition, and ignorance, give place "to these virtues, when oppression ceases and cha- "rity abounds, when men in principle and practice "verify the necessity and advantage of doing to "others as they wish to be done by; then, and not "till then, can any people or nation be said to be "happy.

"We have herewith enclosed our rules, &c. "Should have written you much sooner, but on ac- "count of a disappointment in the printing of our "articles, &c.

"Our numbers continue to increase, both here, "and in the adjacent towns and villages; a general "concurrence prevails, as to the necessity of the "business, and the measures adopted by this Society "for obtaining our object. It will be of great im- "portance to the cause we are engaged in, that "a more frequent communication be maintained "amongst all the similar institutions; for which rea- "son we beg the favour of your correspondence at "every convenient opportunity, which will be highly

" obliging to this Society, who in return pledge " themselves to observe the same rule."

Gentlemen, having stated to you now what it was that the Society of the Friends of the People discovered to be the object of the Constitutional Society, and I agreeing with them in thinking their discovery upon that subject was accurate and right, you will find it necessary to go back, and to proceed in the order of time to the 7th of April. Mr. Hardy sent from the London Corresponding Society a copy of their resolutions to the Society for Constitutional Information, which was established at Manchester, and desired also to have correspondence with them, as they were all engaged in one common cause; that Manchester Society, you will recollect, which hoped that the other great benefits which Mr. Paine had stated, would be carried into effect.

He says, " We began this Society about ten weeks " ago; it is composed chiefly of tradesmen and shop- " keepers. The enclosed will inform you of the " principles we set out upon,—When we first asso- " ciated, we flattered ourselves that no other societies " in the nation were formed upon the same principles " —but in two or three weeks afterwards we were " most agreeably informed of our brethren at Shef- " field having taken the lead in so glorious a cause— " we immediately wrote to them, and were answered " without delay, expressing a wish to unite with us, " for promoting the ends we have in view, and we

"are assured of success, by persevering prudently, "and with unanimity."

Upon the 18th of April 1792, in furtherance of this plan, you will find Mr. Hardy writes a letter to the president of the Society in the Borough—Now that is the Society, the principles of which I have so distinctly stated before, as leading to *representative government*, as the only security for liberty in the country.—It appears that their declarations had also been sent to the London Corresponding Society; and Mr. Hardy, upon the 18th of April 1792, says, "I am ordered by the London Corresponding So-"ciety, to send a copy of their resolutions to the "Society that meets at the Three Tuns Tavern, in "the Borough, established on purpose for restoring "the rights of election, or, in other words, to ob-"tain an equal representation of the people of this "nation in Parliament."

Now they had avowed, and avowed in their declaration, that their object of a representation of the people in Parliament was precisely that more extended one in its principle, which obtained at the time of the Commonwealth in England—namely, a representation of the people in Parliament, termed a Parliament, but without King or Lords, *a representative government*—"We should be very happy to "enter into a correspondence with your Society—as "we are all engaged in the same grand and important "cause, there is an absolute necessity for us to unite "together, and communicate with each other, that

" our sentiments and determinations may centre in " one point, viz. to have the rights of man re-esta- " blished, especially in this nation; but our views of " the rights of man are not confined solely to this " small island, but are extended to the whole human " race—black or white, high or low, rich or poor. " I give you the following as my own opinion—per- " haps you may think it a singular sentiment"—and then an opinion is given, which it is my duty to state, though I do not understand it—" that the King and " the nobles, as much as the peasant and ignoble, " are equally deprived of their rights—Our Society " meets every Monday night."

Gentlemen, there is an answer to this, from a person of the name, I think, of Favell, who is chairman of the Friends of the People in Southwark: he says—" I duly received your letter, containing the " resolutions of the London Corresponding Society, " which I have communicated to our Society in the " Borough—and I am directed to return them the " thanks of that Society, and to assure them they " shall cordially unite with them, and all similar so- " cieties throughout the kingdom, in endeavouring " to effect those great objects for which they are " associated—namely, to engage the attention of " their fellow-citizens to examine the general abuses " of government, and to exercise their deliberative " wisdom in a calm but intrepid manner in applying " those remedies,"—This is in April; and in August they expressly tell you, that there was to be no remedy

from Parliament—"In applying those remedies which "the country at large may ultimately require—and "they sincerely agree with you in hoping that the "long-neglected rights of man will be restored, not "only in this country, but in every part of the globe "where man may dwell.—We shall very soon trans- "mit you a copy of our declaration, and hope for "your further correspondence."

A letter and resolutions from the Revolution and Constitutional Societies at Norwich, dated 26th of April 1792, were read at the meeting of the Society for Constitutional Information, on the 4th of May following: they distinctly state—that Mr. Paine's books were to be the medium, through which the prejudices that had grown up under the British government were to be got rid of, and the Constitutional Society return them their thanks in these words—"This Society receives the above communi- "cation with the most heartfelt satisfaction, and "desires earnestly to concur and co-operate with "those Societies in their laudable objects; that the "secretary do inform them of the same, and that "this Society has unanimously elected the twelve "members of the Norwich Societies to be associated "members of this Society."

Upon the 11th of May 1792, the Constitutional Society resolved, that there should be a communication from that Society with the Society of the Friends of the Constitution at Paris, known by the name of Jacobins: they send an address to them, which is in

these words—" Brothers and fellow-citizens of the " world— "

" The cordial and affectionate reception with " which you have honoured our worthy countrymen, " Mr. Thomas Cooper, and Mr. James Watt, " members of the Society of Manchester, and united " with our Society, has been communicated to us by " the correspondence of those gentlemen.

" In offering you our congratulations on the glo- " rious revolution which your nation has accom- " plished, we speak a language which only sincerity " can dictate.

" The formality of courts affords no example to " us: to do our thoughts justice, we give to the " heart the liberty it delights in, and hail you as " brothers.

" It is not among the least of the revolutions " which time is unfolding to an astonished world, " that two nations, nursed by some wretched craft " in reciprocal hatred, should so suddenly break their " common odious chain, and rush into amity.

" The principle that can produce such an effect, is " the offspring of no earthly court; and whilst it " exhibits to us the expensive iniquity of former po- " litics, it enables us with bold felicity to say we " have done with them.

" In contemplating the political condition of na- " tions, we cannot conceive a more diabolical system " of government than that which has been generally " practised over the world, to feed the avarice, and

" gratify the wickedness of ambition; the fraternity " of the human race has been destroyed, as if the " several nations of the earth had been created by " rival gods—man has not considered man as the " work of one Creator.

" The political institutions, under which he has " lived, have been counter to whatever religion he " professed.

" Instead of that universal benevolence, which the " morality of every known religion declares, he has " been politically bred to consider his species as his " natural enemy, and to describe virtues and vices " by a geographical chart.

" The principles we now declare are not peculiar " to the Society that addresses you; they are extend- " ing themselves with accumulating force through " every part of our country, and derive strength " from an union of causes, which no other principles " admit.

" The religious friend of man, of every denomi- " nation, records them as his own; they animate the " lover of rational liberty, and they cherish the heart " of the poor, now bending under an oppression of " taxes, by a prospect of relief.

" We have against us only that same enemy, " which is the enemy of justice in all countries, a " herd of courtiers fattening on the spoil of the " public.

" It would have given an additional triumph to " our congratulations, if the equal rights of man,

" which are the foundation of your declaration of " rights, had been recognised by the governments " around you, and tranquillity established in all; " but, if despotisms be still reserved to exhibit, by " conspiracy and combination, a further example of " infamy to future ages, that Power that disposes of " events, best knows the means of making that ex- " ample finally beneficial to his creatures.

" We have beheld your peaceable principles in- " sulted by despotic ignorance; we have seen the " right hand of fellowship, which you hold out to " the world, rejected by those who riot on its " plunder; we now behold you a nation provoked " into defence, *and we can see no mode of defence* " *equal to that of establishing the general freedom of* " *Europe.*

" In this best of causes we wish you success; our " hearts go with you; and in saying this we believe " we utter the voice of millions."

Gentlemen, this address was signed by the chairman of the Constitutional Society, and transmitted to Mr. Watt, at Paris; and, upon the 28th of May 1792, was ordered to be published.

After this, the principles of Mr. Paine, which, you observe, contain the doctrines that I have been stating to you, were carried further in a third book (I mean in that book called The Address to the Addressers, which I shall also be able to give in evidence to you): Mr. Paine having there gone the length of asserting the folly, absurdity, and wickedness of the

Government, under which we live—not only of asserting the incompetency of Government, as it is constituted, to change itself, but having asserted that a conventionary representation of the people, in that sense in which we speak of it, must do this work, he proceeds to the extent of stating the plan and form of an organization of that sort, upon which the convention was to be framed.

Gentlemen, it was impossible not to apply to the justice of the law, against the attack made upon our Government by the person who went to the extent I am now stating, with the approbation, published over and over again, of these societies, who, in their corporate character, if I may so speak, could not be prosecuted for doing it—it became necessary to ask a Jury of this country, whether these doctrines were to be tolerated—what is the consequence of that? It is, that these societies immediately enter into subscriptions for the support of Mr. Paine, and they consider themselves as engaged in propagating his works in that way, in which no work ever was propagated—to the intent to produce that convention, without which the nation, in no organization of its government, could be said, according to them, to exist in a state of freedom as a nation.

Gentlemen, you will not be surprised, if it also appears that, in going on progressively to the execution of the mischief that was intended, they became more mischievous; and you will find members parting from the Society, expressly telling them, that

they meant to destroy the government of the country; that they cannot, therefore, stay among them; and to which members, as far as appears from any information that I have had, they did not condescend to explain themselves—to say, No, you have mistaken our object—this is not what we mean; but they leave them unanswered, and go on to execute the purposes they were about.

Having come to those resolutions in order to support Mr. Paine in these prosecutions, they publish the resolutions, they publish the books of Mr. Paine, they publish these resolutions in the various newspapers (the editors of these newspapers insuring, if I may so say, themselves against the hazards of the law, some for more, some for less, and they risk the hazard of propagating the doctrines, provided the consideration paid is ample enough, as a premium for the risk), and then these publications are sent down to the country to various places, in hundreds, and thousands—I am sorry to say, to persons of all professions to distribute—I am sorry to say, to some of the most sacred professions, whose names will appear to you when they come to be read—and this mode of propagating these doctrines is adapted to the utter impossibility of detection, and for the very purpose of having that effect—to make the law of the country unequal to the mischief, which it was to meet.

At this time a proclamation was issued by the executive government of the country, in order to

restrain these publications; and both the societies, you will find, cloaking themselves under the words "a full and fair representation of the people," which words they have never condescended to explain, which words never do exist in any text of any writing of theirs, as I can find, with the mention of a King, or other house of legislature;—they vilify the proclamation, and make the very means the executive government took to suppress the mischief, a mean by which they should spread the effect of the mischief more widely and diffusely than otherwise they could have done.

Upon the 24th of May 1792, there is a letter sent from Mr. Hardy, I believe not in his own hand-writing, but I believe in the hand-writing of Mr. Vaughan, whom I before named to you, in which he states, that, by the direction of the London Corresponding Society, he had the honour of enclosing to them a copy of their address and regulations, which he requests they will communicate to the Constitutional Society. The thanks of the Society were given to them for this; and that is a publication more guarded than another you will find published upon the 6th of August 1792.

After stating their constitution, which I before mentioned to you, it says—"But, as Providence has "furnished men in every station with faculties ne- "cessary for judging of what concerns themselves, "shall we, the multitude, suffer a few, with no bet- "ter right than ourselves, to usurp the power of

"governing us without control? Surely not: let "us rather unite in one common cause to cast away "our bondage, being assured, that in so doing we "are protected by a jury of our countrymen, while "we are discharging a duty to ourselves, to our "country, and to mankind."

Gentlemen, you will find from a paper of the 6th of August, that that, which they supposed was to meet with protection from a jury of the country, was a combination to reform the government of the country by means—other than application to Parliament—which binds together, with the King, as the great political body of the country, the whole system, under which we live.

Gentlemen, the London Corresponding Society, as to the King's proclamation, followed the example of the Constitutional Society, and, on the 31st of May 1792, in a paper that will be read to you, they vilify the proclamation; and this paper having been communicated by the London Corresponding Society to the Constitutional Society—they, aware of the nature of it, order, that that paper should be published in such newspapers as *will* receive the advertisements of this Society.—They were pretty well aware that they were of such a nature as made it somewhat hazardous to publish them.

You will find a letter, dated the 14th of June 1792, from certain persons styling themselves the Editors of the Patriot (who they are I am not able to state to you, but who, for the purposes of these

societies, thought it necessary to conceal their names), in which they desire the Corresponding Society to take an opportunity of enlightening the public mind by publications, by advertisements, by circulating those papers in villages to country farmers, desiring, as I stated, to conceal their name, but requesting that the papers might be sent to a person, who holds an important situation in a subsequent part of this business—a Mr. Gale, a bookseller, at Sheffield.

Gentlemen, there will be laid before you various parts of the proceedings of the Constitutional Society, which relate to Mr. Paine, which I shall now pass over, except for the purpose of calling your attention to another publication of his upon the 6th of June 1792, and which was addressed to Mr. Dundas; you will likewise find that that book, which will be given you in evidence, distinctly disavows all hereditary government; all monarchy, under whatever qualifications; and then, for the purpose of circulating this doctrine, as they had before circulated the doctrines in other works of this gentleman, they order, "that twelve thousand copies of that letter "shall be printed for the Society, for the purpose of "being transmitted to our correspondents through-"out Great Britain, and that a committee be ap-"pointed to direct the same."

Gentlemen, I pass on now to the 6th of August 1792; at which time there appears to me to have been an extremely important transaction in the London Corresponding Society; it is the propagation of

an address of that date, which first developes, as it seems to me, though in somewhat of covert language, the determination of these societies to work what they call a reform without any communication whatever with that Parliament, which they held to be incompetent to bring about the business.

You will find that, upon the 8th of August, Mr. Hardy wrote a letter to Mr. Tooke; that he sent him a proof copy of this address; that he hoped it would merit his attention, and his approbation; that he should be exceedingly happy to be favoured with his opinion of it before it was printed.

The address, after stating what they considered as the grievances of the country, states this—"Such "being the forlorn situation of three fourths of the "nation, how are Britons to obtain information and "redress? Will the Court, will Ministry afford "either? Will Parliament grant them? Will the "nobles or the clergy ease the people's sufferings? "No. Experience tells us, and proclamations con- "firm it, that the interest and the intention of power "are combined to keep the nation in torpid igno- "rance."

It then states the only resource to be in these societies; it then states various detailed reasons, which you will hear, and then proceeds to this effect:

"Numerous other reforms would undoubtedly "take place, even in the first session of Parliament "so elected, dependant only on their electors the "people; untorn therefore by faction, undivided

" by party, uncorrupted by Ministry, and uninflu-
" enced but by the public good. Every transaction
" would tend to reform, and a strict economy, its
" natural consequence, might soon enable us to
" reduce our taxes; and by the integrity of Parlia-
" ment, that reduction would light upon such objects
" as best might relieve the poor; this to the people
" would prove an advantageous and a novel session,
" and to an honest Parliament not a tiresome one.

" Therefore, Britons, friends, and fellow-citizens,
" with hand and heart unite, claim what is your
" right, persevere and be free, for who shall dare with-
" stand our just demands? Oppression, already trem-
" bling at the voice of individuals, will shrink away
" and disappear for ever, when the nation united
" shall assert its privileges and demand their restora-
" tion."

Gentlemen, the address you will find was circulated with infinite industry to every Corresponding Society in the kingdom, conveyed through every possible channel, the doctrine adopted by all the affiliating societies; and the plan, which they went upon from this 6th of August 1792, appears to have been a plan to redress themselves by their own power, and by their own strength, and not by application to that Parliament, which alone can act in legislation: it seems to me to be impossible that you can mistake what is meant by this paper, if you will give your more particular attention to a paper which was received from a Society at Stockport, and found in

the possession of Mr. Hardy upon the 27th of November 1792: this, after adverting to those numerous grievances stated in the address of the 6th of August 1792, is to this effect:

"In obedience to the wishes of the Society here, "I have the pleasure of acknowledging the honour "of your letter, and the packet, which the kind- "ness of our brothers of the London Corresponding "Society so opportunely presented us with.

"It is doubly deserving our thanks, as it shows "your kindness, and as it will be useful in the "formation of our infant Society; we stand much in "need of your experience in this particular, and we "doubt not of your best assistance; we are sur- "rounded by a majority, a formidable one indeed in "power, abilities, and numbers, but we are not dis- "mayed.

"We have carefully perused the addresses, and I "am to observe upon their contents in general, that "the sentiments hardly arise to that height which "we expect *from men sensible to their full claims to* "*absolute and uncontrollable liberty*, i. e. *unaccount-* "*able to any power which they have not immediately* "*constituted and appointed.*

"These are our sentiments, whatever may be "yours; though, in the present state of political "knowledge, it may be prudent not to avow them "openly. We desire your sentiments on the means "of accomplishing that object, which we presume "you have in view in common with us; we think

"it expedient that we should perfectly understand "each other in the beginning, lest the appearance "of disunion might furnish matter of triumph to "our enemies; we observe one expression,"—you will take notice that Mr. Hardy at this time was a member both of the London Corresponding and the Constitutional Societies:—"we observe one expres- "sion, which says, 'numerous other reforms would "take place,' &c. &c. but we ask how is that Parlia- "ment to be chosen? *Can we expect it from the "present order of things?* Would not all the evil be "done away at once *by the people assembling in con- "vention?* Does it appear probable that the odious "laws, which we complain of, will be abolished any "other way? Can the grievances arising from ari- "stocracy be redressed while the ——— retains its "present authority in the Legislature?"—whether this blank is to be filled up with Crown or the House of Lords is for you to judge,—retains its present authority in the Legislature? "Is the universal right "of conscience ever to be attained while the B——— "maintain their seats on the

"Your thoughts on those important points, we "most earnestly desire may be transmitted to us as "soon as possible, not directed as the last,"—and this you will find often occurs: letters sent under a feigned direction; "we fear it will excite suspicion."

The Stockport Society say of the address of the 6th of August 1792, sent to them, that they think it hardly amounts to sentiments such as theirs,

namely, that they must have absolute and uncontrollable liberty, unaccountable to any power which they have not immediately constituted—that could not be the King and Parliament of Great Britain—they say, "we presume you have the same view in common "with us, and we desire to have your sentiments "upon the means of accomplishing that object." What object? The object of putting themselves in a situation of being unaccountable to any power, which they themselves had not immediately constituted and appointed—how was that to be done?—was it to be done by Parliament? The address of the 6th of August had disavowed that it was to be done by Parliament. Is it to be done, while the other parts of the Legislature hold their situation in the Legislature? We presume you have the same object: tell us what you think upon this occasion. This was the occasion, upon which the address of the 6th of August ought to have been explained, if they meant to disavow that they had any such object; but what is the answer? The answer in effect is: That full and fair representation of the people, that we are aiming at, is that which is to be the mediate or immediate instrument of removing all the grievances we labour under, though prudence does not permit us to speak all we think upon the subject.

"With infinite satisfaction the London Corre-"sponding Society's Committee perused your letter; "they are happy to learn your steady determination, "in spite of all obstacles, to pursue that sole means

" of political felicity, a perfect representation of the " people."

Now, what was the sole means of this political felicity—a perfect representation of the people?—Why, the formation of a power by the people, making themselves unaccountable to any other power, to any power but that which they had immediately themselves constituted, namely, an assembly by a convention of the people. Then, Why don't they speak out? They say, " With regard to our publications, " our sentiments are expressed in as strong terms as " prudence will permit, yet plain enough to convince " the public, that, while we expect every thing " from an honest and an annual Parliament,"—a body might exist under the term Parliament in a commonwealth, as well as under a King—" nothing " short of such *a senate*, chosen by the whole nation, " will satisfy us.

" True generosity, the characteristic of this na- " tion, and of all unperverted men throughout the " globe, calling upon us to countenance at this " juncture the arduous struggle of the French na- " tion against despotism and aristocracy, those foes to " the human race, we have resolved upon addressing " the French National Convention." You will permit me to observe, this was upon the 11th of October 1792: the King of France was deposed in effect upon the 10th of August 1792. This passage, in the transactions of this Society, appears to me to be peculiarly worthy your attention. " Without

" entering into the probable effects of such a mea-
" sure, effects, which your Society will not fail to
" discover, we invite you to join us; and to that
" end, herewith you have a copy of our intended
" address: if you approve the idea, and will concur
" in sending it, be pleased to return us without de-
" lay, a copy signed by your president; we will then
" associate your body with ours, and with some
" others, who have already assented to the measure:
" if, on the contrary, you disapprove that mark of
" zeal towards the only nation that has hitherto
" undertaken to restore to mankind its just rights,
" please to communicate to us your objections."
This was upon the 11th of October 1792: upon the 6th of October 1792, Mr. Barlow (whose name occurs before with respect to his publication relative to the privileged orders) writes a letter to the Society for Constitutional Information, accompanied with a book, called " Advice to the National Convention
" of France;" and you will be pleased to observe that Mr. Barlow, and a Mr. Frost, afterwards, in the month of November, were sent with an address from the Constitutional Society to Paris, as their delegates for that purpose. The letter of Mr. Barlow is in these words:

" I have lately published a small treatise, under
" the title of ' A Letter to the National Convention
" of France, on the Defects of the Constitution of
" 1791, and the Extent of the Amendments which
" ought to be applied:' although the observations

" contained in this letter are more particularly appli-
" cable to the French nation in the present crisis of
" its government, yet, as the true principles of
" society are every where the same, their examina-
" tion cannot be unseasonable in any nation, or at
" any time; believing, therefore, that the subject
" of this treatise will not be thought foreign to the
" great object of your association, I present a copy
" of it to you with the same confidence as I have
" done to the National Convention, and to the
" Constitutional Society at London, a confidence
" arising from the full persuasion that the work is
" founded in truth and reason. I take the liberty at
" the same time to send you a copy of another pub-
" lication, entitled 'Advice to Privileged Orders.'
" The present disposition in Europe towards a
" general revolution in the principles of govern-
" ment is founded in the current of opinion, too
" powerful to be resisted, as well as too sacred
" to be treated with neglect; and it is the duty of
" every individual to assist, not only in removing the
" obstructions that are found in the way of this re-
" volution, but in ascertaining, with as much pre-
" cision as possible, the nature of the object to be
" aimed at, and the consequence to be expected
" from the attainment: it is above all things to be
" desired, that the convictions to be acquired from
" national discussion, should precede and preclude
" those which must result from physical exertion."

Now, you will give me leave to state to you what

the doctrine is in this book, for which the Society for Constitutional Information, Mr. Hardy then a member of it, thank Mr. Barlow, make him an honorary member, and afterwards depute him to the National Convention of France.

Gentlemen, the doctrine, I can explain it to you generally, without troubling you by reading particular passages, amounts to this: Mr. Barlow, after stating the principles of equal active citizenship, which found their way into the constitution of France in 1791, and which constitution had made the King a part of the system of that government, informs them of the glorious victory of the 10th of August, as the papers, which I have to adduce presently, represent it; that it had accomplished finally the effect of those principles, which he understands to be the principles of those to whom he was writing; that it is impossible they should consist with this sentiment, *that a King could be retained in a government*; that the constitution was at variance with itself; that those who made it had not discovered that, or, having discovered it, they thought the time was not yet come, when they could reduce the constitution to that pure government which was the object of these societies; he then tells you, that in government, the maxim being *that a King can do no wrong*, the maxim ought to be, *that he can do no good.*

This gentleman, so stating his doctrine as an explanation of the principles upon which they are acting, is voted by them an honorary member, and

afterwards sent to Paris with the papers, which I am about to read to you: a great deal of evidence will be laid before you, to prove that they had beat up all the country for letters and addresses to express the same principles to France, not on account of the cause of France, but of the cause of England, and with a view to introduce the same effects into England. I shall state but two of these addresses, because they seem to contain the effect of all the rest that were actually sent.

The London Corresponding Society first of all communicated to the Constitutional Society, in the month of October 1792, their intention of sending an address to France: the Constitutional Society fully approve the purpose: they see the end that it aims at, and they determine not to concur in the same address, but to send a separate address; and in their paper you may see the principles of both to be principles, which were expressed for the very purpose of aiding the co-operation of the societies in excluding the King from the government of the country, and of raising a republic. This is the letter:

"Frenchmen, while foreign robbers are ravaging "your territories under the specious pretext of jus- "tice, cruelty and desolation leading on their van, "perfidy and treachery bringing up the rear, yet "mercy and friendship impudently held forth to the "world as the sole motive of their incursions; the "oppressed part of mankind"—that is, Great Britain —"forgetting for a while their own sufferings, feel

" only for yours, and with an anxious eye watch the " event, fervently supplicating the Almighty Ruler " of the Universe to be favourable to your cause, so " intimately blended with their own"—that cause which upon the 10th of August had excluded the King from the government of the country—" frown- " ed upon by an oppressive system of control, whose " gradual but continued encroachments have deprived " this nation of nearly all its boasted liberty, and " brought us almost to that abject state of slavery, " from which you have so emerged; five thousand " British citizens indignant manfully step forth to " rescue their country from the opprobrium brought " upon it by the supine conduct of those in power; " they conceive it to be the duty of Britons to coun- " tenance and assist, to the utmost of their power, " the champions of human happiness, and to swear " to a nation, proceeding on the plan you have " adopted, an inviolable friendship. Sacred from " this day be that friendship between us, and may " vengeance, to the utmost, overtake the man who " hereafter shall attempt to cause a rupture!

" Though we appear so few at present, be assured, " Frenchmen, that our number increases daily: it is " true, that the stern uplifted arm of authority at " present keeps back the timid; that busily circulated " impostures hourly mislead the credulous; and that " court intimacy with avowed French traitors has " some effect on the unwary and on the ambitious; " but with certainty we can inform you, friends and

"freemen, that information makes a rapid progress "among us; curiosity has taken possession of the "public mind; the conjoint reign of ignorance and "despotism passes away; men now ask each other, "what is freedom? what are our rights? French- "men, you are already free, and Britons are pre- "paring to become so; casting far from us the cri- "minal prejudices artfully inculcated by evil-minded "men and wily courtiers, we, instead of natural "enemies, at length discover in Frenchmen our "fellow-citizens of the world, and our brethren by "the same heavenly Father, who created us for the "purpose of loving and mutually assisting each other, "but not to hate, and to be ever ready to cut each "other's throats at the command of weak and am- "bitious Kings, and corrupt Ministers; seeking our "real enemies, we find them in our bosoms, we feel "ourselves inwardly torn by and ever the victim of a "restless and all-consuming aristocracy, hitherto the "bane of every nation under the sun: wisely have "you acted in expelling it from France.

"Warm as our wishes are for your success, eager "as we are to behold freedom triumphant, and man "every where restored to the enjoyment of his just "rights, a sense of our duty, as orderly citizens, "forbids our flying in arms to your assistance: our "Government has pledged the national faith to remain "neutral in a struggle of liberty against despotism. "Britons remain neutral!—O shame! but we have "trusted our King with discretionary powers; we

"therefore must obey: our hands are bound, but "our hearts are free, and they are with you.

"Let German despots act as they please, we shall "rejoice at their fall; compassionating however their "enslaved subjects, we hope this tyranny of their "masters will prove the means of reinstating in the "full enjoyment of their rights and liberties millions "of our fellow-creatures.

"With unconcern therefore we view the Elector "of Hanover"—that is, the King of Great Britain—"join his troops to traitors and robbers; but the "King of Great Britain will do well to remember, "that this country is not Hanover. Should he for-"get this distinction, we will not.

"While you enjoy the envied glory of being the "unaided defenders of freedom, we fondly anticipate "in idea the numerous blessings mankind will enjoy; "if you succeed, as we ardently wish, the triple "alliance (not of *crowns*, but) of the *people of Ame-*"*rica*, *France*, and *Britain*, will give freedom to "Europe, and peace to the whole world. Dear "friends, you combat for the advantage of the "human race; how well purchased will be, though "at the expense of much blood, the glorious un-"precedented privilege of saying,—Mankind is free: "tyrants and tyranny are no more: peace reigns on "the earth, and this is the work of Frenchmen."

Gentlemen, this address, which was sent by that Society, was followed by another from the Society for Constitutional Information, upon the 9th of No-

vember 1792, which seems likewise to state their principles.

" Servants of a sovereign people, and benefactors " of mankind—

" We rejoice that your revolution has arrived at " that point of perfection which will permit us to " address you by this title"—Servants of a sovereign people, that is not the character of a British government; this is the principle of the Southwark resolutions—" it is the *only one* which can accord with the " character of true legislators. Every successive " epoch in your affairs has added something to the " triumphs of liberty, and *the glorious victory of the* " 10*th of August* has finally prepared the way for a " constitution, which, we trust, you will establish on " the basis of reason and nature." Mr. Barlow had in effect said (and they had made him an honorary member, and had transmitted their address by his hands), that no constitution could reform upon the basis of reason and nature, that left a King in the government, however the government was modified.

They proceed thus in their address—" Considering " the mass of delusion, accumulated on mankind to " obscure their understandings, you cannot be asto- " nished at the opposition, that you have met both " from tyrants and from slaves; the instrument used " against you by each of these classes is the same; " for, in the genealogy of human miseries, ignorance " is at once the parent of oppression and the child of " submission.

"The events of every day are proving, that your "cause is cherished by the people in all your conti- "nental vicinity; that a majority of each of those "nations are your real friends, whose governments "have tutored them into apparent foes; and that "they only wait to be delivered by your arms from "the dreadful necessity of fighting against them.

"The condition of Englishmen is less to be de- "plored; here the hand of oppression has not yet "ventured completely to ravish the pen from us, nor "openly to point the sword at you."

They then go on to say:—"From bosoms burn- "ing with ardour in your cause, we tender you our "warmest wishes for the full extent of its progress "and success; it is indeed a sacred cause; we cherish "it as the pledge of your happiness, our natural and "nearest friends, and we rely upon it as the bond of "fraternal union to the human race, in which union "our own nation will surely be one of the first to "concur.

"Our government has still the power and perhaps "the inclination to employ hirelings to contradict "us; but it is our real opinion, that we now speak "the sentiments of a great majority of the English "nation. The people here are wearied with impos- "ture, and worn out with war; they have learned to "reflect that both the one and the other are the off- "spring of unnatural combinations in society, as re- "lative to systems of government, not the result of

"the natural temper of nations as relative to each "other's happiness.

"Go on, legislators, in the work of human hap- "piness; the benefit will in part be ours, but the "glory shall be all your own; it is the reward of "your perseverance, it is the prize of virtue, the "sparks of liberty preserved in England for ages, "like the coruscations of the northern Aurora, "serving but to show the darkness in the rest of "Europe. The lustre of the American republic, "like an effulgent morn, arose with increasing vi- "gour, but still too distant to enlighten our hemi- "sphere, till the splendour of the French revolution "burst forth upon the nations in the full fervour of "a meridian sun, and displayed"—attend to the words—"in the midst of the European world the "practical result of principles, which philosophy "had sought in the shade of speculation, and which "experience must every where confirm,"—the principles of Mr. Paine, who went over to form one in that Convention, the existence of which shows the practical result of those principles, which philosophy had sought, and which experience was to confirm— "it dispels the clouds of prejudice from all people, "reveals the secrets of all despotism, and creates a "new character in man.

"In this career of improvement your example will "be soon followed; for nations, rising from their "lethargy, will reclaim the rights of man with a "voice which man cannot resist."

Gentlemen, it will not be matter of surprise to you, that letters, such as these to the National Convention in France, should have produced opinions in that country respecting the attachment of individuals in this to their government. It is not therefore very extraordinary, that, upon the 19th of November 1792, that famous decree passed of fraternization with all subjects in all countries, who chose to resist the governments under which they live; but I think you will be surprised that any man could receive in this country, and read with approbation, and enter upon their proceedings the answers, which these addresses brought from France, and which were read in the presence of the Prisoner at the bar, without being astonished that they did not at least take some means to reject from them the imputation that they meant, in their own country, all that these answers suppose they mean, and all that these answers promise to assist them in accomplishing.

You will find, upon the 14th of December 1792, that a letter from the Society of the Friends of Liberty and Equality, sitting at Laon, the head of the department of the Aisne, to the patriotic society of London, called the Society for Constitutional Information, is read, and referred to their Committee of Correspondence: it is in these words:—"The "Society of the Friends of Liberty and Equality "sitting at Laon, the head of the department of the "Aisne, to the Patriotic Society of London, called "the Society for Constitutional Information.—Ge-"nerous republicans, the philanthropic gift that you

"have presented to the warriors of France"—they had sent some shoes, and were at that time thinking of giving them some arms—"announces with energy "the great interest that you take in the sacred cause "which they are defending. Accept the thanks of "a Society, that does honour to itself in esteeming "you. The time perhaps is not far distant, when "the soldiers of our liberty shall be able to testify "their gratitude to you: then their arms, their "blood itself, shall be at the service of all your fel-"low-citizens, who, like you, acknowledge no rights "but the rights of man; then France and England "shall form together a treaty of union as lasting as "the course of the Seine and the Thames; then "there, as here, there shall exist no other reign but "that of liberty, equality, and friendship. May this "day of felicity and glory soon shine upon the hori-"zon of two nations formed to admire each other!"

Gentlemen, they then enter upon the minutes of the Society another letter, from another fraternizing society,—whether one of those societies which they speak of in the beginning of 1792, as affiliating societies in France, or not, I do not know;—whether they had been assisting to reduce their principles into practice I do not know; but it is clear that the affiliating society in France offered them their assistance for that purpose. Accordingly, you will find that the Society of the Friends of Liberty and Equality, established at Macon, write to the Constitutional Society at London, adverting to what they had said

in their address to the nation about the glorious victory of the 10th August 1792, the circumstances of which shall be described to you in evidence, because you will find that some of the persons who are charged in this Indictment (and whose conduct in this conspiracy will, upon the clearest principles of law, affect all of them) were then present in Paris. They write thus—"Yes, citizens, our brethren, and "friends, the 10th of August 1792 shall be distin- "guished"—what, in the annals of France?—"dis- "tinguished in the annals *of the world*, as the day "of the triumph of liberty. Our first revolution" —(Mr. Joel Barlow or Mr. Paine, one should have thought, had wrote it)—"our first revolution did "but show to us the salutary principles of the im- "prescriptible rights of man: all, except the faith- "less and the enemies of humanity, adopted them "with enthusiasm. It was then that we formed "ourselves into a Society, in order the better to "impress them upon ourselves, and afterwards to "teach them to our fellow-citizens.

"Our first constitution had consecrated them, "but had not always taken them for its base: the "dominion of the passions, the force of habit, the "impression of prejudices, and the power of the in- "trigues employed in our Constituent Assembly, "found the secret to preserve sufficient authority to "our tyrants, to extinguish at some time the sacred "rights of nature, and to re-establish despotism on "its throne of iron.

"But royalty, thus preserved, was not content "with the victory secured to it by a set of men, the "greatest part of whom it had corrupted. It was "impatient to reap the fruits that it appeared to "promise itself; but its too great eagerness has "hastened its ruin, and secured the triumph of "reason.

"The French, proud of their own existence, soon "perceived the fruit of their first legislature; be- "came sensible of the imperfections of their first "laws, saw that they made a surrender of the rights "of liberty and equality, which they had embraced; "they roused themselves anew to demand at length "laws impartial and humane.

"From thence the necessary day of the 10th of "August 1792, from thence a second revolution, "but a revolution which is only the completion of "the first, which has received our vows and our "oaths, and which we will bless for ever, if it leads "us, as we hope it will, to the happiness of the "nation, to the constant maintenance of liberty and "equality.

"Let intriguers, fools, and tyrants, calumniate "us; we despise them too much to condescend to "answer them, and seek for their esteem.

"That which flatters us is the interest that *you* "take in our labours: *your* attention has contributed "to the success of our arms. We desire your "esteem, we are proud of your approbation.

"We smile at the expression of the sentiments

" that you manifested to our representatives. We " behold a nation of brethren rouse itself to support " the cause of humanity; we behold the brave Eng- " lish adopt our principles, become our friends: we " say to each other with pleasure, Soon will they be- " come our allies; and, uniting our efforts, we shall " go on to deliver the universe from the yoke of " tyrants, to restore the nations to reason and na- " ture. That day is not far distant, if we may rely " on our own courage, and the hope of your alliance. " In the mean time, receive our thanks, and corre- " spond with brethren who set a high value on your " esteem."

Gentlemen, on the 17th of December 1792, the Popular and Republican Society of another department at the Mouth of the Rhone, wrote them this letter: " The Popular and Republican Society of " Apt, department of the Mouths of the Rhone, to " the Popular Society sitting at London. Live free or " die. Citizens, brethren, and friends, when two " great nations, acquainted with their rights, ap- " proximated by their commercial connexions and " their national situation, formed to live and to act " in concert with each other, begin to form the glo- " rious project of uniting themselves for the regene- " ration of the human race, one may then say with " reason that Kings are ripe and ready to fall. How " glorious it will be for France and England to have " formed alone a confederacy destructive of tyrants, " and to have purchased at the price of their blood

"the liberty of Europe; we may say more, of "the whole universe! Courage, brethren and "friends! It is for you to follow in the glorious and "hazardous career of the revolution of the world; "can you any longer groan under the yoke of a go- "vernment that has nothing of liberty but the name? "for, although your land was inhabited before ours "by freemen, can you, without delusion, consider "your government as such? Will you content "yourselves with a partial freedom? Will the Eng- "lish be satisfied with principles? Will that bold "nation, that has produced philosophers the most "profound, and that first of all perceived the spark- "ling rays of freedom, remain a spectatrix in so "noble a cause? No, brethren and friends, no; "you will soon lift yourselves up against that perfi- "dious Court of St. James's, whose infernal policy, "like that which found its doom in the Thuilleries, "has made so many victims in our two nations, and "does disunite them perpetually to rule over them. "Your love for liberty has fixed your attention upon "the wants of our defenders; your generosity to- "wards them has a title to the acknowledgment of "the republic; we are impatient to furnish you the "same advantages: the Popular Societies of France "desire ardently the epoch that shall permit them to "address their voice to the National Assembly of "Great Britain, and to offer to the soldiers of liberty "of your nation, arms, bayonets, and pikes."

This is the private correspondence between the so-

cieties and the Society for Constitutional Information; but some of the persons named in this Indictment were present at the scenes I am now going to state, at the bar of the National Convention in France; others of them delivering these sentiments by their ambassador Mr. Barlow, whose principles you have seen, and Mr. Frost, of whom I must state it, because I shall prove it, that he has been convicted in this country of coming from that country with the doctrine of No King: they offer these addresses to the National Convention of France in terms, the substance of which I will state to you, as far as I understand it to be, and I believe it is an accurate translation.

"Mr. Barlow and Mr. Frost, English citizens, "being admitted to the bar, one of them pronounced "the following address."—Gentlemen, the actual fact of his pronouncing it will be given in evidence: the date is the 28th of November 1792, nine days after the decree of the National Convention, which had promised fraternal assistance to the subjects of any country, that found themselves oppressed by any of their casts and privileged orders.

"Citizens of France, we are deputed from the "Society for Constitutional Information in Lon- "don, to present to you their congratulations on the "triumphs of liberty. This Society had laboured "long in the cause with little prospect of success "previous to the commencement of your revolution; "conceive then their exultations and gratitude when,

" by the astonishing efforts of your nation, they be-
" held the reign of reason acquiring an extension
" and solidity which promised to reward the labour
" of all good men, by securing the happiness of their
" fellow-creatures. Innumerable societies of a simi-
" lar nature are now forming in every part of Eng-
" land, Scotland, and Ireland: they excite a spirit of
" universal inquiry into the complicated abuses of go-
" vernment, and the simple means of a reform. After
" the example which France has given, the science of
" revolutions will be rendered easy, and the progress
" of reason will be rapid. It would not be strange if, in
" a period far short of what we should venture to pre-
" dict, addresses of felicitation should cross the seas
" to *a National Convention in England.* We are
" also commissioned to inform the Convention, that
" the Society which we represent has sent to the
" soldiers of liberty a patriotic donation of a thousand
" pair of shoes, which are by this time arrived at
" Calais; and the Society will continue sending a
" thousand pair a week for at least six weeks to come;
" we only wish to know to whose care they ought to
" be addressed."

Why, Gentlemen, am I to be told then, that, in the month of November 1792, those who, in August 1792, had said they could apply with no effect to Parliament, had no idea of such a National Convention in England, as that National Convention in France which they were addressing, and from which they were expecting to receive addresses? Am I to

be told that they had no idea of such a convention, as should overturn the constitution of this country? It is impossible to put such a construction upon such proceedings.

Gentlemen, you will likewise find that the President of the Convention thought it necessary to give an answer to this address. I will state the substance of it: it will be read in evidence; therefore I shall not take up time in looking for it. The President, considering them as generous republicans (and well he might after what had passed), makes an address to them, expressing much the same sentiments as those in which they had addressed him, and then he concludes by saying—"Without doubt the time ap-"proaches when we shall soon send congratulations "to *the National Convention of England.*"

Gentlemen, you will likewise find that the London Corresponding Society, and the Constitutional Society, endeavoured to excite persons in all parts of this kingdom to send these addresses; that, in point of fact, there are various other addresses sent, of similar import, at the instigation of these societies, and the intent of them, I think, cannot possibly be misunderstood; but take the intent of them to be what you will, let my Learned Friend tell you, as he will, that there as yet was no war between Great Britain and France, you will allow me to say that there is evidence of a distinct intent that there should be a National Convention in England, and that the French soldiers of liberty should assist what they would call

the soldiers of our liberty, whether there should be a war between Great Britain and France, or not; and you will allow me to say, that, in that very month of November 1792, a passage occurs, in which France does in effect declare war against all nations that did not adopt her principles, and allow the people to put them into execution.

In a conspiracy, as widely extended as this is, I shall undoubtedly insist, before you and the Court, that the acts of individuals, and particularly the acts of persons sent to present addresses to a foreign country, that what they do in reference to these acts is evidence against all of them; and likewise that letters, which the persons write relative to the same addresses, are evidence against each of them, whether written by the particular individual or no, as being in the prosecution of the same purpose. Upon the 20th of September 1792, Mr. Frost, who was then at Paris, states his notions in a letter to Mr. Tooke, of the real effect of this transaction of the 10th of August 1792, about which time Mr. Paine made his first appearance in the National Convention—"Without the affair of the 10th of August, "liberty was over—We dine to-day with Petion—"Paine has entered his name on the roll of Parlia-"ment, and went through the forms of office with "a great deal of non-chalance—We are well lodged, "and beside our bed-rooms, have an entertaining "room for members to be shown into, and several "have called upon us this morning."

Then you will find, that there being a project to send shoes to the soldiers of France, and arms and muskets, with respect to which project the Prisoner was a contributor—for the purpose of having this present from England to France properly distributed in France, the following letter is written to the mayor of Paris:

"Sir, you are in no want of friends in England, "who ardently wish to be useful to French liberty; "but we wish to know some one of your friends "who resides in London, in whom you have an en- "tire confidence, and to whom we may give our "money, in the assurance that it will be remitted "to you without delay and without fraud. Mr. "Frost, to whom I intrust this letter, is going to "set out immediately with Mr. Paine for Paris, and "allows me no time for ceremony, if it were neces- "sary. I request you to send me the name of some "Frenchman in London, merchant, or other, for "the purpose above mentioned. We can now begin "the public contribution towards our patriotic gift "with a thousand pounds sterling, and I have no "doubt but it will amount in time to several thou- "sands; if you consider this step in the same point "of view that we do, you will see in it much use to "*the common cause* in England and France. I en- "treat you to give me your sentiments upon the "subject, and to point out to me the means by "which I may be useful to you."

This is answered, upon the 1st of October, by Petion, thus—"You cannot, Sir, doubt of my

"eagerness to second views so useful, which will for "ever merit our gratitude, will rivet the links of "fraternity between us, and must produce the "greatest advantages *to England and France.* I "shall have the honour, Sir, of sending you, with- "out delay, the name of the person in whose hands "you may place the funds which you destine to the "support of a cause which, in truth, is that of all "people who cherish liberty."

Gentlemen, it may be in the recollection of perhaps most who now hear me, that circumstances of this sort, which were supposed to be in existence, but which, in fact, were not capable of being proved to be in existence, had excited in this country considerable alarm in the minds of many persons who live in it.—This alarm, it seems to have been thought necessary, both in the Constitutional Society, and also in the London Corresponding Society, in some degree to lay asleep, as far as it affected them; they thought it necessary, therefore, to give some declaration, as they call it, of their principles, and I will state to you shortly what that was—but the explanation, which the London Corresponding Society gave, was thought so little safe, though it was given for the purpose of laying asleep alarms, that it will be distinctly proved to you—that being written, as I am instructed to state to you (and I do it because I am instructed, and it is my duty), being written by Mr. Vaughan, it was agreed to be stuck up round the town at midnight—that accordingly a person, of the name of Carter, a

bill-sticker, was employed for that purpose;—that some mistake happened between him and his employers;—that having made that mistake, he was not thought a proper person to be employed in considerable business in the Society afterwards: this person was taken up in the act of sticking the bills round this town, which contains this address—he was prosecuted—he was convicted—and lay six months in a gaol in consequence of that conviction; and this was the fate that attended the issuing into the world an address, which was to appear not originally by daylight, but by midnight.

With respect to the address of the Constitutional Society, I think I shall not be thought to make an unfair observation upon it when I say this—that if I had not read to you what I have already read, you would have found it impossible to say what it was, upon reading that paper, that they meant to say, who published it; but after what I have read to you, I think you can have no difficulty to determine that the paper they published, and the paper of the Corresponding Society, were by no means such as were calculated in any manner to disavow those principles, which I think I have shown you satisfactorily, from March 1792, were the principles they acted upon and adopted.

Gentlemen, the address of the London Corresponding Society is in these words:—"Friends and "fellow-countrymen, unless we are greatly deceived, "the time is approaching when the object for which

"we struggle is likely to come within our reach. "That a nation, like Britons, should be free, it is re- "quisite only that Britons should will it, to become "so"—that is a passage borrowed from Mr. Paine— "that such should be their will—the abuses of our "original constitution, and the alarms of our aristo- "cratic enemies, sufficiently witness: confident in the "purity of our motives, and in the justice of our "cause, let us meet falsehood with proofs, and hypo- "crisy with plainness; let us persevere in declaring "our principles, and misrepresentation will meet its "due reward—contempt.

"In this view the artifices of a late aristocratic "association, formed on the 20th instant, call for a "few remarks on account of the declarations they "have published, relative to other clubs and societies "formed in this nation. It is true that this meeting "of gentlemen (for so they style themselves) have "mentioned no names, instanced no facts, quoted "no authorities"—it was a little difficult to do it, unless they had the means of seeing all the corre- spondences at home and abroad—"but they take "upon themselves to assert that bodies of their "countrymen have been associated, professing opi- "nions favourable to the rights of man, to liberty "and equality"—mark these expressions—"and "moreover that these opinions are conveyed in the "terms, *no King, no Parliament*."

Gentlemen, what I have been endeavouring to state to you is this, that it is necessarily to be in-

ferred from their principles that they did mean to assert, when they were ripe for it, *no King, no Parliament:* it is not my imputation—I do not know whose it was, to which this alludes, that they did express their opinion in the language, *no King, no Parliament*; but I say that they expressed their opinions in language, which, when accurately looked at, as forcibly import the ideas, as if they had used the words *no King, no Parliament*—"if this be intended "to include the societies to which we respectively be- "long, we here, in the most solemn manner, deny the "latter part of the charge"—What is the latter part of the charge? that they do not mean to have a King or Parliament? No—but that the opinions are conveyed in the *terms, no King, no Parliament*—"Who- "ever shall attribute to us the expressions of *no* "*King, no Parliament,* or any design of invading "the property of other men, is guilty of a wilful, an "impudent, and a malicious falsehood"—and then this paper stating a great deal more, which, in justice to the paper itself, shall be read to you, concludes thus—"Let us wait and watch the ensuing session "of Parliament, from whom we have much to hope "and little to fear. The House of Commons may "have been the source of our calamity, it may prove "that of our deliverance; should it not, we trust "we shall not prove unworthy of our forefathers, "whose exertions in the cause of mankind so well "deserve our imitation."

Now, Gentlemen, I ask, after concluding this

letter, what this means—"if Parliament should not "do it."—If we are ready to admit that Parliament is formed upon principles that make it competent to do the thing, if it please to do it, it is all well; but if it won't—then we will not prove unworthy of our forefathers, whose exertions in the cause of mankind so well deserve our imitation—and referring you back to the correspondence between the Norwich and the London Corresponding Society, to the declaration of the 6th of August 1792, which said they had nothing to look for from Parliament—to the correspondence with the National Convention of France—to the conduct, which, in the presence of their delegates, was permitted—and never repudiated by any act of the London Corresponding Society; and referring you, moreover, to the subsequent evidence, which I have to offer to you; I think you will find that the sentiment, which is expressed by the author of this paper, upon the 19th of November 1792, was a sentiment which, if followed up by those who continue to hold it, meant that, if Parliament did not give them redress, they would have it by their own force.

With respect to the Constitutional Society, all it thinks proper to say upon the subject is this:—"That the object of this Society, from its first in-"stitution to the present moment of alarm, has "uniformly been to promote the welfare of the "people"—I beg your attention to these words—"has uniformly been to promote the welfare of the

"people by all constitutional means."—Now if I were to stop here, with a view to show you what you are to understand by the words,—"all constitutional "means"—are the means I have been stating constitutional means? Will it make the means more constitutional than they really are, because they choose to call them so?—"And to expose in their "true light the abuses which have imperceptibly "crept in, and at last grown to such a height, as "to raise the most serious apprehensions in every "true friend of the constitution.

"Resolved, 2dly—That this Society disclaims the "idea of wishing to effect a change in the present "system of things by violence and public commo-"tion, but that it trusts to the good sense of the "people"—You will find, before I have done, that, in April 1793, it could not trust to the good sense of the people—"when they shall be fully enlightened "on the subject to procure, without disturbing the "public tranquillity, an effectual and permanent re-"form.

"Resolved, 3dly—That the intentions of this and "similar societies have of late been grossly calum-"niated by those who are interested to perpetuate "abuses, and their agents, who have been indus-"trious to represent the members of such societies, "as men of dangerous principles, wishing to destroy "all social order, disturb the state of property, and "introduce anarchy and confusion instead of regular "government.

" Resolved, 4thly—That, in order to counteract " the operation of such gross aspersions, and to pre- " vent them from checking the progress of liberal " inquiry, it is at this time peculiarly expedient that " this and similar societies should publicly assert the " rectitude of their principles.

" Resolved—That the said resolutions be adopted, " in order for printing in the newspapers."

Now I desire any person to read that paper through again, and then, Gentlemen of the Jury, if it is relied upon, be so good as to ask yourselves what is the definite meaning in any one passage in it.

About the same time there is an address from the Manchester Society, dated the 14th of December 1792, which appears to have been read in the Constitutional Society, in the presence of the Prisoner, and which address has some very particular circumstances about it, for you will find that there was a resolution upon the 14th of December 1792, in these words—" Read a printed address from Man- " chester—Resolved, that the said address be ap- " proved for publishing in the newspapers."

It appears by a paper, which I shall produce to you, that the words *Read a printed address from Manchester*, are in the hand-writing of Mr. Tooke; that the address itself is in the hand-writing of Mr. Tooke; whether it was a copy of any address at Manchester or not, I do not know: this address appears afterwards to be in print; it is sent for publication; and with a view to show to the public what extent the

distribution of libels has arisen to in the progress of a treasonable purpose in London, this address was ordered to be printed, and that a hundred thousand copies of it should be distributed to their correspondents in Great Britain and Ireland.—The report that was made upon it was, that it had been offered to the Morning Chronicle and Morning Post, and that the paper itself, though drawn by a masterly hand, was such, that they durst not venture to print it—I believe it was however printed in London. You will occasionally see papers printed in the country, at Manchester, if London will not do it; or if the law of England has reached as far as this side of the Tweed, so as to check the publication of a libel, then it is carried over the Tweed, in order to be published in Scotland, where it might be more safely done.

Now in this paper, which bears date upon the 14th of December 1792, and recollecting, as I hope you will do, what I have already stated to you of the principles of those who were concerned in this transaction, as these principles had been manifested in all the other transactions I have stated to you, you will find there is this passage: he says—"To gull "the poor with the insolent falsehood, that the laws "are the same for the poor as the rich, or with idle "panegyrics on a rotten constitution, which you "have not examined, and of which you feel not the "benefit—The real friends of the people hear with "pity and bear with patience the hourly calumnies "to which they are exposed; they entertain, how-

"ever, no personal enmities, no aversion, but to "the enemies of the people, and no disrespect to the "constitution, but where it is hostile to the rights "of the people."

Now, why it is said to be hostile to the rights of the people, I think, can be pretty well understood, after what I have stated to you about these communications with France; but it need not be left there, for you will find that this is more distinctly stated in the draught of an answer to a letter, which was likewise read and entered among the minutes of this Society upon the 26th of October 1792: the draught of the answer seems to have been prepared on the 2d November 1792; it was to be sent to the editors of the Patriot. The editors of the Patriot were persons who were living at Sheffield; and it will appear by the papers, the substance of which I have not really bodily strength enough to state to you, were affiliated at the same time with the London Corresponding Society, and also with the Constitutional Society, in the propagation of their principles, and this in an extent, which no language can do justice to, which it is impossible to describe to you without reading a particular letter, in which they themselves state their mode of proceeding, and which, for the purpose of informing you in this respect, shall be presently read to you: to one of them the following is an answer, and I beg your attention to it, of the 2d of November 1792.

"We rejoice with you in the increase of the

"members of the societies of freedom; our bosoms "glow with the sentiments—we are brothers in af- "fection with you, and with the freemen of Stock- "port"—(who wrote that letter which I before ob- served upon, which states that nothing can do but a convention, and that their object is a government immediately constituted by the people; that that cannot be while the Crown or the Lords, as you choose to construe the letter, retain their authority) —They add—"Freedom, though an infant, makes "Herculean efforts"—Now they meant nothing in the world to the prejudice of the monarchy, they meant nothing in the world but a full representation of the people in a Parliament co-existing with King and Lords. They add—"The vipers, aristocracy," that is, persons who have got coats upon their backs— "and monarchy"—we have it yet in England, Gentle- men—"are panting and writhing under its grasp: "may success, peace, and happiness, attend those "efforts!"—That letter, so prepared, will be pro- duced to you, with the corrections of Mr. Horne Tooke, in his own hand.

Gentlemen, I have now gone through, as well as I am able, and I hope you will keep in view the case I have stated, the principles and practices of these societies, with all their affiliations. I ought to men- tion to you, that you will find in the evidence, as it is laid before you, most uncommon industry in pick- ing up fresh connexions. If a paper appeared in the country, stating that a society of any sort was formed,

you will find immediate industry to connect them, and affiliate them with the London Corresponding and Constitutional Societies. If these Societies professed—as, for instance, the Stockport Society professed—that they would have nothing but a government constituted immediately by themselves, they contrive to give an answer satisfactory to them. If the societies professed attachment to the monarchy, and desired explanation whether they meant Mr. Pitt's plan, which Mr. Paine laughs at—or whether they meant the Duke of Richmond's plan—or whether they meant, as a letter, you will hear by and by, says, to rip up monarchy by the roots, you will find they satisfied them all sufficiently to enlist them all for that purpose, which, from their own transactions, I state to be neither more nor less, than to do, what Mr. Paine did in his book, to combine the principles, which they stated, when the times were ripe for it, with the practices which were correspondent with those principles; to apply these principles, which were alike the principles of these societies and of the French constitution of 1791; and which Mr. Paine, Mr. Barlow, and those addressers to the Convention, receiving such answers from the Convention in 1792, declared had produced a constitution in France upon the 10th of August 1792, to apply them not to form that, which in its nature is an absurdity, a royal democracy, but that which upon principle is consistent, though it is a wretched bad government, *a representative govern-*

ment, to be exchanged here in lieu of our limited monarchy, in lieu of our government, under which I state it, with a defiance to the world to tell me that I do not state it truly, that a people never did enjoy, since the providence of God made us a people (you may talk about theories as you please), that they never did enjoy, for so long a time together, such a quantum of actual private happiness and private prosperity, public happiness and public prosperity, under any constitution, as we have enjoyed under the constitution, to the destruction or the support of which it is for you to judge whether such means, as I have been stating to you, were designed to be employed.

The next thing that was to be done, was to go on in strengthening themselves by affiliation; and you will find accordingly that they have connexions at Norwich, Sheffield, Leeds, and other places: indeed, there was hardly a county, in which they had not affiliated societies, and, if you believe them, to great numbers.

The next step they took was, not that they should have it accomplished—their principles would not let them accomplish it—but it was for the purpose of attaching more and more affiliated societies, that they began now to think, in the year 1793, of making applications to Parliament. Gentlemen, in the course of that year 1793, whilst they are to make applications to Parliament, you will find that they distinctly discuss the utility of doing so. The London Corresponding Society, it will be proved to you, take the

opinion of the societies in the country with respect to three distinct propositions. Mark this.

Now, Gentlemen, in September 1792, the Stockport Society told the London Corresponding Society that there was no hope of doing any thing but in a *Convention:* the London Corresponding Society give the answer that I have before stated. They began to think of this thing called a Convention in the beginning of the year 1793, and they propose having communication, on the other hand, from the country societies. They state three propositions—What is it we are to do?—Are we to make an application to Parliament?—Are we to make an application to the King?—That would have been, to make application to the King, that he would be graciously pleased, according to the oath which he takes upon his coronation, to give his consent to measures, which were to destroy the government of the country, as it exists, and of himself as a part of it! Or are we to have a Convention? You will find, when the whole of the evidence is laid before you, there is a vast deal of discussion about this measure of a Convention, there is a vast deal of discussion about applying to Parliament. The application to the King is thought futile without more debate; but they come to this determination, that things are not yet ripe: but that the application to Parliament, however, may be one means of ripening that which is not yet mature; and then soliciting petitions from all parts of the kingdom, telling those, from whom they ask them, that they do not mean that they should

have any effect, that they are all waste paper; canvassing all parts of the kingdom, and getting signatures in the way you will find, they send the petitions to Parliament, which, for myself and my posterity, I thank God Parliament did not attend to; I mean petitions to introduce a change in the government upon the principle of annual suffrage and universal representation.

They determined for the present that they would content themselves with petitions: that this would occasion a great deal of debate: that that would give them a vast variety of opportunities of discussing the point they had had in agitation since 1792; and, if the public mind was not ripe for a Convention in 1793, the proceedings and transactions of 1793 had a natural and obvious tendency, when these transactions were made a proper use of, to bring to maturity the project, not yet come to maturity: you will find therefore that both the London Corresponding Society and the Society for Constitutional Information keep this object in view.

The Norwich Society, upon the 5th of March 1793, write thus to the Society for Constitutional Information, and which you will see had held correspondence also with the London Corresponding Society upon the subject of the same proposition: "It "is with peculiar satisfaction that we are favoured "with your correspondence,"—they first say—"We "wish to find out a method of redress; *at present* "we see a great propriety in universal suffrage and

" annual elections; but we beg you will be obliging " enough to inform us of what you have collected of " the sense of the people by your correspondence: " we have to inform you that our worthy Corre- " sponding Societies of London have recently sub- " mitted three propositions for our investigation; " first, whether *a petition to Parliament*, or *an ad- " dress to the King*, or *a Convention*."

When I find here the word Convention, I think I may address this question to you as men of common sense: if, in August 1792, the London Correspond- ing Society, by the address which I have read to you, have told you distinctly that they cannot get any redress from Parliament, is it not marvellous how it is to be made out in argument, that, in March 1793, they were to have a Convention in order to get it from Parliament, and more particularly to get it from that Parliament, which, upon their own principles, *was not competent to give it*, if they had a mind to take it from Parliament?

" Permit us briefly to state our views for your re- " visal; and with respect to the first, we behold we " are a conquered people; we have tamely submitted " to the galling yoke, and resistance *in the present* " *circumstances* is vain; we cannot, we cannot act " the man; and, as necessity has no law, we think " ourselves under that degrading necessity to state " our grievances to the House of Commons, with a " request for redress; and should they refuse"— which they did—" to grant our reasonable petition,

" we have still got (no thanks to them)"—here is an accurate, a short description of the affiliated societies " —a formidable engine, that will convey the insult to " the remotest parts of the kingdom: as to the pro- " priety of the second, we wish to submit to your " superior judgment, and should esteem it a favour " to be informed of the result; for at present we are " dubious of its good consequences. Lastly, *a Con-* " *vention*; and oh! that the period were arrived; " but in the present state of affairs, alas! it is im- " practicable: yet *this* is the object we pursue, and " esteem any other means only in subordination to, " and as having a tendency to accomplish that de- " sirable end.

" We wish to be in unison with our brethren and " fellow-labourers, and should be glad of any in- " formation, as soon as it is convenient; and we beg " your advice whether it is necessary, as soon as " possible, to collect signatures to a petition *for a* " *real representation of the people?*"

This letter, of the 5th of March 1793, having been received from Norwich, you will find that Mr. Frost, who had then lately come from France, and was about that time, I believe, talking of no King in this country, in which it is not yet quite lawful to say so, was thought an extremely proper person to draw up a letter in answer to this; and accordingly it is stated upon the books of the Society, that Mr. Frost was ordered to prepare that answer: however, it got into abler hands; for, unless I am again misinstructed,

it was settled by counsel, and the substance I will now read to you. It is dated the 16th of April 1793. "From the Secretary of the Society for Constitutional Information to the Secretary of the United "Political Societies at Norwich.—We have to acknowledge with great satisfaction the letter which "you favoured us with, dated the 5th instant, relative to the most desirable of all other objects, the "reform of a parliamentary representation. The "honour you do us in supposing that we are better "fitted than yourselves for the promotion of political "knowledge, we must disclaim, because we observe, "with the greatest pleasure, that our country correspondents have too much zeal and information "to want success in their public endeavours, whether at Norwich, at Sheffield, at Manchester, or "elsewhere, throughout the nation. In our sincerity for the good of our country we trust that we "are all equal, and, as such, we doubt not of our "ultimate success.

"We see with sorrow the existence of those evils, "which you so justly represent as the streams of "corruption overflowing this once free and prosperous country. We see with surprise and abhorrence that men are to be found, both able and "willing to support those corruptions. It is, however, no small consolation to find that others are "not wanting, in every point of the nation, of an "opposite character, who are ready to remedy, by "all laudable and honourable means, the defect in

" our representation, the usurped extension of the " duration of Parliaments, and other grievances, " such as you notice in your letter.

" That the constitution of England has no more of " that character it once possessed; that the supposed " democracy of the country has become a matter of " property and privilege; and that we have therefore " no longer that mixed government, which our adver- " saries are praising, when they know it is no longer in " our possession, are facts notorious and indisputable: " where then are we to look for remedy?"—most assuredly those who had said on the 6th of August 1792, they would not look to Parliament, would not be so inconsitent as to say that they would look to it in April 1793—" to that Parliament of which we " complain? to the executive power, which is impli- " citly obeyed, if not anticipated in that Parliament? " or to ourselves?"

Now, who are ourselves? why, those affiliated societies! " ourselves represented in some meeting of " delegates for the extensive purpose of reform, " which we suppose you understand by the term " *convention*." The Norwich Society writes to the Constitutional Society, and it proposes a Convention as the only means of doing this business. The Constitutional Society states that it is to be done only in a Convention,—of what? of themselves. Why then, I say, upon the 16th of April 1793, the Constitutional Society construed the acts of the 20th of January 1794, which I shall allude to presently, and

the 27th of March 1794, because the Constitutional Society said that a Convention was a convention of themselves, represented in some meeting of delegates, —and for what purpose? for the extensive purposes of reform;—how? by applying to Parliament? No. Why, this passage states expressly that the reason why they would have a Convention was, because they would not apply to Parliament; and can I impute to men of understanding, that are employed in this business, for there are men of understanding enough employed in this business; whether that understanding is properly employed in this business, it is not for me to say any thing about—can I impute any thing so absurd to men of understanding as that they meant to form a Convention, which Convention should carry their petition to Parliament?

"It is the end of each of these propositions that "we ought to look to; and, as success in a good "cause must be the effect of perseverance and the "rising reason of the time, let us determine with "coolness, but let us persevere with decision. As "to *a Convention*, we regard it as a plan the most "desirable and most practicable;"—when? so soon as the great body of the people shall be virtuous enough to join us in the attempt? No—but "so "soon as the great body of the people shall be *cou-*"*rageous and virtuous* enough to join us in the at-"tempt." You will see whether the interpretation, which I give of the word "courageous" by the man-

ner in which I mean to express it, is due to it or not, by what I have to state to you.

Gentlemen of the Jury, with a view to explain this thing called a Convention, as contradistinguished from Parliament, give me leave to carry back your attention for a moment to January 25, 1793. In this Society, which, in November 1792, had the correspondence with France, which I stated, in January 1793, when we were on the eve of a war, and upon the eve of a war which had been produced by the principles which brought fraternization into this country, and took place soon after that decree of November 1792, you will find that these resolutions were come to—"That Citizen St. André, a member "of the National Convention of France,"—that Convention which had deposed a King, as that which could not exist in a government, formed upon the principles of the rights of man, as disclosed by Mr. Paine, his fellow-member in that Convention,—"as "one of the most judicious and enlightened friends "of human liberty, be admitted an associated ho-"norary member of this Society.—Resolved, That "Citizen Barrére, a member of the National Con-"vention of France, being considered by us as one "of the most judicious and enlightened friends of "human liberty, be admitted an associated honorary "member of this Society.

"Resolved, That Citizen Roland, being also con-"sidered by us as one of the most judicious and en-

"lightened friends of human liberty, be admitted an "associated honorary member.

"That the speeches"—Gentlemen, I particularly request your attention to this—"that the speeches "of Citizen St. André and Citizen Barrére, asso-"ciated honorary members of this Society, as given "in the Gazette Nationale, ou Moniteur universel "of Paris, on the 4th, 6th, and 7th of January "1793, be inserted in the books of this Society;"—and, as far as this Society could effectuate it, they endeavoured also to have these resolutions published in the newspapers, and it will be in proof to you that, in the books of the Society, it is resolved that each of these resolutions should be so published.

Now, Gentlemen, I shall prove to you, by evidence completely effectual for that purpose, what these speeches were, and then, if you will be so good as to ask yourselves what the Constitutional Society, which in January and February ordered these speeches to be published, meant by *a Convention* in that letter of the 16th of April 1793, you will judge whether that Convention was to be the means (because they would neither apply to the King, the executive power, nor to the Parliament), was to be the means of handing their application to Parliament; or whether, on the other hand, it was to be the means of introducing by its own force a *representative government* in this country; that assembly, which, you will find, they insist would for the time absorb all the powers of government, which, if it did exist,

would delegate its legislative power only so long as they choose to delegate it, a body competent to create a legislature, and possessing within itself an eternal power of reform, an eternal source of revolution. With respect to St. André, speaking to the Convention, he says, "Your right to decide the fate "of Kings arises from your being a revolutionary "Assembly, created by the nation"—a revolutionary Assembly created by the nation in such a state is at least that thing, which I think no good Englishman ever will wish to exist to see—"a revolutionary as-"sembly created by the nation in a state of insur-"rection."

Speaking of the trial of the King of France, they say, "This proceeding is of the highest importance to "public order, absolutely necessary to the existence "of liberty, and connected with whatever is held "most sacred by the nation.

"The people of Paris"—this is upon the question whether the person of the King be inviolable, a maxim unquestionably true in the constitution of this country, a maxim perfectly consistent with the civil liberties of the people, because, though the King's person is inviolable, he has advisers, who are violable as to every act that he does.—"The people of Paris, "by making an holy insurrection against the King "on the 10th of August,"—that 10th of August, which, in Mr. Frost's letter to Mr. Tooke, was absolutely necessary to the existence of liberty in France—"deprived him of his character of inviola-

"bility. The people of the other departments ap-
"plauded this insurrection, and adopted the conse-
"quence of it. The people have therefore formally
"interposed to destroy this royal inviolability. The
"tacit consent of the people rendered the person of
"the King inviolable; the act of insurrection"—I pray Heaven defend us from the operation of such principles in this country—"the act of insurrection was a tacit
"repeal of that consent, and was founded on the
"same grounds of law as the consent itself: the
"King's person is inviolable only with relation to the
"other branches of the legislature, but not with re-
"lation to the people."

Now, I ask, what did those Gentlemen, who ordered this speech to be published, that the King's person was inviolable only with relation to the other branches of the legislature, when they were talking of conventions, mean? I am sorry to say that my mind is drawn to the conclusion that they thought the King's person was not inviolable with relation to the people, a convention of whom was to be formed, and was to be formed because an application to Parliament was useless.

Now, let us see the description of a Convention. "A Convention differs from an ordinary legislature
"in this respect: a legislature is only a species of su-
"perintending magistracy, a moderator of the powers
"of government: a Convention is a perfect repre-
"sentation of the Sovereign: the members of the
"Legislative Assembly acted in August upon these

"principles, in summoning the Convention; they "declare"—precisely as is declared in the letter I have been reading to you—"that they saw but one "measure which could save France, namely, to have "recourse to the supreme will of the people, and to "invite the people to exercise immediately that un- "alienable right of sovereignty, which the constitu- "tion had acknowledged, and which it could not "subject to any restriction; the public interest re- "quired that the people should manifest their will "by the election of a National Convention, formed "of representatives invested by the people with un- "limited powers. The people did manifest their "will by the election of that Convention. The "Convention being assembled is itself that sovereign "will, which ought to prevail. It would be contrary "to every principle to suppose that the Convention is "not alone exclusively the expression of the general "will.

"The powers of the Convention must, from the "very nature of the assembly, be unlimited with "respect to every measure of general safety, such as "the execution of a tyrant. It is no longer a Con- "vention, if it has not power to judge the King: a "Convention is a constituent body, i. e. a body "that is to make a constitution for the people; a "legislature makes laws under an established consti- "tution, and in conformity to it. It is despotism "when, in the ordinary and permanent establish- "ment of a state, there is no separation of powers;

" but it is of the very essence of a constituent body " to concentre for the time all authority; it is the " very nature of a National Convention, to be the " temporary image of the nation, to unite in itself " all the powers of the state, to employ them against " the enemies of liberty, and to distribute them in a " new social compact called a constitution."

Gentlemen, after I have stated that to you, I think I cannot possibly be mistaken when I conceive that you can do no otherwise than put the same construction upon this letter which I did.

I will now take the liberty of calling your attention to a letter of the 17th of May 1793, and the answer of the 26th May 1793, passing over a great many letters, the substance of which you will inform yourselves of by having them read, namely, letters that prove affiliations solicited and granted to Leeds, Tewkesbury, Coventry, and many places in the kingdom, more numerous than I apprehend you will believe, till you see what the number of them is, by evidence actually before you.

Gentlemen, I beg leave now to call your attention, in order of time, to a letter of the 17th May 1793, for it begins a correspondence most excessively material with that part of the country in which the Convention has been already held; I mean Scotland;—a Convention which, I think I shall satisfy you, did, for the time, act upon the principles that I have stated to you, from the speech of Barrére, as far as it could act, and in which I think, at the moment

that I address you, if it had not been stopped in the execution of its purposes, but had been joined by those whose acts we are considering this day, you might have seen, in the speeches of a National Convention in Great Britain, a repetition of the language of Barrére, instead of hearing it from me in a court of justice.

Gentlemen, I hold it, in the office that I fill, to be due to the administration of the justice of this country, to say distinctly, if I understand the case upon which certain persons were tried for the acts which they did in Scotland, that, if they had been tried for high treason, they would have had no right to complain; no right to complain if the question upon their conduct had been agitated in that shape before a jury of the country.

Gentlemen, upon the 17th of May, a Mr. Urquhart going from London, Mr. Hardy, and a person of the name of Margarot, celebrated in the future history of this business, join, and write a letter—Parliament had, as they expected it would, and as they meant it should, rejected their petition—"The "London Corresponding Society eagerly seizes the "opportunity of Mr. Urquhart going back to Edin- "burgh, to request of your Society a renewal of "correspondence, and a more intimate co-operation "in that which both Societies alike seek, viz. a re- "form in the parliamentary representation. We are "very sensible that no Society can by itself bring "about that desirable end; let us, therefore, unite

"as much as possible, not only with each other, but "with every other Society throughout the nation. "Our petitions, you will have learned, have been all of "them unsuccessful: our attention must now, there- "fore, be turned to some more effectual means; from "your Society we would willingly learn them, and "you, on your part, may depend upon our adopting "the firmest measures, provided they are constitu- "tional, and we hope the country will not be be- "hindhand with us."

Now, by "constitutional measures" it is clear that they meant that *a Convention*, as contradistinguished from a Parliament, would be constitutional: it is clear they meant it, because they have said it.

Then Mr. Skirving writes thus—"Mr. Urquhart "did me the pleasure to call on Thursday afternoon, "and delivered your letter of the 17th inst. I am "much pleased with the contents of it, and shall lay "it before the first meeting of our societies here, "which, however, does not take place till Monday "sevennight. I would have acknowledged the re- "ceipt of your favour by yesterday's post, but was "too much employed in removing our household to "another lodging to attend to any thing else." Now I beg your attention to this, because you will see in the transactions of the people in convention in Edinburgh, that they looked to what they were to do in case of a rebellion as well as any other.

"If either you in England or we in Scotland "should attempt separately, the reform which we,

" I trust, seek to obtain, we should, by so doing, " only expose our weakness, and manifest our igno- " rance of the corruption which opposes our im- " portant undertaking: if we sought only the extirpa- " tion of one set of interested men from the ma- " nagement of national affairs, that place might be " given to another set; without affecting the vitals " adverse to the system of reform, these might be " easily accomplished; but to cut up deep and wide " rooted prejudices, to give effectual energy to the " dictates of truth in favour of public virtue and " national prosperity, in opposition to self and all its " interested habits, and to withstand and overawe " the final efforts of the powers of darkness, is the " work of the whole and not of a part; a work to " which mankind till this awful period were never " adequate, because never till now disposed to fra- " ternize, not merely or only, I trust, from the " sense of the common danger to which we are ex- " posed, but from the ennobling principle of univer- " sal benevolence.

" I know no greater service that I can do my " country, than to promote the union you so wisely " desire; and I am happy to assure you, that I have " hitherto discovered no sentiment in our association, " adverse to the most intimate and brotherly union " with the associations in England.

" I think the minds of all must in the nature of " things be now turned to *more effectual means of* " *reform.* Not one person was convinced of the

"necessity of it by the most convincing arguments "of reason, together with the most unequivocal ex- "pressions of universal desire. What then is to "be hoped for from repetition? I am only afraid "that the bow in England against reform was so "contracted, that in returning it may break. You "would willingly learn, you say, from us—I own "that we ought to be forward in this: we have at "once in great wisdom perfected our plan of orga- "nization, and if we were in the same independent "state of mind as the people of England, we would "be able to take the lead—the associations with you "are no more, I fear—excuse my freedom—than an "aristocracy for the good of the people: they are "indeed moderate, firm, and virtuous, and better "cannot be; but we are the people themselves, and "we are the first to show that the people can both "judge and resolve, if undirected by faction, with "both wisdom and moderation.

"I have not a higher wish in the present exertions "for reform than to see the people universally and "regularly associated, because I am persuaded that "the present disastrous engagements will issue in "ruin, and the people must then provide for them- "selves; and it would be unhappy, when we should "be ready to act with unanimity, to be occupied about "organization, without which, however, anarchy "must ensue—we will not need but to be prepared "for the event—to stand still and see the salvation "of the Lord—let us therefore take the hint given

"us by our opposers; let us begin in earnest to "make up our minds relative to the extent of reform "which we ought to seek, be prepared to justify it, "and to controvert objections: let us model the "whole in the public mind; let us provide every "stake and stay of the tabernacle which we would "erect, so that when the tabernacles of oppression "in the palaces of ambition are broken down, under "the madness and folly of their supporters, we may "then, without anarchy and all dangerous delay, "erect at once our tabernacle of righteousness, and "may the Lord himself be in it."

Gentlemen, these are things all very easy to be understood.

"How hurtful to the feelings of a reflecting mind, "to look back to the wretched state in which the "Roman monarchy, enfeebled and broken by its "own corruptions, left the nations, which it sub-"jected, like sheep without a shepherd; they soon "became a prey to every invader, because there was "none to gather and unite them; had they, fore-"seeing the evil, associated for mutual defence, no "robber would have been able to enslave them, they "would have given laws to all parties, as well as to "themselves; all separate colonies and nations would "have sought their alliance; but not having virtue "to associate, and heal the divisions, and root out "the selfish spirit, which ambition-fostering govern-"ments procure to their subjects, they fell under

" oppressions, from under whose iron sceptre they " have never yet been able to deliver themselves.

" We may suppose an event, which we deprecate; " nay, should we not be prepared for every possible " issue of the present unprecedented divisions of " mankind, we have a right to be apprehensive of " the abilities of our own managers, who are so afraid " to depart from precedent, that, like men of detail, " they may be inadequate to the task of preserving " the vessel from shipwreck, now grappling with " danger not only great, but new and uncommon. " If the present Ministry fail, who after them shall " be trusted? It requires little penetration to see " the anarchy and discord which will follow; it will " be such, that nothing short of a general union " among the people themselves, will be able to heal: " haste therefore to associate, at least to be ready to " associate; if then, such a broken state of things " should take place, the civil broils that would ne- " cessarily ensue, would soon subside before the " united irresistible voice of the whole. Do not, I " entreat you, hesitate thinking such a work prema- " ture as yet,"—this is written in May 1793,—" but " a *month*, and then it may be too late; a malignant " party may be already formed, and only waiting for " the halting of the present managers; it will then " be too late to seek to subject to deliberation, after " a party has dared the act of rebellion. If you go " no further than separate meetings in different " towns, we will not be able to confide in your con-

" fraternity, because while in such a state you may " be but the tools of a faction; we could have all " confidence and unite with all affection in *one as-* " *sembly of commissioners* from all the countries of " the world."

Gentlemen, observe that expression; this letter, in the beginning of it, speaking with reference to the war, does not know but the palaces of ambition may be all overset; the pillars will tumble with their supporters. Then it says, " we could have all con- " fidence and unite with all affection in *one assembly* " *of commissioners* from all countries of the world,—if " we knew they were chosen by the unbiassed voice " of the people, because they would come up with the " same disinterested views and desires as ourselves, " having all agreed to a common centre of union " and interest; but we could not confide in fellow- " citizens, who kept aloof from such union, and " would not previously affiliate in one great and in- " divisible family."

Gentlemen, I have before told you, that there was a Society at Birmingham. Upon the 10th of June 1793, the London Corresponding Society writes to that Society in these terms: " It is with singular " satisfaction the Committee of the London Corre- " sponding Society received your letter; they are " very glad to see the spirit of freedom springing up " in Birmingham, and they make no doubt but that " the zeal of your Society and the increase of your " numbers will soon do away the stigma thrown on

"your town by the unjustifiable behaviour of a "Church and King mob; we are entirely of your "opinion with regard to the necessity *of a general* "*union*, and we believe, as you do, that when once "the country shall have so united,"—what then? "*the Heroes of the day will be forced to yield to the* "*just demand of a long and sore oppressed people.*"

Gentlemen, the political societies at Norwich also write to the London Corresponding Society with respect to this Convention upon the 25th of June 1793, in which they say, "We also received your friendly "letter prior to that wherein you stated three pro- "positions: first, a petition to His Majesty, or to "Parliament, or a National Convention; and ordered "one of our Committee to answer it; should be "glad if you will inform me whether it was attended "to. I gave my opinion on the subject to the "Constitutional Society of London, and found their "ideas congenial to my own,"—that alludes to the letter they wrote him,—"viz. an address to the "King—futile; a petition to Parliament (as a con- "quered people)—tolerable; a National Convention "(if circumstances admitted), best of all."

Gentlemen, you will find that, upon the 28th of June 1793, whilst these societies were holding so much correspondence with respect to this national Convention, as the only effectual means, it was thought an address to the nation should be prepared: that is not immaterial, because you will find afterwards, that the project of a national Convention in

Scotland was thought by many of the members of it, and many of the members of those bodies, to have failed for want of such a previous address to the nation; and upon this occasion two gentlemen are brought together, I do not know whether one of them at that time was a member of the Society or not, but two members are brought together; Mr. Horne Tooke and a person of the name of Yorke, who, you will find, was a delegate to the Convention in Scotland, and who you will find has acted a considerable part in other parts of this country, were to be employed in preparing that address.

Upon the 6th of July 1793, a letter having been received from the political societies at Norwich, the answer, signed by the Prisoner at the bar, is given in these terms:

"Fellow-citizens, The London Corresponding "Society have received, and read with pleasurse, "your letter of the 25th of June; but the answer, "which you mention to have been made to our three "questions, has not yet come to hand: we shall be "glad to be informed by your next whether it was "ever put in the post-office.

"With regard to the questions themselves, how-"ever individuals may have made up their minds on "them, the public seemed most to approve the mode "of petitioning Parliament."

Then it states the effect of the petitions. "Ex-"horting you therefore to throw aside all unavailing "complaint, we wish you to occupy yourselves in

"instructing the people, in introducing and main-
"taining order and regularity in your own Society,
"and in forming a junction with all others associated
"for the same purpose throughout the nation, by
"keeping up a constant correspondence with them;
"but, above all, *orderly and courageously preparing*
"*yourself for the event*,"—now mark the event,—
"for, *as it is natural to suppose that those, who now*
"*prey on the public, will not willingly yield up their*
"*enjoyments, nor repossess us of our rights without*
"*a struggle, which by their behaviour in Ireland*,"—
that alludes to the bill in Ireland to prevent a Con-
vention,—"*we have some reason to think they are*
"*meditating, and perhaps may intend to effect by*
"*means of those very foreign mercenaries, who are*
"*now paid by the sweat of our brow, and whom,*
"*under some plausible pretence, it would be no difficult*
"*matter to land on our shore; it may be more ad-*
"*vantageous to humanity to show them at first that*
"*their opponents are neither mob nor rabble, but an*
"*indignant oppressed people, in whom is not yet en-*
"*tirely extinct the valour of their forefathers.*"

Gentlemen, in a letter to Hertford, which is writ-
ten by the same Corresponding Society, upon the
31st of July 1793, and which Society at Hertford
had desired to know their principles, they state
themselves in the same manner;—"We receive with
"pleasure your assurance of co-operating with us for
"a reform in Parliament, an object to which all our
"endeavours tend, and on which our hearts are in-

"variably fixed; but as your declaration that you will "not pledge yourselves to demand universal suffrage "and annual Parliaments, is followed by no specific "plan of reform of your own, we are under some "difficulty how to conclude; perhaps, as *strangers*, "*you write to us with that prudent reserve* which is "sometimes necessary, and that idea receives "strength from your appearing afterwards convinced "that the common object of the two societies is the "same, which we readily admit; but, as mutual "confidence is the basis of union, and the only ra-"tional pledge and support for co-operative exertion, "we trust your next will do away every difficulty.

"With respect to universal suffrage and annual "Parliaments, a mature conviction of their justice "and necessity for the preservation of liberty and "prosperity to the great body of the people, and for "securing the independence of Parliament, was our "primary inducement to associate. We therefore "candidly assure you, that these our principles, as "already announced to the public, remain immu-"table, unconnected with any party whatever; we "can consider no reform radical, but such as will "enable every individual of the community to enjoy "the advantages thereof equally with ourselves; for, "if ignorance of the nature of government, or the me-"rits of the candidates, be an argument against uni-"versal suffrage, as our opponents pretend, the same "reasons would equally incapacitate a great majority "of those who now enjoy that privilege, to the ex-

"clusion of very many thousands, much better in-
"formed than themselves; not to mention that,
"under a more equalized mode of government, the
"people would be at once induced and empowered to
"improve themselves in useful knowledge. In a
"word, we know no principle, consistent with justice
"or reason, by which we could exclude conscien-
"tiously any part of the community from an equality
"of rights and privileges, which every member of
"society, as he contributes to its support, ought
"equally to enjoy.

"With respect to annual Parliaments, we will just
"remark, that good members may be re-elected,
"whilst twelve months we think fully sufficient for
"the welfare of millions to remain at the mercy of a
"bad representative. Having thus unequivocally
"stated our principles, we shall conclude by observ-
"ing, that the bill just passed in Ireland is of a
"nature to awaken the jealousy of every friend to
"freedom and humanity—will render every exertion
"justifiable, should a similar attack upon constitu-
"tional freedom be attempted here."

In October 1793, the Scotch Convention having met, of which we have all of us heard so much out of this place, you will find that a letter had been received from a Mr. Sinclair, together with an address from Skirving, who was secretary to the Convention and Friends of the People in Scotland, by the London Constitutional Society; an extraordinary meeting of the Society was therefore called, at the

Crown and Anchor, to consider the utility and propriety of sending delegates to a Convention of delegates of the different societies in Great Britain, at Edinburgh, for the purpose of obtaining a parliamentary reform.

Upon the 28th of October 1793, this Society came to a resolution to send delegates to that Convention, and the two persons elected were Mr. Sinclair and Mr. Yorke; and perhaps one cannot state a more striking instance of the extraordinary power of a small society, affiliating itself with societies, spread all over the whole kingdom, than by stating that Sinclair, who was deputed from this Society, meeting with other delegates in Scotland, had no difficulty of assuming with others the title of a delegate to the British Convention—to assert their right to do acts in contradiction to the Legislature—than by telling you that this Yorke and Sinclair were deputed from this Society by a poll, in which he, who had the majority, had seventeen votes only; Mr. Yorke and Mr. Sinclair are accordingly sent down, and they go with all the delegation of the power of the people, which this Constitutional Society, thus affiliated, could give them, and what they thought it was you will see presently.—The London Corresponding Society was not to be backward in forming this Convention in Scotland—and, accordingly, you will see in the evidence, which I have to state to you, a considerable deal of contrivance on the part of the Prisoner at the bar, in order to bring about that

Convention in Scotland; for, Gentlemen, he writes a letter to the Norwich Constitutional Society, which deserves your very serious attention, in which he expresses himself thus—"We have to acknowledge, "at once, your favours of the 3d of September and "14th instant; multiplicity of business prevented "my answering your first, but will now inform you "that the spirit, shown in it, gave great satisfaction "to our Society at large. The rejoicings for the cap- "ture of Valenciennes were not confined to Norwich "alone: the ignorant every where else throughout "the nation betrayed their imbecility on the occasion "—the taking of a town, the slaughtering of thou- "sands of human beings, the laying waste whole "provinces, or the enslaving a nation (however great "evils they may be), can only retard for a small space "of time the progress of truth and reason. Be not "disheartened; therefore, pursue your plan, instruct "mankind, and constitutionally set your faces against "existing abuses; be assured that many are our "friends, who only wait a favourable opportunity to "openly join us, while our enemies have much en- "feebled themselves and their cause by their arbitrary "exertions; despotism is at its last gasp—one or "two campaigns more will terminate its existence.

"We are glad to see that you begin to make a "proper use of delegation; where bodies of men "are too numerous to be convened easily on every "occasion, delegation is the best, and indeed the "only way to obtain the general opinion. Scotland,

"improving on the idea, have not only summoned "their own delegates, but also invite those of every "other Society to attend a kind of Convention" (as if Mr. Hardy knew nothing about it), "which is to "be held at Edinburgh on the 29th. instant—the "enclosed paper, which I, previous to the commu- "nicating your letter to our committee (which will "meet only to-morrow), make haste to transmit to "you, will show you that your Society is included "in the general invitation to send delegates to that "meeting, which we exhort you to do, if you pos- "sibly can; I firmly believe our Society will not miss "the opportunity of doing the same."

Now you will find that, upon the 5th of October 1793, Hardy, who wrote this letter upon the 17th, wrote to Skirving in this way—"With pleasure I peruse "your favour of the 2d instant, but, as yet, have seen "nor heard nothing of the two copies of Mr. Muir's "trial, which you mention as being sent to the Society "and to myself—be kind enough, notwithstanding, "to return that gentleman thanks for his polite atten- "tion, and assure him that we view him in the light "of a martyr to freedom, as well as Mr. Palmer, "and that our warmest hopes are, that the oppressors "of mankind will either be ashamed or afraid of "carrying their revengeful malice into execution.

"The General Convention, which you mention, "appears to Mr. Margarot (to whom alone I have "communicated your letter) and myself to be a very "excellent measure, *and as such, I could wish you,*

" *without delay, to communicate it officially to our* " *Society without any ways mentioning that you had* " *written to me privately*—if in your official letter " you should require us to send a deputation to that " meeting, I have no doubt but our Society would, " with pleasure, accept the invitation; and I am " persuaded it may do much good.—Our freedom, " as you justly observe, depends entirely upon our- " selves; and upon our availing ourselves of this op- " portunity, which, once lost, may not be recovered " so soon. I am glad to discover by your testimony " that I was by no ways mistaken in the high opi- " nion I always had of Lord Daer's patriotism: a " title may be a bar to disinterested patriotism, but " it seems he has evinced it not to be an insuperable " one.

" You are right, it is true, that we have had ano- " ther general meeting, at which a hastily composed, " and suddenly produced address to the King was " read, applauded, and agreed to be presented, but, " on a cool revisal, the said address being found to " be more ill-natured than spirited, more dangerous " in its language than advantageous in its object, " besides being too long, the Committee, with the " approbation of the majority of the Society, have " adopted another, much safer, more apposite, and " relating solely to the war: enclosed you have a " copy of it, but you was misinformed when you " was told we passed any resolutions at that meeting, " for we only came to one, and that rather of a pri-

"rate nature, namely, that the conduct of Sir James "Sanderson, in preventing the meeting of the Lon-"don Corresponding Society, at the Globe Tavern, "Fleet Street, was of such a nature as to place him "below our censure."

Gentlemen, the London Constitutional Society gave their delegates, Mr. Yorke and Mr. Sinclair, certain instructions, and I ought here to tell you, by way of explaining the effect of what I am now to state, that the manner of keeping the books of the London Constitutional Society, as I understand it, was this—The resolutions, made upon one night, were taken upon loose minutes, either by the secretary, or by other persons, who acted in his absence, or in his presence, when he was not doing that duty himself; they were entered, before the subsequent night of meeting, regularly in the book, and the first thing done upon the subsequent night of meeting was to read the resolutions which were made upon the former night, and to see that they were correct: now it will naturally occur that the minutes may explain the book, and the book may explain the minutes: now, when they come to draw the minutes, which you will have for the instruction of their delegates at a Convention, which was to be held in Scotland, the first idea was to instruct those delegates to petition Parliament; but they seem to have recollected that that was a measure, which had been abandoned some months before by all the societies, with whom they were affiliated: they therefore struck

out of their minutes the purpose of applying to Parliament, and they send instructions in these words:

"The delegates are instructed, on the part of the "Society, to assist in bringing forward and support- "ing any constitutional measures for procuring a "real representation of the Commons of Great Bri- "tain in Parliament—that, in specifying the redress "to be demanded of existing abuses, the delegates "ought never to lose sight of the two essential prin- "ciples, general suffrage and annual representation, "together with the unalienable right in the people "to reform, and that a reasonable and known com- "pensation ought to be made to the representatives "of the nation by a national contribution." What they meant by the *representatives* of the nation, after what I have already read to you, I think you cannot possibly mistake.

The London Corresponding Society are somewhat bolder in the instructions, which they send with their delegates to the Convention in Scotland: you will find these instructions are to the following effect.—By article the 1st, the delegate is instructed "that "he shall on no account depart from the original "object and principle of this Society; namely, "the obtaining annual Parliaments, and universal "suffrage, by rational and lawful means.

"2d, To support the opinions that representatives "in Parliament ought to be paid by their consti- "tuents.

"7th, That it is the duty of the people"—now,

Gentlemen, I beg your attention to this; it is the principle, upon which the Convention of Scotland was formed, and upon which it acted. "That it is "the duty of the people to resist any act of Parlia- "ment, repugnant to the original principles of the "constitution, as would be every attempt to prohibit "associations for the purpose of reform."

Gentlemen, there is no government in this coun- try, if this principle is to be acted upon, because nobody can tell to what extent it will go; and accord- ingly you will see that these delegates, who went into Scotland, with this authority in their hands, carried the authority far beyond the resistance, which they were authorized to make according to the principles here laid down, and they state a great variety of cases, all approved afterwards, both by the London Corresponding, and the Constitutional Society, in which the people, and the Convention of the people, were to resist Parliament.

Gentlemen, these societies having sent delegates to the Convention in Scotland, I proceed now to state that the acts of that Convention, to the extent at least to which the delegates from this country were authorized to act, are evidence against those who sent them, and therefore against the persons here indicted. But, further, they communicated to the societies here, particularly to the Prisoner at the bar, their acts; and the societies here, in distinct resolu- tions, acting upon consideration, approved their whole conduct: they therefore made that conduct of

their delegates in the Convention in Scotland, whether it was agreeable to the original authority which was given them, or not; their own; they adopted it by giving it their subsequent approbation.

Gentlemen, you will find, first of all, that they received a letter from the Sheffield Society, affiliating with them, in which it was proposed to determine like Englishmen.

After receiving a great deal of other correspondence, which I will not trouble you with reading, the societies here prepare to send delegates to Scotland. Mr. Skirving sent a circular letter upon the arrival of the English delegates to the delegates of all the associations in Scotland, which were extremely numerous, and very widely extended; and I think the delegates of these different societies came together to the number of one hundred and eighty. After sitting some time, Mr. Margarot, you will find, who was the delegate of the London Corresponding Society, represents to the body there met—"That "the societies in London were very numerous, "though sometimes fluctuating; that in some part "of England whole towns are reformers; that in "Sheffield and the environs there are fifty thousand; "that in Norwich there are thirty societies in one; "that if they could get a Convention of England "and Scotland called, they might represent six or "seven hundred thousand males, which is a majority "of all the adults in the kingdom."

You will find Mr. Margarot moves, that, pre-

view to publishing an address to the public, a committee should be appointed to consider the means, and draw up a plan of general union and co-operation—between what? Not between any societies in the two nations, but a plan of general union and co-operation *between the two nations*. In their constitutional pursuit of a theory of parliamentary reform, they style themselves a Convention, and this, Gentlemen, is extremely material for you to attend to; they style themselves, "The British Convention of "the delegates of the people associated to obtain "universal suffrage and annual Parliaments." Then I ask what is a Convention of the people according to these societies? According to the proceedings in Scotland, a Convention of the people is a Convention of the delegates from these societies in England and Scotland.

They assert that the people have in them all civil and political authority; and they, repeatedly, again and again, from the moment that this Convention was formed in Scotland to the moment of its dispersion, more especially at the time of its dispersion, more especially still from the time of its dispersion till the time of a meeting on the 20th of January, at the Globe Tavern; and on the 27th of March, when another Convention was proposed, as I stated at the outset, they repeatedly and in the most pressing terms state that *now or never* was the time, when the people were to meet, when they were to act by their own force, when they were courageously to

prepare themselves for the event, and to show those whom they called their oppressors and plunderers, that they were a brave people, in whom valour was not extinct.

Having thus met together, upon the principles of the French system, which took place upon the 10th of August 1792, they proceed directly to the French practices, which took place then in the National Assembly of France, took place then because the people of France were understood to be represented by a Convention; these delegates taking upon themselves also, to be a Convention of the people, they instituted *Primary Societies*, they divided the country into *departments*, they appointed *Provincial Assemblies*, they have *Committees of Union*, they thank for *patriotic donations*, they *assume an epoch*, they appoint a *Secret Committee* to be called together upon extraordinary emergencies; and upon the 28th of November 1793, they come to a resolution, to which I must beg your most serious attention.

Gentlemen of the Jury, you will remember that they went with authorities, which stated to them that it was the duty of the people, which people they had taken upon themselves to represent, to resist any act of Parliament, that should be made for a particular purpose. It is hardly, I think, to be contended, that the great bulk of the people of this country, happy in their political existence, as undoubtedly they are, remaining happy in their political existence, because they do not feel grievances (till

they are taught by malignant industry to believe that they exist), I mean to such a degree as to call for measures of this sort, could believe that the Legislature of the country, doing justice to the subjects, whom it is bound to protect, would permit a proceeding of this kind to go on—yet, Gentlemen, confiding so much as these persons did in the supposed state of their number in that country, and of those who were to be connected with them in this, you will find that, upon the 28th of November 1793, one of the persons belonging to that Convention, Citizen Sinclair, I think, the members all standing up upon their feet, for the greater solemnity of the thing, proposes this resolution—"Resolved, that "the following declaration and resolutions be in-"serted at the end of our minutes—'That this "Convention,'—now if it be possible to say that any Convention means to act as a Convention of the people, it is that which sets itself above the Legislature in the act it is doing—"that this Convention, "considering the calamitous consequences of any act "of the Legislature, which may tend to deprive the "whole or any part of the people of their undoubted "right to meet, either by themselves or by delega-"tion, to discuss any matter relative to their com-"mon interest, whether of a public or private nature, "and holding the same to be totally inconsistent "with the first principles and safety of society, and "also subversive of our known and acknowledged "constitutional liberties."

Gentlemen, permit me to call your attention to this, that this declaration, in its principles, follows the instructions that they had received, that, if any attempt was made to bring in a Convention bill, they were then to do so and so. They then proceed thus —"Do declare before God and the world, that we "shall follow the wholesome example of former "times, by paying no regard to any act, which shall "militate against the constitution of our country"— That is saying, that the will of the Legislature is not a better judge of what is an act against the constitution of the country, than the affiliated clubs at Edinburgh—"and shall continue to assemble and consider "of the best means by which we can accomplish a "real representation of the people," is that a Parliament?—"and annual election until"—what?—"until compelled to desist by superior force.

"And we do resolve that the first notice given"— The first notice—Parliament is not even to discuss the thing: but, if an intimation of it is made in Parliament—"That the first notice given for the "introduction of a Convention bill, or any bill of a "similar tendency to that passed in Ireland in the "last session of their Parliament, or any bill for the "suspension of the Habeas Corpus Act, or the act "for preventing wrongous imprisonment, and against "undue delays in trials in North Britain, *or in case "of an invasion.*"

Gentlemen, I call back to your recollection the letter of Skirving—I call back to your recollection

not only the letter of Skirving, but that the troops of liberty were promised to be sent with bayonets and pikes from that country, which at this moment was likely to invade us—"or the admission of any foreign "troops whatsoever into Great Britain or Ireland"—If the Parliament of this country, for the purpose of protecting itself against that foreign invasion, had brought these foreign troops into Great Britain or Ireland, not being the troops of a nation with which we were at war, *this Convention of the people* was to act upon the introduction of such foreign troops in the same manner as they would act in case of an invasion by those who were at war with us—what is the construction that follows upon that?—that, even if foreign troops, to meet the exigence of an invasion, were introduced—what then?—"all or any one of "these calamitous circumstances"—why calamitous? they might be necessary for the very existence of the country—"shall be a signal to the several de- "legates to repair to such place as the Secret "Committee of this Convention shall appoint, and "the first seven members shall have power"—to do what?—to do that exactly, which a National Convention in France would do—"to declare the sit- "tings permanent"—why? Because the duly constituted Legislature of the country had dared not to do an act, but to entertain a deliberation upon doing an act—the first notice was to call together this Convention, and, being called together, their sittings were to be *permanent*.

Gentlemen, are the parties to this Convention in Scotland such men, as would think of bringing themselves together to declare their sittings permanent upon such a ground, as they state here, namely, the Legislature of a great country acting in the execution of the great duties which belong to the Legislature of that country, without supposing, by that solemn declaration, that they could make their meeting effectual by the acts which were to be carried on for the purpose of preventing that Legislature from deliberating upon such duties? By what acts could it be done but by exertions, as they style them, in the manner of their forefathers, by force? By affiliated societies, exerting their physical strength, that physical exertion, which Mr. Barlow observes is to be preceded or precluded by spreading useful knowledge, and that useful knowledge being that, which is to beat down the existing authority of King, Lords, and Commons.

"The Convention therefore resolve, that each "delegate immediately on his return home do con-"vene his constituents, and explain to them the "necessity of electing a delegate or delegates, and "of establishing a fund without delay, against any "of these emergencies, for his or their expense, and "that they do instruct the said delegate or delegates "to hold themselves ready."

Gentlemen, you see what they expected from the Legislature—they knew that what they were doing ought to provoke the Legislature to do what they

meant to forbid the Legislature to do: and they instruct their delegate or delegates to hold themselves ready—"to depart at one hour's warning." Well might Mr. Skirving say, that *a month's delay, and the whole was lost:* well might Mr. Hardy say, what he says in letters I shall produce presently, that if the opportunity is lost now, it is lost for ever—we must act now, or we never can. Having some reason to suppose that this Convention would be dispersed, they then with great solemnity come to another resolution:

"That the moment of any illegal dispersion of "the British Convention shall be considered as a "summons to the delegates to repair to the place "of meeting appointed for the Convention of emer-"gency by the Secret Committee, and that the Se-"cret Committee be instructed without delay to "proceed to fix the place of meeting." Gentlemen, after these resolutions it became necessary to do a little more, that is, to declare upon what principles this Convention existed. Now mark the principles, and do your country justice: apply so much of the observations that I have made to you, as are worthy your attention, to what I have before stated as the necessary connexion between the principle and practice of Mr. Paine, and of these societies.

Gentlemen, these principles brought together the French Convention—what is the practice then, that flows out of the principle? Why, it is the assembling of a Convention upon principles obliging it to sit for

the purpose of declaring that the Legislature shall do nothing but what they liked: that is to all intents and purposes a National Convention; if not a Convention for an eternal reform, at least a Convention, that prohibits the Legislature to do any thing but what is agreeable to them. Then, having met for the execution of the practice, they proceed immediately to the declaration of the principle—but they do not proceed to a declaration of the principle till they have done that strong and solemn act, which I have stated: then they resolve "that a committee "be appointed to draw up a declaration"—This is France exactly—It is the Southwark Society in 1792 —"a declaration of the natural imprescriptible rights "of man, and that the same be prefixed to an ad- "dress to the people of Great Britain. That a "committee of observation," that is, for the better effectuating the purpose that they had before declared, "be appointed in London to give the earliest "intimation of any motion of the kind mentioned in "the foregoing resolutions to the different societies."

You will then find that they met in a place, which they call *Convention Hall*, under the name of the *British Convention*, and then they are informed that the London Corresponding Society would undertake to be that committee of observation, which, they say, ought to exist—and then you will find that the members mentioned that they had thousands of their constituents in London, Sheffield, Norwich, Leeds, &c. and that the Convention was to look at itself as

in its true nature a *committee of the people*—that therefore it was necessary to have, as they have in France, *Primary Societies*, who shall be consulted—in other words, that this Committee of the People at Edinburgh, which was to overrule the Legislature, was itself to be overruled by *these Primary Societies*, these primary societies themselves being overruled by the leaders of the great clubs, from which they emanated, and so forming in this country a government, under the power of a Jacobin Club, and that government destroying the present existing Legislature of the kingdom.

You will also find that, before these persons parted, Mr. Margarot communicated to his constituents the proceedings of this body, which he styles always the *Convention of the People* associated to obtain annual Parliaments and universal suffrage. There are letters which I shall lay before you, without detailing them, stating that they looked up to the London Corresponding Society, and the Society for Constitutional Information—that their active exertions were necessary for the accomplishing the projects, which they sitting in Edinburgh were to execute; and then the two delegates of the London Corresponding Society write to Mr. Hardy, as the secretary of that Society, an account of their proceedings—they give him an account of that solemn motion, and of the manner of making it, which I have just been detailing to you—they state to him that they had determined to assemble in Convention in any

such case—that the appointment of the place, which is a circumstance I beg your most serious attention to, was left to a *Secret Committee*; but then they send to him an account of the motion, informing him in the letter—that "letters convey but "very imperfectly, and with no great degree of "safety, what we might wish to inform each other "of."

Now what do you think it is that they do not inform him of in this letter?—They do not inform him in this letter, because letters will not convey every thing safely—*that the Convention was to meet in case of invasion*—that was a secret, which durst not be trusted to correspondence by letter, and because it existed in that motion which was made, every other part of it being communicated even in a letter, they consider it of such a nature, that they determine not to insert it even in their own minutes.

This Secret Committee having been appointed in the Scotch Convention, the fact being communicated to the London Corresponding Society by their delegates, you will likewise find that Mr. Sinclair, the delegate from the Constitutional Society to the Society at Edinburgh, was not behindhand in the communication of it: he communicates the proceedings, and desires that a Secret Committee may be appointed in that Society. It was not long after this, that the wisely exerted power of the magistracy of that country dispersed that Convention. The dispersion of that Convention, which, from what I have before

stated to you, was conceived to be a body that must then do its work, or its work never would be done, suggested to the societies of this country the necessity of undertaking the same business, of undertaking it at the same hazard, knowing that the project must either *then* be accomplished, or that it *never* could thereafter be attempted—for that no government could permit such a Convention as this to meet, when its nature was really understood, without taking some means to protect itself against the consequences of the existence of such a Convention.

Gentlemen, you will therefore find, that, after they had been dispersed, and after, in consequence of that dispersion, some of them had been punished in Scotland, by sentences which were pronounced upon offences, not stated in the records of that court in so aggravated a way against them as they might, in my humble opinion, have been stated, that it then became necessary that some step should be taken immediately to prevent the mischief which was meditated; for you will find, in the evidence, propositions in these societies about a rescue, which failed; but you will find in their correspondence from Scotland, and their correspondence from those ships in which the members of the Scotch Convention were, before they sailed in execution of their sentences, not only the strongest invitations to do some strong acts in this country, to both societies, but, on the other hand, the strongest and most unequivocal de-

claration by both societies, that these strong acts must be done.

Gentlemen, you will find that before they left Scotland, upon the 11th of December 1793, there is a letter from Mr. Margarot to Mr. Hardy to this effect—"We received your letter and remittance "yesterday, and shall be glad to receive another such "without delay.

"The Convention you will see has declared itself "permanent; they are to sit in some other part of "the country, which is not yet declared."

Gentlemen, Mr. Sinclair, the delegate of the Constitutional Society, came to London. I have before observed to you, from a letter of Gerald and Margarot, that there were some things that could not safely be conveyed by letter. Margarot writes a letter from Edinburgh to the Prisoner, in which he says—"My colleague Gerald also proposes to "leave this place the latter end of this, or the be-"ginning of the next week: he will explain himself "to you: pray send him money for this journey, "&c. He is now gone to *Perth* on very urgent bu-"siness. Since Sinclair's departure nothing new has "occurred, except the formation of a Society some-"where about the Grampion Hills"—this shows the spirit of fraternization—"they have already made a "subscription towards it: again we are interrupted; "and likely to lose the post, unless I dispatch this "immediately."

Upon the 22d of December 1793, another letter

is written to Mr. Hardy by the same gentleman, which probably led, in some degree, to the transactions that I have to state, as having passed in January 1794; for, after stating what had happened to himself in Scotland, he says—"Sheffield has on this "occasion exhibited a most manly spirit"—The Sheffield Society had at that time sent out some excessively strong resolutions, which I shall give you in evidence in the course of this business—"I am ex- "tremely mortified to find so great a difference be- "tween them and the London Corresponding So- "ciety; it is not however too late. For God's sake "send forth some very strong resolutions, and above "all, talk of impeachments, and of petitioning the "King to remove from their offices those persons "who have thus violated the laws of the realm."

You will find from a letter of the 24th of December, that Margarot, a delegate from the London Society, a delegate of Norwich, and a Mr. Brown, who was the delegate from Sheffield, had gone to attend a general meeting of the Society of the Friends of Freedom in East Lothian, and then the expression is—"*The time is come that we must show ourselves* "*worthy of liberty, or deservedly lose it.* The op- "position of our adversaries is demonstration of the "propriety and efficacy of the means which we have "employed to obtain it."

Upon the 27th of December 1793, you will find Mr. Margarot states that Mr. Gerald was gone to Perth; that he himself had been in East Lothian;

that they had been well employed; that they must send out spirited resolutions; and you will find, that, upon the 11th of January 1794, Mr. Hardy writes a letter to Norwich, relative to the proceedings I have now been stating, the Constitutional Society first, and the London Corresponding Society afterwards, having in their public acts approved every thing that this Convention had done. Mr. Hardy's letter runs thus:

"I have just received a letter from Citizen Mar-
"garot, at Edinburgh, with some of the Edinburgh
"Gazetteers, where you will see that Citizen Skirving
"is found guilty, and sentenced for fourteen years
"transportation to Botany Bay. Margarot's trial
"comes next; he meets it with great firmness and
"resolution. I have no time to make my comments
"on the proceedings, but I think our opponents are
"cutting their own throats as fast as they can—*Now*
"*is the time for us to do something worthy of men:*
"*the brave defenders of liberty, south of the English*
"*Channel, are performing wonders, driving their*
"*enemies before them like chaff before the whirlwind.*
"Margarot tells me that he has not time to write to
"you just now, but he hopes to have time very soon,
"when his trial is over, and immured in a prison.
"The London Corresponding Society is to have a
"general meeting and an anniversary dinner on
"Monday the 20th instant, at the Globe Tavern,
"Strand."

Gentlemen, you will find that Mr. Margarot, this

delegate, with whom Mr. Hardy is thus in correspondence, writes to the Norwich United Societies—"This morning ten ships of war have left Spithead for "the Channel; and it is here reported, that the Brest "fleet is out. Rumour, always magnifying things, "says there are seventy sail of the French at sea; if "so, there *must be a number of transports among "them, and a descent may probably be the conse-"quence—for God's sake, my worthy friends, do not "relax in the cause of freedom.*"—Now what connexion had a descent with the cause of freedom?—"Continue as you have begun; consolidate your "own societies—unite with others—persevere, and "make no doubt, but, sooner or later, your endea-"vours will be crowned with success."

Gentlemen, I come now to state to you the proceedings of the year 1794, as far as they depend upon written evidence; and it must be a satisfaction to the mind of every man who hears me, that, in the course of this business, whatever observations may arise upon the parol evidence that will be given you, I think you will find so strong a confirmation of all you are to hear in the written evidence that is to be laid before you, that these observations cannot possibly mislead you from coming to the true conclusion upon the whole of the evidence, whatever that may be.

Gentlemen, the Constitutional Society, having sent their delegate to the Scotch Convention, you will find that, at a meeting of the 17th of January

1794, the following resolutions were come to, to which I must desire your particular attention, more especially as there are some circumstances belonging to the composition of those resolutions, which appear to me to be worthy of attention. I have before told you that these resolutions were usually drawn from minutes—the original minutes still exist, and perhaps they show that discretion, with which men are sometimes able to state, in different ways, precisely the same thing: I say, that these resolutions of the 17th of January 1794, were meant to excite the subjects of this country to resistance.

"Resolved, That law ceases to be an object of "obedience, whenever it becomes an instrument of "oppression.

"Resolved, That we recall to mind, with the "deepest satisfaction, the merited fate of the infa- "mous Jefferies, once Lord Chief Justice of Eng- "land, who, at the æra of the glorious Revolution, "for the many iniquitous sentences which he had "passed, was torn to pieces by a brave and injured "people." This is applied to the Judges of Scotland, who executed the law upon such facts as I have been stating.—"That those who imitate his "example deserved his fate"—this sort of intimation might have a tendency, I hope it had not, to put in any peril those who did, in the regular course, and in the due course of their judicial duties, pass those sentences, to which these resolutions allude.

"That the Tweed, though it may divide coun-

"tries, ought not, and does not, make a separation "between those principles of common severity in "which Englishmen and Scotchmen are equally "interested; that injustice in Scotland is injustice "in England; and that the safety of Englishmen is "endangered, whenever their brethren in Scotland, "for a conduct which entitles them to the approba- "tion of all *wise*, and the support of all *brave* men, "are sentenced to Botany Bay, a punishment hither- "to inflicted only on felons.

"That we see with regret, but we see without "fear, that the period is fast approaching when the "liberties of Britons"—this was in January—"must "depend, not upon reason, to which they have long "appealed, nor on their powers of expressing it, "but on their firm and undaunted resolution to op- "pose tyranny by the same means by which it is "exercised." Now what is the tyranny? The exer- cise of the regular government of the country. What is the means by which it is exercised? The applica- tion of the force of the country in support of the government of the country. What is this resolution then? Why, that the means which the Government takes in the regular exercise of its functions, ought now to be resisted—"We see it with regret, but do "not see it with any fear."

That a breach of allegiance was contemplated you can have no doubt, for you will see in the original of this, that it stood thus: that, "as allegiance and "protection are reciprocal, law ceases to be an object

" of obedience, whenever it becomes an instrument " of oppression."—Couple that, as it stood originally, with the third resolution, and what is it? Why, it is—That the protection, which was due from him to whom allegiance is due, has not been afforded: therefore allegiance is no longer due. " We see " with regret, but we see without fear, that the " period is fast approaching, when the liberties of " Britons must depend, not upon reason, to which " they have long appealed, nor on their powers of " expressing it, but on their firm and undaunted re- " solution to oppose tyranny by the same means by " which it is exercised."

You will also find that it stood, " that English- " men feel the oppression of Scotchmen, which they " are determined to resist at the hazard of their " lives."—You will find the last resolution, in the minutes, comparing the genuine representatives of this country, in the House of Commons, with this Convention in Scotland, which Convention in Scotland had taken upon itself to resolve upon resistance to even a motion, in either House of Parliament of this country, in the execution of their duty, thus:

" That we approve of the conduct of the British " Convention, who, though assailed by force, have " not been answered by arguments, and who, unlike " the members of a certain Assembly, have no in- " terest distinct from the common body of the " people"—The words originally stood—who " be- " ing the incorrupt representatives of *many thousands*,

" have spoken the language of truth and firmness." Can I make this Court the instrument of conveying to the public, what I confess I do most anxiously wish to make it the instrument of conveying to the public, as far as it is fit, in the execution of the duty that I am now discharging, that they may understand what it is that men, when they are scattering these libels through the country, mean—" This " Convention, assailed by force, have not been an- " swered by arguments"—How was it possible to answer those by arguments, who were coming to solemn and sacred resolutions, which they did not even dare to put upon the face of their own minutes? How were we to answer those by argument, who were working under ground till they had blown up the government, and then say, You cannot point out that we have been acting ill, because we won't tell you how we have been acting?

Upon the 16th, Mr. Margarot writes again, leaving them to pursue what sort of conduct they please.

Then there is a letter of some importance of the 28th of January, which is written to the person who stands at the bar—" We have just received no- " tice from the Sheriff to hold ourselves ready to " depart at an hour's warning: we go by night: we " imagine to Newgate: look out for us."

Gentlemen, you will likewise find a letter from Mr. Margarot to Mr. Hardy, of great consequence, as it explains many of the passages in the evidence between the 20th of January 1794, and the time

that those persons were apprehended. Margarot writes from Edinburgh in this manner:—"Armed "associations are, I perceive, now set on foot by "the rich; wherefore should not the poor do the "same? Are you to wait patiently till twenty thou- "sand Hessians and Hanoverians come to cut your "throats? And will you stretch forth your necks "like lambs to the butcher's knife, and, like lambs, "content yourselves with bleating? Pray let me "hear from you soon. Remember me to Moffatt, "Muir, and Palmer, and all suffering brethren."

Gentlemen, upon the 20th of January 1794, there was a meeting at the Globe Tavern; that meeting, which, you will permit me to observe, Hardy mentioned in his letter of the 11th of January 1794, which I before have spoken of, when he said the London Corresponding Society were to have a general meeting, and an anniversary dinner. Gentlemen, the proceedings of that day will deserve your very particular attention.

"At a general meeting of the London Corre- "sponding Society, held at the Globe Tavern, "Strand, on Monday the 20th day of January 1794, "Citizen John Martin in the chair,"—when I state this to you, I ought to say that I shall prove the Prisoner to have been present, or to have been connected with all the transactions that I have been stating—"the following address to the people of "Great Britain and Ireland, was read and agreed to: "Citizens, We find the nation involved in a war,

" by which, in the course of one campaign, immense " numbers of our countrymen have been slaughtered; " a vast expense has been incurred; our trade, com- " merce, and manufactories are almost destroyed; " and many of our manufacturers and artists are " ruined, and their families starving.

" To add to our affliction, we have reason to ex- " pect that other taxes will soon be added to the in- " tolerable load of imposts and impositions, with " which we are already overwhelmed, for the pur- " pose of defraying the expenses which have been " incurred in a fruitless crusade, to re-establish the " odious despotism of France.

" When we contemplate the principles of this war, " we confess ourselves to be unable to approve of it " as a measure either of justice or discretion; and, if " we are to form our calculation of the result, from " what has already passed, we can only look forward " to defeat, and the eternal disgrace of the British " name.

" While we are thus engaged in an extensive and " ruinous foreign war, our state at home is not less " deplorable.

" We are every day told by those persons who " are interested in supporting the corruption list, " and an innumerable host of sinecure placemen, " that the constitution of England is the perfection " of human wisdom; that our laws (we should ra- " ther say their laws) are the perfection of justice; " and that their administration of those laws is so

" impartial and so ready, as to afford an equal remedy " both to the rich and to the poor, by means of " which we are said to be placed in a state of absolute " freedom."—The paper then goes on and reasons upon the state of the law in this country, under an exposition of Magna Charta, which gives as nearly the true meaning of it as a man would give, who had never seen it.

" If we look to Ireland, we find that acknowledged " privilege of the people to meet for the support and " protection of their rights and liberties, is attempt- " ed by terror to be taken away, by a late infamous " act of Parliament."—That was an act to prevent Convention by delegates with dangerous objects.— " Whilst titles of honour—no—but of dishonour, " are lavished, and new sources of corruption opened " to gratify the greedy prostitution of those who are " the instruments of this oppression.

" In Scotland, the wicked hand of power has been " impudently exerted without even the wretched for- " mality of an act of Parliament."—A piece of parchment justice they call an act in the Convention of Scotland.—" Magistrates have forcibly intruded into " the peaceful and lawful meetings of freemen, and by " force (not only without law, but against law) have, " under colour of magisterial office, interrupted their " deliberations, and prevented their association.

" The wisdom and good conduct of the British " Convention in Edinburgh has been such, as to defy " their bitterest enemies to name the law which they

" have broken; notwithstanding which, their papers " have been seized and made use of as evidence " against them, and many virtuous and meritorious " individuals have been, as cruelly as unjustly, for " their virtuous actions, disgraced and destroyed by " infamous and illegal sentences of transportation; " and these unjust and wicked judgments have been " executed with a rancour and malignity never before " known in this land; our respectable and beloved " fellow-citizens have been cast fettered into dun- " geons, amongst felons in the hulks, to which they " were not sentenced.

" Citizens, We all approve the sentiments, and " are daily repeating the words for which these our " respectable and valuable brethren are thus, unjustly " and inhumanly, suffering; we do associate"—mark the expression—" in order to obtain a fair, free, and " full representation of the people in a house of real " national representatives."—Now, did the Convention at Edinburgh then associate for the purpose to obtain a fair, free, and full representation of the people in a house of real national representatives? If they did, they associated to form that house of real representatives upon this principle, that they were, as Mr. Skirving calls them, the people in Scotland, that they were to affiliate, and to associate themselves with societies in England; and that, in that state of affiliation and association, holding a Convention, as they call it, of the People, from delegates of these societies, and not from the people—to do what?—

why, to meet as an Assembly, which Assembly was to control the operations of Parliament; of that Parliament, which must be the representatives of the Commons of the Nation; an expression, which, by the way, they never used, adopting generally terms of a different import, "Real National Representatives."

"Are we also willing to be treated as felons for "claiming this our inherent right? which we are "determined never to forego but with our lives, and "which none but thieves and traitors"—that is, persons acting in the regular execution of the functions of magistracy—"can wish to withhold from us? "consider, it is one and the same corrupt and corrupting influence, which at this time domineers in "Ireland, Scotland, and England: can you believe "that those, who send virtuous Irishmen and "Scotchmen, fettered with felons to Botany Bay, do "not meditate, and will not attempt to seize the first "moment, to send us after them? or, if we had "not just cause to apprehend the same inhuman "treatment, if, instead of the most imminent danger, we were in perfect safety from it, should we "not disdain to enjoy any liberty or privilege whatever in which our honest Irish and Scotch brethren "did not equally and fully participate with us? "Their cause then, and ours, is the same, and it is "both our duty and our interest to stand or fall together."

Gentlemen, recollect the expressions that I read

to you from Skirving's letter: "will you wait till "barracks are erected in every village, and till sub-"sidized Hessians and Hanoverians are upon us?" You will now see from the proceedings I am stating to you, that *the time was come*, that they were not only *virtuous* but *courageous* enough to do an act, which in 1792 and 1793, though they were virtuous enough to do, they were not courageous enough to do.

"You may ask perhaps, by what means shall we "seek redress? We answer, that men in a state of "civilized society, are bound to seek redress of the "grievances from the laws, as long as any redress "can be obtained by the laws; but our common "Master, whom we serve (whose law is a law of "liberty, and whose service is perfect freedom), has "taught us not to expect to gather grapes from "thorns, or figs from thistles: *we must have redress* "*from our own laws*."—Were they to be a Convention of the People, then, without making laws? They approve the whole conduct of the British Convention, that would not let others make laws, and yet were they not to make laws?

"We *must have redress from our own laws*," and not from other laws;—the laws of Great Britain are thus described;—"*the laws of our plunderers, enemies,* "*and oppressors:*" indeed, if the Legislature of their country were their plunderers, enemies, and oppressors, in their notions, it would be very difficult to suppose, that they were to have redress from the

laws of that Legislature; but then it follows, of course, that they meant to have redress from laws made by some other body, that had authority to make laws; and what that other body is, but the Convention which they determine upon, must be left for those to say, who can find it out. They go on then to say,

"There is no redress for a nation circumstanced "as we are, but in a fair, free, and full representa- "tion of the people."—Now, here again I ask, what is that fair, full, and free representation of the people, not mentioned to be in Parliament? but if it was, it would be precisely the same phrase as occurred at the time of the Commonwealth. But they take upon them to approve of the British Convention, and to unite the two nations of England and Scotland, to be a British Convention formed by delegates from the different societies in this country, and professing to act as a Convention of the People; I say, that it *is that species of Convention,* which, in their opinion, was a *fair, free, and full representation of the people,* in which, and which alone, they hoped for that redress, which they could not hope for from the Parliament of Great Britain, those, who were their plunderers, their enemies, and oppressors? Could it be possible for them to suppose, that they could make Parliament the willing or unwilling organ of bringing about this representation of the people to subsist by annual suffrage and universal representation? Could it have entered into their imagination

that those, whom they call their plunderers, enemies, and oppressors, would ever become the voluntary or involuntary instrument of doing that which was the object of all these societies, from March 1791, till they were checked in the execution of their purposes?

Then follows a resolution that will require likewise your very particular attention: "Resolved, That du-"ring the ensuing session of Parliament the General "Committee of this Society do meet daily, for the pur-"pose of watching the proceedings of the Parliament "and of the administration of the government of "this country." This was to be published: they do not therefore venture to insert *totidem verbis* that resolution, which I have stated to you was so solemnly made, and so sacredly sworn to in the Scotch Convention, but they resolve—"that upon the first in-"troduction of any bill or motion inimical to the "liberties of the people, such as for landing foreign "troops in Great Britain or Ireland, for suspending "the Habeas Corpus Act, for proclaiming martial "law, or for preventing the people from meeting in "societies for constitutional information"—What the meaning of the term *constitutional* is, we can judge by this time—that upon any express motion of this nature, "or any *other innovation of a similar* "*nature*; that on any of these emergencies the Ge-"neral Committee shall issue summonses to the de-"legates of each division, and also to the secretaries "of the different societies affiliated and correspond-"ing with this Society, forthwith to call *a General*

"*Convention of the People*, to be held at such place, "and in such a manner, as shall be specified in the "summons, for the purpose of taking such measures "into their consideration." They omit the case of invasion in this publication. But what is this, supposing nothing had passed in Scotland of what I have stated to you? What! Is the legislature, is the rule and government in this great country reduced to this state, that it shall find no protection in the administration of the law of the country against persons, associating and affiliating themselves for the purposes which they declare here? Is no motion to be made in Parliament for any purpose, which these societies choose to comprehend under the terms "any other "innovation," without explaining what it means? but what? but that bodies of men are to come together, claiming to themselves the civil and political authority, which exists in the natural and physical qualities of the people, and then to contend that they have got a *Convention of the People?*

Now, do they convene the people? In fact, it will be said, nothing like it. But they call themselves *a Convention of the People* in the very terms that they use: the summonses are to go to the delegates of each meeting, and also the secretaries of the different societies corresponding with this Society, and no where else. For what purpose? To *call a General Convention of the People!* Then, what is the meaning of all that, taking it with its context? It is this: From your laws—the laws of

you, our plunderers, enemies, and oppressors—we can expect no relief: we do not mean to come to you for any: but we will watch you, and if you dare to propose an innovation of any sort, we shall call a *fair, free, and full representation of the people.* Composed, pray how? By delegates from our societies, to seek, as a General Convention of the People, redress from our own laws. It appears to me that the reasoning upon this paper is so whole and entire, that it is out of the power of human ingenuity to touch it.

Then they resolve; "That a hundred thousand "copies of the Address to the people of Great Britain "and Ireland shall be printed." Then they follow this up with the publication of a great many toasts; and really, when one mentions such a thing as toasts in the trial of a great national cause, such as this undoubtedly is, one is afraid of its sinking into insignificance; and yet this is a great feature in this cause. You will find that, previously to one of the most seditious meetings which was ever held in this country, it was thought of importance enough that they should meet once, twice, or thrice, in committees, in order to frame toasts, which were best calculated to inflame their minds, and to urge those forward, who were already engaged in these projects—"The Rights of Man;"—"The British "Convention;"—"Success to the arms of Free-"dom, against whomsoever directed." This is during the war—against whom were the arms of Freedom directed, in the opinion of these persons? You

remember they said that "the Elector of Hanover "may join his troops to traitors and robbers; but the "King of Great Britain will do well to remember "that this country is not Hanover: should he forget "the distinction, we will not." They corresponded with the French in October; and in November 1792, they state to you that the principles of their resolutions are those upon which they meant to act, —that Great Britain was now engaged in a war— which they condemned—in which the arms of freedom, as they said, had never been engaged on the part of Great Britain. Then the meaning of the toast is obvious. Another toast was—"The virtuous "and spirited Citizens now in confinement for mat- "ters of opinion." Now, these matters of opinion are acts all done in the long tissue and detail of a conspiracy to subvert the monarchical government of this country, under its present legal provisions and limitations.

The name of Mr. Frost being mentioned—I mean him no disrespect in saying this—but it is to the purpose of this business to take notice of it—that gentleman was prosecuted in this country for this doctrine—"No King, none in England, I am for "liberty and equality every where." What was the consequence of that? The judgment of the law of England upon him was, that he was guilty of an offence: he was punished: he has suffered that punishment, and made an atonement to the law: but these gentlemen, who sent Mr. Frost with Mr.

Barlow, to state such doctrine to France, and bring such doctrine back from France, you find that they have a formal resolution that they will sustain this Mr. Frost in all his persecutions and prosecutions. Does that mean nothing? If Mr. Frost is persecuted for holding doctrines in the country, which were to put the King out of the system, is it no evidence of intention with respect to those, who engaged in such projects, as I have mentioned, that they do come to a resolution, in which they declare that the law, questioning the propriety of declarations of that kind, amounts to a persecution, and that he ought to be sustained against it?

Gentlemen, you will hear from witnesses, who were present, what the proceedings on the 20th of January, and the general complexion and nature of them were. Mr. Martin being in the chair, and Mr. Hardy being present, who was a member of both these societies, an attending member in both of them, I will give you Martin's account of the proceeding on the 22d of January 1794, in a letter in his own hand-writing, sent to Maurice Margarot, at Edinburgh, who had advised, you will recollect, the London Corresponding Society to come to some strong resolutions—who had urged that *now is the time*, that *two months in Scotland would do the business*, provided they did their duty in England.

"My dear Sir, I dare say you think I have forgot "you from my not having written to you, but you "know my sentiments so well that it was unneces-

"sary for me, and would probably have been im-
"proper to say much on the subject of your mis-
"sion"—then he states something about private business.

"We had a meeting on Monday, I was in the
"chair—the newspaper gives our numbers at 500,
"but we were nearer 1500: every thing was well
"conducted, that is to say regularly, and the pro-
"ceedings were tolerably bold. Mr. Hardy, I dare
"say, has sent you a copy of the address and resolu-
"tion.

"Your conduct receives universal approbation;
"and though I at one time dreaded the want of
"money, yet that is now over; those, who opposed
"the subscription at first, are now putting their hands
"to the very bottom of their pockets, and swear by
"God you shall be supported with the last guinea—
"we must have another general meeting in a chapel,
"or some large place, and declare the purpose of a
"subscription, and I think we shall get plenty of
"the needful for that and other purposes. Have
"you read my letter to Lord ——? do you in-
"cline to try the writ of error? what do the Scotch
"lawyers think of it, and what do you think of the
"legal knowledge of my countrymen? I firmly be-
"lieve that the law is the only science, of which
"they know nothing.

"The King went yesterday to meet *his* Parlia-
"ment"—so now we have got no Parliament of ours, the people of this country—"they sat till six o'clock

"this morning: the papers are not out, but I am "told only twelve members were for peace: I am "glad the Minister has so great a majority within "doors for the war, and that the people have a "greater majority without doors against the war: "the swinish rogues had the impudence to write 'No "war' on all the doors and corners of the Houses of "Lords and Commons, and they had even the au- "dacity to groan and hiss, while his most sacred "Majesty was passing to and from the House—nay, "I am told, a woman, moved and seduced by the "instigation of the devil, and traitorously intending, "&c. did in St. James's Park take off her patten, "and threw it with all her force at His Majesty, "whereby the glass of the state coach was broken, "and His Majesty put in fear: God save the King, "for if, &c.—as Gerald says"—there he leaves it.

"The Society is increasing rapidly, both in spirit "and in numbers, and the rich now begin to come "among us, and to sit down with pleasure among "the honest men with the leathern aprons.

"I could write to you strange things, but I know "not but this may be read by somebody before it "comes to your hands."

Gentlemen, after this had passed, you will find that that letter was written by the Corresponding Society to the Society for Constitutional Information, which I first mentioned to you upon the 27th of March 1794, and now, with your leave, I will read a part of it to you again.

"I am directed by the London Corresponding So-
"ciety to transmit the following resolutions to the
"Society for Constitutional Information." I should tell you first, in the order of time, that the Society for Constitutional Information distinctly adopt that paper of the London Corresponding Society of the 20th of January 1794, as their own, and order it to be entered upon their books; they approve of the manly sentiments of it, and they fully take it to themselves, to all intents and purposes, as if it had been a conjunct meeting of them both. Then, the London Corresponding Society having held this language respecting the Convention, and upon the 24th of January the Constitutional Society having adopted the project of a Convention stated in the address of the London Corresponding Society of the 20th, and the nature of that Convention being a Convention from the affiliated societies, to take upon themselves the character of *a Convention of the People*; it would be surprising indeed if the Convention, which they speak of on the 27th of March, should be a Convention of a different nature from that which they had both agreed to on the 20th and 24th of January—and with that observation I come again to this letter of the 27th of March.

"I am directed by the London Corresponding So-
"ciety to transmit the following resolutions to the
"Society for Constitutional Information, and to re-
"quest the sentiments of that Society respecting the
"important measures which the present juncture of

"affairs seems to require. The London Corresponding Society conceives *that the moment is arrived*"—throughout the years 1791, 1792, and 1793, they thought it was not arrived—"when a full and explicit declaration is necessary from all the friends of freedom—whether the late illegal and unheard-of prosecutions and sentences shall determine us to abandon our cause, or shall excite us to pursue a radical reform, with an ardour proportioned to the magnitude of the object, and with a zeal as distinguished on our parts, as the treachery of others in the same glorious cause is notorious. "The Society for Constitutional Information is therefore required to determine whether or no they will be ready, when called upon, to act in conjunction with this and other societies, to obtain a fair representation of the people, whether they concur with us in seeing the necessity of a speedy Convention for the purpose of obtaining, in a constitutional and legal method, a redress of those grievances under which we at present labour."

Now, in the first place, with respect to the words "constitutional and legal method," these persons have not much to claim upon the score of the effect and force of the words "*constitutional* and *legal method*," which appear, through all their transactions of the years 1792 and 1793, and more particularly through the transactions of 1793, as they apply to the British Convention, in Scotland, to be thought consistent with the existence of a Convention of such a charac-

ter as that had; and, if it was their purpose to have a Convention of the people, by summonses to affiliated societies, that Convention to take upon itself the power of the people, it is in vain that they talk of legal and constitutional methods; it is in vain, if the thing they mean to do, and the manner of doing it, is not legal or constitutional.—Upon this letter, I apprehend, after what has passed, there can be no doubt what is meant by a Convention: but it is not left there; for in the third resolution they state, that "there ought to be immediately *a Convention of the* "*People* by delegates;"—mark the words—"deputed "for that purpose from the different societies of the "friends of freedom, assembled in the various parts "of this nation."

Then here is a Convention of the same character, of the same name, and the same constitution, as that mentioned in the resolution of the 20th of January 1794. Now, to whom is this proposed? It is proposed to that Constitutional Society, which had adopted the address of the 20th of January 1794, and which had also said, by approving that address, that they were of opinion that redress was not to be obtained by the laws of England, but that they were to have redress against their oppressors, plunderers, and enemies, by their own laws—by that sort of *representation of the people*, which is formed by a Convention of the People, summoned from those associated societies. Then what follows upon it?—though the thing is couched in phrases that are a

little ambiguous, yet no human being, judging honestly, can doubt the meaning of it; it is, that there shall be this Convention, to act as a Convention of the people, with the power of the people, having all civil and political authority. The Prisoner is sufficiently involved already, if such a Convention never had been thought of; but then the two Societies form a Committee of Correspondence and Co-operation for the purpose of bringing together that Convention, which they had said was the only mean, by which Britons could enjoy their liberties, or protect themselves against the legitimate government of the country, including in it their plunderers, enemies, and oppressors.

Gentlemen, when I lay this evidence before you, if I stopped here, I should be glad to learn why this is not a step taken for the execution of such a purpose as I have before stated—a step taken for constituting a body, or a step taken towards devising the means of constituting a body which was, like the Convention mentioned in the speech of Barrére, to supersede the Legislature, to depose the King, to suffer him to have no existence, but what their good will and pleasure would allow him, against the will, as the language of the Indictment states it, and in defiance of the authority of the Parliament—to depose the King—for, if these people have the sovereign power, and they must have the sovereign power upon their own principles—the King of England cannot have it in the manner in which it is vested in him now. He

was bound to resist such a project as this: he owed it to every good subject in his country to resist it—he was sworn to do it by the solemn obligation of his coronation oath—you cannot therefore contemplate a case of his acting otherwise—the King, being bound to resistance for the security of the subject, and for the sake of observing his oath, for the sake of continuing to reign according to the terms of that oath, according to the statutes agreed upon in Parliament assembled, and the laws and customs of the same.

But, Gentlemen, I do not stop here: you will find also that there was a meeting at Chalk Farm, the particulars of which I will not state further than to say, that, when they are read, you will see that that meeting at Chalk Farm was a step taken in the further prosecution of the functions of that Committee of Co-operation—that it was a measure taken for the express purpose of trying the temper of the people, of seeing what they could do by numbers. That meeting was held in April 1794, and it is very remarkable that it appears there were meetings in other parts of this kingdom; more particularly it appears from a letter, found in the possession of this Prisoner, that, as there was a meeting in the open air at Chalk Farm, so there were meetings elsewhere —it required vigilance—it required the interposition of some strong hand, by Parliament or otherwise, to preserve you in the situation in which you now are: if it be the will of these persons that you shall not

remain in it, it is at least the duty of those, who are to watch over the country as long as it can exist, that it shall not be destroyed by any fault of theirs: but you will find there were meetings in the open air at Leeds, Wakefield, Huddersfield, Bradford, Birstal, and at various other places. This project of a Convention had been communicated to many parts of the country, and too many of them had assented to it; not only assented to it, but it will be proved, that the Prisoner sent a circular letter to the remotest parts of this kingdom (which I will now read), for the purpose of assembling this Convention, for the purpose of carrying into effect the project of this British Convention, the body of which had been dissipated, but which was still carrying on its purposes by measures precisely the same as those which had existed in this part of the island.

You will find that the Prisoner writes this circular letter to all those societies; and the addressing this circular letter to all the societies, shows that the Convention that was to be called was not to be a Convention of the people at large, but a Convention of delegates summoned from these societies, to usurp the character of "*a Convention of the People.*"—"The critical moment is arrived"—mark the difference of language; in 1793 the *time is not yet* come, men *are not virtuous* nor *courageous enough*; in 1792, they *expected nothing from Parliament*; in 1793, they *expected every thing from the societies in due time, and* now they *they assert that the due time is come,*

that the fulness of time is come—" the critical mo-
" ment is arrived, and Britons must either assert
" with zeal and firmness their claims to liberty, or
" yield without resistance to the chains that mini-
" sterial usurpation is forging for them. Will you
" co-operate with us in the only peaceable measure"
—a very peaceable measure a Convention of this sort!—" that now presents itself with any prospect
" of success? We need not intimate to you, that,
" notwithstanding the unparalleled audacity of a cor-
" rupt and overbearing faction"—now this corrupt and overbearing faction is the King, Lords, and Commons of Great Britain—" which at present
" tramples on the rights and liberties of the people;
" our meetings cannot in England be interrupted
" without the previous adoption of a Convention
" bill." A Convention bill!—this shows the reason for their resolutions in Scotland about permanent sittings, and the meeting of another British Convention, and for their language, which they held upon the 20th of January 1794; " a measure it is our duty to
" anticipate"—mark these words—" our duty to an-
" ticipate, that the ties of union may be more firmly
" drawn, and the sentiments and views of the differ-
" ent societies *throughout the nation* be compared"—
What was their object in this circular letter? If, when the British Convention in Edinburgh sat, there had been a motion for a Convention bill in the Parliament of Great Britain, why, their object was then, we perceive, that of being ready at an hour's warning;

communicating in all parts of the kingdom to their delegates that solemn resolution, which had been made in the British Convention upon the 6th of November; they were instantly, before the project of such a bill could in Parliament ripen out of notice of a motion into a bill once read, to be assembled in Edinburgh to prevent any such bill passing; they solemnly vowed to each other, hand in hand, and standing up, to give the greater solemnity to the declaration, "that the moment such a bill as that "was introduced into Parliament, they would resist "it at the hazard of their lives." Then what did they mean in this circular letter? they meant that, while as yet the bare expectation of a Convention bill might exist, while, as yet, no notice of such a motion was given or heard of in Parliament—that it was their duty to anticipate what Parliament might possibly think of. How to anticipate it?—to anticipate it by means of a Convention assuming the character of a British Convention of the People, but delegated from these societies, to sit not at Edinburgh, but to sit at a place, as you will find, which they durst not name, and for the purpose of conducting this project with more security, as you find by this letter, to sit at a place that was to be kept secret, in order that the purpose might not be disappointed. "A measure," they proceed, speaking of a Convention bill, "it is our duty to anticipate, that "the ties of union may be more firmly drawn, and "the sentiments and views of the different societies

"throughout the nation be compared, while it is "yet in our power, so as to guide and direct the "future operations of the friends of freedom. Rouse "then to one exertion more, and let us show our "consciousness of this important truth; if we are to "be beaten down with threats, prosecutions, and "illegal sentences, we are unworthy, we are inca-"pable of liberty; *we must, however, be expeditious*; "Hessians and Austrians"—here is the idea that came from Scotland again—"are already among us, "and if we tamely submit, a cloud of these armed "barbarians may shortly be poured in upon us."

The introduction of sick men into this country for the humane purpose of giving them that air, which they could not obtain while on board a ship, is made the pretext of this letter for stating that "Hessians and "Austrians are already among us, and, if we tamely "submit, a cloud of these armed barbarians may be "poured in upon us. *Let us form then another* "*British Convention.*" What was that Convention? they expressly state it to be *a Convention of the people*, and a Convention, which is to assume controlling powers over the Legislature. "We have a central "situation in our view, which we believe would be "most convenient for the whole island, but which "we forbear to mention (entreating your confidence "in this particular) till we have the answer of"—whom?—"of the societies, with which we are in "correspondence." What, is that a Convention of the People? or of the societies assuming the charac-

ter of a Convention of the People? "Let us have "your answer then." Now, give me leave to observe how nearly this project was to being carried into effect—"Let us have your answer then by the "20th at farthest, earlier, if possible, whether you "approve of the measure, and how many delegates "you can send, with the number also, if possible, "of your societies."

Gentlemen, this will be proved to you to have travelled as far as Strathaven, to have been received there, and delegates to have been appointed in consequence of the solicitation; and then, as in the British Convention, in the month of November 1793, this great project of calling together a body, which was to put an end finally to the existence of Parliament, was to be conducted by a Secret Committee; because its operations, its assembling, and the means which were to be taken for it, could not be committed to numbers, a Secret Committee was then appointed. This letter ends—"for the management "of this business we have appointed a Secret Com-"mittee: you will judge how far it is necessary for "you to do the same."

Gentlemen, the next proceedings were at Chalk Farm. In these proceedings, it appears, they have stated to the Society called "The Friends of the "People," this measure of a Convention; that measure the Friends of the People refused to agree in. You will find that, refusing to agree in that measure, at the meeting at Chalk Farm, when it was stated

that the Society of the Friends of the People would not agree in it—indeed, agree in it they could not—you will find what was the reception, which the communication of that information met with—an universal groan from a large body of men, amounting, I believe, to a couple of thousand there assembled.

Gentlemen, this Committee of Correspondence and Co-operation, you will find, met; you will find that there is in the hand-writing of the Prisoner, in a very short note, an account of what was done when they met; that one of the first steps towards the accomplishment of their purposes, was a communication of the correspondences of the country societies to those who were to be the delegates of the Constitutional Society; but the meeting was broke up by the apprehension of the Prisoner and others, which has led, as I before stated, to this prosecution.

Gentlemen, I have before told you that I conceived it was competent for me, as indeed I apprehend without question it is, after proving the conspiracy, to show the conduct of the persons, who were parties in that conspiracy, in furtherance of the conspiracy, when it is proved. You will find that one of the persons who attended the meeting of the 20th of January 1794, and who was a very active member of the London Corresponding Society, and likewise one of the Committee of Correspondence and Co-operation, which I have alluded to as the final act of this business, gives himself this ac-

count of the transactions of the 20th of January 1794, and of other circumstances: this is Mr. Thelwall.

"It is with infinite satisfaction that at last I re-
"ceived a letter from you; it was brought this
"morning by Citizen Lee, and has been delayed, I
"understand, this fortnight at Rotherhithe by some
"accident.

"I am too well acquainted with mankind to be
"surprised, too much of a philosopher to be angry
"at the abuse and misrepresentation of mistaken
"men; but I shall endeavour, as I wish to preserve
"the good opinion of a man whom I remember with
"esteem, to send you such printed documents as
"will prove to you, that, instead of having deserted
"the cause of liberty, I have redoubled my zeal, and
"that there is not at this time in England a man that
"goes bolder lengths, and exposes himself to more
"danger, in the cause of liberty, than myself. I
"have been for four or five months past almost the
"sole labourer upon whom the fatigue, the danger,
"and the exertions of the London Corresponding
"Societies, the only avowed Sans Culottes in the
"metropolis, have rested; and have been otherwise
"so active in the cause, as scarcely to have passed a
"week without threats and conspiracies from the
"Government and its purblind adherents. Ever
"since the famous or infamous, call it which you
"will, proclamation of November 1792, I have been
"frequenting all public meetings where any thing
"could be done or expected, have been urging and

" stimulating high and low, and endeavouring to " rally and encourage the friends of freedom. I have " been constantly sacrificing interest and security, " offending every personally advantageous connexion, " till Ministerialists, Oppositionists, and Moderees, " hate me with equal cordiality, and, if I may judge " by their conduct, fear me as much as they hate.

" For these four months, I have been giving po- " litical lectures and printing, and appropriating the " whole receipts, till the last fortnight, to the sup- " port of our delegates to the British Convention; " for the history of which I must refer you to Citizen " Talbot, whom I have not seen, but whom I hope " to see before he leaves England."

He then gives an account of the meetings I have been stating to you, and of his lectures: then he says,

" Adieu. I will collect together what political " papers I can, to send to you when I can find leisure. " Do write to me; let me know something about " the state of politics and society in America. I fear " you are somewhat short of the true Sans Culotte " liberty; that you have too much veneration for " property, too much religion, and too much law."

" I fear you are somewhat short of the true Sans " Culotte liberty." Now, that is, that you have too much veneration for property, too much religion, and too much law.

Gentlemen, having now gone through the written evidence, I am to state to you some other circum-

stances. I have not indeed stated all the written evidence, because you will have written evidence laid before you of stimulations, under singular pretexts, to these societies, to arm themselves. You will find, for instance, that if a debate happened in that Parliament, where they meant hereafter to suffer no debate, about the Hessians and Hanoverians, they circulated among them papers, and it will be brought home to those with respect to whom it is stated, to this effect—"The Ins tell us we are in danger of invasion from the French; the Outs tell us "that we are in danger from the Hessians and Hanoverians: in either case, we should arm ourselves. "Get arms, and learn how to use them."

You will likewise find, upon this part of the case, that, after the dispersion of the British Convention in Edinburgh, after it was seen that the law of this country was strong enough to beat down a conspiracy of that kind, acting by their mere naked numbers, that it became then, in their opinion, necessary to the accomplishment of their purpose, to act with arms.

Now, Gentlemen, where a general conspiracy of this sort, among affiliated societies, existed in Scotland, Sheffield, Norwich, Manchester, and various parts of the kingdom, all aiming at the same end, all acting upon the same principle, all involved in the same project of having a Convention from the different parts of the united kingdoms, it is natural that they should think of arms: but, if the conspiracy did

not exist, it would seem a very odd thing that it should happen in fact, that, in these different parts of the kingdom, in Scotland, in Sheffield, and in London, we should find persons preparing arms of a sort, and of a denomination, which of late years we have not heard of in this country, except as existing in France, and except as stated in a letter from France, which I have read to you.

But, Gentlemen, you will find, from the evidence I have to offer, and indeed it is not surprising that you should so find—after I shall tell you, that in the pocket of one of the parties in this conspiracy, and distributed also in divisions in the London Corresponding Society, were papers, importing that upon the 1st of April 1794, was to be performed, "The "Guillotine, or George's Head in a Basket;" papers in which the sacred person of the King is so spoken of, and in which all orders of men, under ludicrous representations of them to their country, were doomed to lamp-irons, and to suspension; after I shall tell you, that I am instructed that Mr. Thelwall could, when retiring from Chalk Farm, take a pot of porter in his hand, with a knife take off the head, and say, "Thus "I would serve all Kings;" if you should find such language used, I am persuaded you will not be surprised to find pikes in the hands of these men, and their associates—to find muskets in the hands of these men and their associates. Do not, Gentlemen, let us be misled by the great doctrine of the Bill of Rights, that every man has a right to arms for his

own protection—he has without question a right to convenient arms for his own defence; but the point before a Jury will be, for what purpose had he the arms? If he attempts to say, that he had them for his own defence—if he had them in fact for a worse purpose, the attempt to colour the fact makes the fact more criminal.

Gentlemen of the Jury, you will find that Mr. Yorke, in the month of November 1793, will be proved to have been at one of the divisions of the London Corresponding Society, stating, that he was going among the sons liberty into Belgium, to bring into this country the true friends of liberty. You will find that he was a member of the London Corresponding Society, and constituted a delegate of the Constitutional Society to Scotland; that he has been propagating at Sheffield the same doctrine, as his brother associates were propagating in London; that he was there directing the form in which pikes should be made, to persons who were to make *such* instruments; that the persons at Sheffield enter into a correspondence with the Prisoner at the bar; that they inform him that these pikes are made; that he delivers the direction to persons of the Corresponding Society, in order that they may furnish themselves with these instruments; and that they were to be furnished from Sheffield to a place here, I think, the Parrot, in Green Arbour Alley, or some other place in this town; and that, if the apprehension of these persons here, and at Sheffield, had not put an end

to the further execution of the project, there would have been a large importation of these pikes into this part of the kingdom.

Gentlemen, you will find that this idea of arms was carried further; you will find that, for the use of this Society, a plate with figures, showing the manner of learning the military exercise, was engraved by a Mr. Worship, a member of this Society. You will find that there was a military Society in Lambeth, and another in Turnstile, Holborn; they were small in their beginnings, I admit; but these things must be so in their beginnings; and you will find, that the Prisoner at the bar gave to a witness of the name of Edwards, a direction of whom to obtain pikes at Sheffield. Mr. Williams, another witness, who will be called to you, who is a gun-engraver in the Tower, made muskets for the use of these societies in Lambeth, and in Turnstile, with an express protest that he should not be employed, unless he himself became a member of the societies. You will find accordingly that he did become a member of them. You will find that they drilled at particular places. Gentlemen, I give you this outline of this part of the evidence, because I do not wish to enter more into the particulars, than to give you a general impression of the nature of the case which I have to lay before you.

You will likewise see, what is natural enough to happen, when you find in the book of the Society for Constitutional Information, that Mr. Horne Tooke

could think of giving notice, that he would move "that two books should be opened, one of them "(bound in black) in which should be entered all "the enormities of those who deserve the censure; "and in the other, the merits of those who deserve "the gratitude of the Society." You will not be surprised, if you should find persons in these affiliated societies, of lower descriptions, holding conversations about seizing the most august persons in the nation; if you should hear of their holding conversations about the situation of persons in the House of Commons, and the means by which they could know their persons.

Upon the whole, Gentlemen of the Jury, I shall now lay the testimony before you, submitting this written evidence to you, calling witnesses, above all exception, to a great part of the case; calling some witnesses, whom I now avow to you, you will find, were persons employed by Government to watch over the proceedings of these Societies, and who therefore became informed, in consequence of such employment, of some of their transactions; and Government would have been wanting to itself, and would have been wanting to a degree of criminality, which no man can describe, if this country had at this moment been in the state in which it would have been, if these pikes had been brought into actual exertion.

At Sheffield, indeed, I am told they had got to the length of forming iron instruments, which were to disable horse, which they called night-cats, and

which would immediately insert themselves into the hoofs of horses' feet. I say, if, with these projects going on in the country, a Secretary of State, or any other person in the executive government, had hesitated a moment to procure information, these parties might have been able to put into execution the projects they were meditating, and he would have been answerable for it.

Gentlemen, it is the great province of a British Jury, and God forbid these Prisoners should not have the benefit of the reflection, that British Juries are able to protect us all—are able to sift the characters of witnesses—to determine what credit is due to them—listening to men of good character without any impression against their evidence—listening to men, such as I have stated, with a strong impression against their evidence; that impression, however, to be beat down by the concurrent unsuspicious testimony arising out of the rest of the case, if, upon the whole, you should find the case to be made out as I have stated it to you.

Gentlemen, I forgot to mention to you, that you will likewise find, about the time that this Convention was talked of, that there was a new constitution framed for the Corresponding Society, in which they speak of a royalist as an enemy to the liberties of his country—of a democrate, as a friend to the liberties of his country; and you will find, that, in a constitution again revised, the whole was thrown into a scheme, and into a system, which was to add phy-

sical strength to the purposes of that Convention, which was, I submit to you, to assume all civil and political authority.

If you find all these things, and, if under the direction of that wisdom that presides here, with respect to which, Gentlemen, let me say again, that the situation of this country is indeed reduced to a most miserable one, if the respect which is due to the administration of the law, is suffered to be weakened in any manner, if the respect which is due to the administration of the law, that administration, which perhaps is the best feature of the constitution under which we live, is destroyed, miserable indeed must be the situation of your country! If you find under that direction that the case, being proved in fact, is also made out in law, you will do that on behalf of the public which is due to yourselves, to the public, to your posterity, and theirs.

But on the other hand, if, after hearing this case fully stated, and attempted to be fully proved, you should be of opinion that it is not proved, or you should be finally of opinion that the offence is not made out, according to the *hallowed* interpretation of the statute of Edward III.; I say, then, in the conclusion, I join, from my heart, in the prayer which the law makes on behalf of the Prisoner, God send the Prisoner a safe deliverance!

Before Mr. Erskine's Speech for the Prisoner, we think it right to introduce a remarkable circumstance that attended this Trial, namely, that, it being impracticable to bring the evidence within the compass of the longest possible sitting, it became necessary, from day to day, to adjourn the Court; and the following extract from the proceedings will show to what disadvantages, even with the indulgence of the Court and Jury, the Prisoners' Counsel were subjected. The trial began on Tuesday, the 28th of October, and the Court sat till a late hour on that day, Wednesday, Thursday, and Friday, assembling at nine every morning. It is plain, that not a moment's time was afforded for considering and arranging the various matters to be observed upon in the defence. When the Court, therefore, was about to adjourn at two in the morning of Saturday (being the fourth day of the trial), and the evidence for the Crown being about to close, which would have rendered it necessary for Mr. Erskine to open the case of the Prisoner at nine the same morning, the following dialogue took place:

Mr. Erskine. My Lords, this is the fourth day that my friend Mr. Gibbs and myself have stood in a very anxious situation;—there has been a most voluminous body of written evidence, all of which has not been printed;—copies of that part which is unprinted, have not as yet reached me:—there have been two days spent in hearing parol evidence; and we (being but two) assigned as Counsel for the Pri-

soner, have been obliged to be constantly engaged in Court, in cross-examining the witnesses for the Crown;—and your Lordships very well know, that the cross-examination of the witnesses presents an important feature of our case on the part of the Prisoner, a great deal of which has fallen upon me:—your Lordships must be sensible that it was impossible I could, at the time of cross-examining a witness, take any particular note of what he had said.—When the evidence for the Crown was near closing, I humbly requested of your Lordships the indulgence of an hour or two to look over the papers;—your Lordships were pleased to grant my request, which I considered as a personal civility to myself; but I was prevented, by extreme sickness, from availing myself of those two hours, for I was indeed so ill, that nothing less than a case of this magnitude could have brought me into Court.—Since that time I have not had natural rest, not having got home till between two and three o'clock in the morning, and having been here again at nine; so that I can say with a safe conscience, I have not had an opportunity of even casting my eye upon any part of the evidence, though I trust I have something of the general result of it in my mind.—I should hope, under these circumstances, that the Prisoner might be indulged with some opportunity for my friend Mr. Gibbs and myself to arrange our papers, and consider them together as Counsel for the Prisoner, before we are called upon to make our de-

fence.—It is necessary to do this, not for my address to the Jury only, but that, when I do address them, I may present to them properly the Prisoner's case, which depends much upon the arrangement of the evidence.—I feel myself in no condition to do this, either in a manner respectful to the Court, or for the safety of the Prisoner.—I do not wish to propose any particular time, but merely to leave it to the indulgence and justice of the Court, perfectly sure that, when I leave it there, I leave it in a safe place.

Lord Chief Justice Eyre. I feel the weight of your observations; of the difficulty under which you labour, in an extraordinary case, which can hardly be judged of by the common rules on which we proceed in cases of this nature; the Court are of a disposition to give you all the indulgence they possibly can, because there is a vast mass of evidence: the case arises out of the evidence, and it is fit the case should be thoroughly canvassed.—At the same time, it is certainly notorious that the great bulk of that evidence has been in print a great while, and I cannot believe that it has not been very well considered as far as it has been in print,—I am sure that must be understood.

Now I will tell you very fairly, if the question was only the personal accommodation of yourself and Mr. Gibbs, at the expense of the personal convenience of myself, my Lord, and my brothers, I am quite sure we should have no difficulty in the sacrifice of our personal convenience;—but there is

a great deal more in the case,—we have a Jury who have been thrown into the most arduous service that ever I saw a Jury engaged in; they have borne it in a manner that does them infinite honour, and I have no doubt but, that, as far as it is necessary that they should continue in the situation they are in, they will bear it cheerfully.—I have seen such a specimen of their behaviour, that I cannot entertain a doubt of that;—but that we could give you an absolute suspension of the business in the situation that we are in, upon the terms of keeping the Jury in the situation in which they must be kept, is a thing that it is perfectly impossible for us to think of. Now this occurs to me, my brothers will consider of it;—I merely throw it out for their consideration.—You are men of honour, you will tell us whether you really do mean to call witnesses, or to take the case upon the ground upon which it is already made;—if you mean to call witnesses, you may call them to-morrow; you may go on with the case as far as it will be necessary for you to go on, to fill up all the time that ought to be filled up, leaving only a part of Sunday, the common interval of rest, without our keeping the Jury in a situation to do nothing.—If you do not mean to call witnesses, but mean to leave the case with the observations which arise upon the evidence that is before the Court, we will go as far as we can;—but if witnesses are to be called, and you desire not to address the Jury immediately, you must immediately begin to examine your witnesses, as

soon as they have closed on the part of the Crown; and fill up the time that will intervene between that time and the time when you will be ready to go on with your address to the Jury. In that way I think we shall put the Jury under no unnecessary hardships, because, whether they hear the witnesses before or after the speech, is a matter of no importance to them.

Mr. Erskine. I should be afraid to take upon myself the experiment of trying a cause, particularly of this magnitude, in a manner totally different from any that has ever occurred in the annals of this country. I should be afraid to begin an experiment of that sort, more especially when Counsel in a capital case; because evidence comes with infinitely more weight, by which I mean the proper weight evidence ought to have, from the bearing of it upon the case when it is first stated by the Counsel, who is to support his cause by it; much of the effect of evidence is lost, and much of it distorted by the cross-examination of Counsel, until the true bearing of it has been explained. I do not propose what can be properly termed a suspension of the trial, or which can throw any sort of inconvenience upon the Jury, which would, I am sure, give me as much pain as any body in the world;—but your Lordships will recollect that the Attorney General in opening his case (I am sure I think as highly as is possible of his ability, and of the manner in which he performed his duty), but he found it necessary to spend

nine hours in the opening of his case,—the Prisoner most unquestionably may expect an equal time, if it were necessary, for his Counsel to take the same course in opening his;—and if I were thrown upon it in the present moment, not having a sufficient recollection of the great points of the evidence, if I were put upon speaking to the Jury, at this moment, I must take that course of reading at great length, great numbers of papers;—whereas, if I had the opportunity of a few hours more, which is the nature of my application, merely to arrange my papers, and to select such as, in the judgment of my learned friend and myself, we shall think sufficient for our defence, it would save time.—

Lord Chief Justice Eyre. I dread the explanation of a few hours. Mr. Attorney General, what further evidence have you to produce?

Mr. Attorney General. I think my evidence will not take up more than forty minutes.

Mr. Erskine. I do not know whether your Lordships mean to sit on Sunday?

Lord Chief Justice Eyre. I shall sit late on Saturday night; I say nothing of Sunday.

Mr. Erskine. I am literally at this moment, and have been all day yesterday and to-day, so extremely unwell, that I do not think if I were called upon to speak for any length of time, I could possibly support it.

Lord Chief Justice Eyre. I can easily think that to be the case, and it is a circumstance I am ex-

tremely sorry for; on the other hand, I cannot hazard the situation of the Jury.

Mr. Erskine. I should be sorry to put the Jury to any inconvenience.—I do not shrink from the business, I am extremely willing to endure any thing, but I assure your Lordship that my health is extremely suffering by it.

Lord Chief Justice Eyre. What is it you ask for?

Mr. Erskine. As I stated before, the Attorney General found it necessary to consume nine hours:—I shall not consume half that time,—I think at least I shall not consume half that time, if I have an opportunity of doing that which I humbly request of the Court, that is, of arranging the materials in such a manner, that I should be able to make only those observations which occur to me to be the fittest to be made, as Counsel for the Prisoner.

Lord Chief Justice Eyre. We have offered you an expedient; neither of you say to us whether you can accept it.

Mr. Gibbs. With respect to that expedient, I have no doubt to say that it is utterly impossible for Mr. Erskine and myself, in the situation in which we are, respecting ourselves, respecting the Court, and respecting the Public, and the Jury, it is utterly impossible for us to think of that, because, if any thing adverse should happen when we have taken such a line, the imputation will lie upon us.

Lord Chief Justice Eyre. That it may not be in your judgment a desirable thing, is very well; but

that there is any other objection to it, I cannot agree to. Whether the case is taken upon the summing up of the evidence, or whether it is taken upon the opening of the evidence, is as to all legal purpose the same; I can see no difference: it may make a vast difference in your judgment, as to what is the best manner and the best method of laying your case before the Jury; undoubtedly we are assisting the Prisoner by putting the Counsel in a situation to do his business in the best manner, by proposing it thus; whereas, if they were put upon doing it in the ordinary course, they would lie under a peculiar difficulty and disadvantage. Mr. Erskine has not yet told us what he asks.

Mr. Erskine. Since it is put expressly to me, I shall propose, unless the Jury profess it to be a very serious inconvenience to them, that instead of coming in the morning at the time we generally come, our coming should be at twelve o'clock, so that the Attorney General can finish at one. Mr. Gibbs will have the goodness to take a note of the few facts stated by the witnesses, and I shall be able by that time to come.

Lord Chief Justice Eyre. Then suppose we adjourn to eleven o'clock.

Mr. Gibbs. We conceive your Lordships will permit Mr. Erskine to open the case of Mr. Hardy; then our witnesses will be examined, and then I shall be heard after our witnesses.

Lord Chief Justice Eyre. You will conduct your

case in the manner you think best for the interest of your Client.

Mr. Erskine. I should be glad if your Lordships would allow another hour.

Lord Chief Justice Eyre. I feel so much for the situation of the Jury, that on their account I cannot think of it.

Mr. Erskine. My Lord, I never was placed in such a situation in the whole course of my practice before, with so many Gentlemen on the other side; however, I don't shrink from it.

One of the Jury. My Lord, we are extremely willing to allow Mr. Erskine another hour, if your Lordship thinks proper.

Lord Chief Justice Eyre. As the Jury ask it for you, I will not refuse you.

It now being half past one o'clock, on Saturday morning, the Court adjourned to twelve o'clock of the same day.

The Court having adjourned to twelve o'clock instead of nine, as above mentioned, and two hours being spent in finishing the evidence for the Crown, Mr. Erskine came into Court, and addressed the Jury as follows:

GENTLEMEN OF THE JURY,

BEFORE I proceed to the performance of the momentous duty which is at length cast upon me, I desire in the first place to return my thanks to the Judges, for the indulgence I have received in the opportunity of addressing you at this later period of the day, than the ordinary sitting of the Court; when I have had the refreshment which nature but too much required, and a few hours retirement, to arrange a little in my mind that immense matter, the result of which I must now endeavour to lay before you. I have to thank *you* also, *Gentlemen*, for the very condescending and obliging manner in which *you* so readily consented to this accommodation;—the Court could only speak for itself, referring me to *you*, whose rest and comforts had been so long interrupted.—I shall always remember your kindness.

Before I advance to the regular consideration of this great cause, either as it regards the evidence or the law, I wish first to put aside all that I find in the speech of my learned friend, the Attorney General, which is either collateral to the merits, or in which I can agree with him.—First then, IN THE NAME OF THE PRISONER, and speaking *his* sentiments, which are well known to be my own also, I concur in the eulogium which you have heard upon the Constitution of our wise forefathers.—But be-

fore this eulogium can have any just or useful application, we ought to reflect upon what it is which entitles this Constitution to the praise so justly bestowed upon it. To say nothing at present of its most essential excellence, or rather the very soul of it, viz. the share the people ought to have in their government, by a pure representation, for the assertion of which the Prisoner stands arraigned as a traitor before you,—what is it that distinguishes the government of England from the most despotic monarchies? What—but the security which the subject enjoys in a trial and judgment by his equals; rendered doubly secure as being part of a system of law which no expediency can warp, and which no power can abuse with impunity?

The Attorney General's second preliminary observation, I equally agree to.—I anxiously wish with him that you shall bear in memory the anarchy which is desolating France.—Before I sit down, *I* may perhaps, in MY turn, have occasion to reflect a little upon its probable causes; but waiting a season for such reflections, let us first consider what the evil is which has been so feelingly lamented, as having fallen on that unhappy country.—It is, that under the dominion of a barbarous state necessity, every protection of law is abrogated and destroyed;—it is, that no man can say, under such a system of alarm and terror, that his life, his liberty, his reputation, or any one human blessing, is secure to him for a moment: it is, that, if accused of federalism, or moderatism, or in-

cuism, or of whatever else the changing fashions and factions of the day shall have lifted up into high treason against the State, he must see his friends, his family, and the light of heaven, no more:—the accusation and the sentence being the same, following one another as the thunder pursues the flash. Such *has been* the state of England,—such *is* the state of France:—and how then, since they are introduced to you for application, ought they in reason and sobriety to be applied? If this prosecution has been commenced (as is asserted) to avert from Great Britain the calamities incident to civil confusion, leading in its issues to the deplorable condition of France; I call upon you, Gentlemen, to avert such calamity from falling upon my Client, and through his side upon yourselves and upon our country.—Let not *him* suffer under vague expositions of tyrannical laws, more tyrannically executed.—Let not *him* be hurried away to pre-doomed execution, from an honest enthusiasm for the public safety.—I ask for him a trial by this applauded constitution of our country:—I call upon you to administer the law to him, according to our own wholesome institutions, by its strict and rigid letter:—however you may eventually disapprove of any part of his conduct, or viewing it through a false medium, may think it even wicked, I claim for him, as a subject of England, that the law shall decide upon its criminal denomination;—I protest, in his name, against all appeals to speculations concerning consequences, when the law commands us to look

only to INTENTIONS.—If the State be threatened with evils, let Parliament administer a *prospective* remedy, but let the Prisoner hold his life UNDER THE LAW.

Gentlemen, I ask this solemnly of the Court, whose justice I am persuaded will afford it to me; I ask it more emphatically of you, *the Jury*, who are called upon your oaths to make a true deliverance of your countryman, from this charge:—but lastly, and chiefly, I implore it of Him in whose hands are all the issues of life, whose humane and merciful eye expands itself over all the transactions of mankind; at whose command nations rise, and fall, and are regenerated; without whom not a sparrow falleth to the ground;—I implore it of *God himself*, that He will fill your minds with the spirit of justice and of truth; so that you may be able to find your way through the labyrinth of matter laid before you, a labyrinth in which no man's life was ever before involved, in the annals of British trial, nor indeed in the whole history of human justice or injustice.

Gentlemen, the first thing in order, is to look at the Indictment itself; of the *whole* of which, or of some *integral part*, the Prisoner must be found guilty, or be wholly discharged from guilt.

The Indictment charges that the Prisoners did maliciously and traitorously conspire, compass, and imagine, to bring and put our Lord the King to death; and that to fulfil, perfect, and bring to effect, their most evil and wicked purpose *(that is to say,*

of bringing and putting the King to death), "they "met, conspired, consulted, and agreed amongst "themselves, and other false traitors unknown, to "cause and procure a Convention to be assembled "within the kingdom, WITH INTENT—" *(I am reading the very words of the Indictment,* which I entreat you to follow in the notes you have been taking with such honest perseverance)—"WITH INTENT, "AND IN ORDER that the persons so assembled "at such Convention, should and might traito-"rously, and in defiance of the authority, and "against the will of Parliament, subvert and alter, "and cause to be subverted and altered, the legis-"lature, rule, and government of the country; "and to depose the King from the royal state, "title, power, and government thereof." This is the first and great leading overt act in the Indictment; and you observe that it is not charged as being treason SUBSTANTIVELY AND IN ITSELF, but only as it is committed in pursuance of the treason against the King's PERSON, antecedently imputed;—for the charge is NOT, that the Prisoners conspired to assemble a Convention to DEPOSE the King, but that they conspired and compassed his DEATH; and that, in order to accomplish that wicked and detestable purpose, *i. e. in order to fulfil the traitorous intention of the mind against his* LIFE, they conspired to assemble a Convention, with a view to depose him. The same observation applies alike to all the other counts or overt acts upon the record, which mani-

festly indeed lean upon the establishment of the first for their support; because they charge the publication of different writings, and the provision of arms, *not as distinct offences*, but as acts done to excite to the assembling of the same Convention, and to maintain it when assembled: but above all, and which must never be forgotten, because they also uniformly charge these different acts as committed in fulfilment of the same traitorous purpose, TO BRING THE KING TO DEATH. You will therefore have three distinct matters for consideration, upon this trial: First, What share (if any) the Prisoner had, in concert with others, in assembling *any* Convention or meeting of subjects within this kingdom:—Secondly, What were the acts to be done by this Convention, when assembled:—and Thirdly, What was the view, purpose, and intention of those who projected its existence. This third consideration, indeed, comprehends, or rather precedes and swallows up the other two; because, before it can be material to decide upon the views of the Convention, as pointed to the subversion of the rule and order of the King's political authority (even if such views could be ascribed to it, and brought home even personally to the Prisoner), we shall have to examine whether that criminal conspiracy against the established order of the community, was hatched and engendered by a wicked contemplation to destroy the *natural life and person* of the King; and whether the acts charged and

established by the evidence, were done *in pursuance and in fulfilment of the same traitorous purpose.*

Gentlemen, this view of the subject is not only correct, but self-evident;—the subversion of the King's political government, and all conspiracies to subvert it, are crimes of great magnitude and enormity, which the law is open to punish; *but neither of them are the crimes before you.* The Prisoner is NOT charged with a conspiracy against the King's POLITICAL GOVERNMENT, but against his NATURAL LIFE. He is not accused of having merely taken steps to depose him from his authority, but with having done so *with the intention to bring him to death.* It is the act with the *specific intention*, and not the act alone, which constitutes the charge. The act of conspiring to depose the King, may indeed be evidence, according to circumstances, of an intention to destroy his natural existence; but never, as a proposition of law, can constitute the intention itself. Where an act is done in pursuance of an intention, surely the intention must first exist; a man cannot do a thing in fulfilment of an intention, unless his mind first conceives that intention.—The doing an act, or the pursuit of a system of conduct which leads in probable consequences to the death of the King, may legally (if any such be before you) affect the consideration of the traitorous purpose charged by the record, and I am not afraid of trusting you with the evidence.—How far any given act, or course of acting, independently of intention, may lead probably or inevitably to any

natural or political consequence, is what we have no concern with; these may be curious questions of casuistry or politics; but it is wickedness and folly to declare that consequences unconnected even with intention or consciousness, shall be synonimous in law with the traitorous mind; although the traitorous mind alone is arraigned, as constituting the crime.

Gentlemen, the first question consequently for consideration, and to which I must therefore earnestly implore the attention of the Court, is this:—WHAT IS THE LAW UPON THIS MOMENTOUS SUBJECT?—And recollecting that I am invested with no authority, I shall not presume to offer you any thing of my own;—nothing shall proceed from myself upon this part of the inquiry, but that which is merely introductory, and necessary to the understanding of the authorities on which I mean to rely for the establishment of doctrines, not less essential to the general liberties of England, than to the particular consideration which constitutes our present duty.

First then, I maintain that that branch of the statute 25th of Edward the Third, which declares it to be high treason "*when a man doth compass or* "*imagine the death of the King, of his lady the* "*Queen, or of his eldest son and heir,*" was intended to guard by a higher sanction than felony, the NATURAL LIVES of the King, Queen, and Prince; and that no act, therefore (either inchoate or consummate), *of resistance to, or rebellion against, the King's regal capacity*, amounts to *high treason of compassing*

his death, unless where they can be charged upon the indictment, and proved to the satisfaction of the Jury at the trial, as overt acts, committed by the Prisoner, *in fulfilment of a traitorous intention to destroy the King's* NATURAL LIFE.

Secondly, that the compassing the King's death, or, in other words, the traitorous intention to destroy his *natural existence*, is the treason, and not the overt acts, which are only laid as manifestations of the traitorous intention, or, in other words, as EVIDENCE competent to be left to a Jury to prove it; and that no conspiracy to levy war against the King, nor any conspiracy against his *regal character or capacity*, is a good overt act of compassing *his death*, unless some force be exerted, or in contemplation, against THE KING'S PERSON: and that such force so exerted or in contemplation, is not substantively the treason of compassing, but only competent in point of law to establish it, if the Jury by the verdict of Guilty draw that conclusion of fact from the evidence of the overt act.

Thirdly, that the charge in the Indictment, of compassing the King's death, is not laid as legal inducement or introduction, to follow as a legal inference from the establishment of the overt act, but is laid as an averment of A FACT; and, as such, the very gist of the Indictment, to be affirmed or negatived by the verdict of Guilty or Not guilty. It will not (I am persuaded) be suspected by the Attorney General, or by the Court, that I am about to support these

doctrines by opposing my own judgment to the authoritative writings of the venerable and excellent Lord Hale, whose memory will live in this country, and throughout the enlightened world, as long as the administration of pure justice shall exist; neither do I wish to oppose any thing which is to be found in the other learned authorities principally relied upon by the Crown, because all my positions are perfectly consistent with a right interpretation of them; and because, even were it otherwise, I could not expect successfully to oppose them by any reasonings of my own, which can have no weight, but as they shall be found at once consistent with acknowledged authorities, and with the established principles of the English law. I can do this with the greater security, because my respectable and learned friend, the Attorney General, has not cited cases which have been the disgrace of this country in former times, nor asked you to sanction by your judgment those bloody murders, which are recorded by them as acts of English justice; but, as might be expected of an honourable man, his expositions of the law (though I think them frequently erroneous) are drawn from the same sources, which I look up to for doctrines so very different. I find, indeed, throughout the whole range of authorities *(I mean those which the Attorney General has properly considered as deserving that name and character)* very little contradiction; for, as far as I can discover, much more entanglement has arisen from now and then a tripping in the expression, than from

any difference of sentiment amongst eminent and virtuous Judges, who have either examined, or sat in judgment upon this momentous subject.

Gentlemen, before I pursue the course I have prescribed to myself, I desire most distinctly to be understood, that in my own judgment the most successful argument, that a conspiracy to depose the King does not necessarily establish the treason charged upon this record, IS TOTALLY BESIDE ANY POSSIBLE JUDGMENT THAT YOU CAN HAVE TO FORM UPON THE EVIDENCE BEFORE YOU; since throughout the whole volumes that have been read, I can trace nothing that even points to the imagination of such a conspiracy; and consequently the doctrines of Coke, Hale, and Forster, on the subject of High Treason, might equally be detailed in any other trial that has ever been proceeded upon in this place. But, Gentlemen, I stand in a fearful and delicate situation.—As a supposed attack upon the King's civil authority has been transmuted, by construction, into a murderous conspiracy against his natural person, in the same manner, and by the same arguments, a conspiracy to overturn that civil authority, by direct force, has again been assimilated, *by further construction*, to a design to undermine monarchy by changes wrought through public opinion, enlarging gradually into universal will; so that I can admit no false proposition, however wide I may think it of rational application.—For as there is a CONSTRUCTIVE COMPASSING, so also there is a CONSTRUCTIVE DEPOSING; and I cannot,

therefore, possibly know what either of them is separately, nor how the one may be argued to involve the other. There are, besides, many Prisoners, whose cases are behind, and whose lives may be involved in your present deliberation; their names have been already stigmatized, and their conduct arraigned in the evidence you have heard, *as a part of the conspiracy*. It is these considerations which drive me into so large a field of argument, because, by sufficiently ascertaining the law in the outset, they who are yet looking up to it for protection, may not be brought into peril.

Gentlemen, I now proceed to establish, that a compassing of the death of the King, within the twenty-fifth of Edward the Third, *which is the charge against the Prisoner*, consists in a traitorous intention against his NATURAL LIFE; and that nothing short of your firm belief of that detestable intention, from overt acts which you find him to have committed, can justify his conviction. That I may keep my word with you in building my argument upon nothing of my own, I hope my friend Mr. Gibbs will have the goodness to call me back, if he finds me wandering from my engagement; that I may proceed step by step upon the most venerable and acknowledged authorities of the law.

In this process I shall begin with Lord Hale, who opens this important subject by stating the reason of passing the statute of the twenty-fifth of Edward the Third, on which the Indictment is founded.—

Lord Hale says, in his Pleas of the Crown, vol. i. page 82, that "*at common law there was a great la-* "*titude used in raising offences to the crime and pu-* "*nishment of treason, by way of interpretation* "*and arbitrary* CONSTRUCTION, which brought in "great uncertainty and confusion. Thus accroaching, "i. e. ENCROACHING ON ROYAL POWER *was an usual* "*charge of treason anciently, though a very un-* "*certain charge; so that no man could tell what it* "*was, or what defence to make to it.*" Lord Hale then goes on to state various instances of vexation and cruelty, and concludes with this striking observation: "*By these and the like instances that might* "*be given, it appears how* ARBITRARY AND UNCER- "TAIN *the law of treason was before the statute of* "*25th of Edward the IIId, whereby it came to pass* "*that almost every offence that was, or seemed to be,* "*a breach of the faith and allegiance due to the* "*King, was by* CONSTRUCTION, CONSEQUENCE, *and* "INTERPRETATION, *raised into the offence of high* "*treason.*" This is the lamentation of the great Hale upon the state of this country previous to the passing of the statute, which, he says, was passed as a REMEDIAL law, to put an end to them; and Lord Coke, considering it in the same light, says, in his third Institute, page 2d, "*The Parliament* "*which passed this statute was called (as it well de-* "*served) Parliamentum Benedictum*; and the like "honour was given to it by the different statutes "which from time to time brought back treasons

"to its standard, *all agreeing in magnifying and* "*extolling this blessed Act.*"—Now this statute, which has obtained the panegyric of these great men, whom the Chief Justice in his Charge looked up to for light and for example, and whom the Attorney General takes also for his guide, would very little have deserved the high eulogium bestowed upon it; if, though avowedly passed to destroy uncertainty in criminal justice, and to beat down the arbitrary constructions of Judges, lamented by Hale, as disfiguring and dishonouring the law, it had, nevertheless, been so worded as to give birth to new constructions and uncertainties, instead of destroying the old ones. It would but ill have entitled itself to the denomination of a blessed statute, if it had not in its enacting letter, which professed to remove doubts, and to ascertain the law, made use of expressions the best known and understood; and it will be found accordingly, that it cautiously did so. It will be found, that, in selecting the expression of COMPASSING THE DEATH, it employed a term of the most fixed and appropriate signification in the language of English law, which not only no judge or counsel, but which no attorney or attorney's clerk, could misunderstand; because in former ages, before the statute, compassing the death of ANY MAN had been a felony, and what had amounted to such compassing, had been settled in a thousand instances. To establish this, and to show also, by no reasoning of mine, that the term "compassing the

death" was intended by the statute, when applied to the King, as high treason, to have the same signification as it had obtained in the law when applied to the subject as a felony, I shall refer to Mr. Justice Forster, and even to a passage cited by the Attorney General himself, which speaks so unequivocally and unanswerably for itself, as to mock all commentary. —"*The ancient writers,*" says Forster, "*in treating of felonious homicide, considered the felonious* INTENTION *manifested by plain facts, in the same light, in point of guilt, as homicide itself. The rule was,* VOLUNTAS REPUTATUR PRO FACTO; *and while this rule prevailed, the nature of the offence was expressed by the term* COMPASSING THE DEATH. *This rule has been long laid aside as too rigorous in the case of common persons; but in the case of the* KING, QUEEN, *and* PRINCE, *the statute of treasons has, with great propriety,* RETAINED *it in its full extent and vigour; and in describing the offence, has likewise* RETAINED *the ancient mode of expression, when a man doth compass or imagine the death of our Lord the King, &c. and thereof be upon sufficient proof, provablement, attainted of open deed, by people of his condition: the words of the statute descriptive of the offence, must,* THEREFORE, *be strictly pursued in every indictment for this species of treason.* IT MUST *charge that the defendant did traitorously compass and imagine the King's death; and then go on and charge the several acts made use of by the prisoner*

" *to effectuate his traitorous purpose*; FOR THE COM-
" PASSING THE KING'S DEATH IS THE TREASON,
" *and the overt acts are charged as the means*
" *made use of to effectuate the intentions and*
" *imaginations of the heart; and therefore, in*
" *the case of the Regicides, the indictment charged*
" *that they did traitorously compass and imagine the*
" *death of the King, and the cutting off the head*
" *was laid as the overt act, and the person who was*
" *supposed to have given the mortal stroke was con-*
" *victed on the same indictment.*"

This concluding instance, though at first view it may appear ridiculous, is well selected as an illustration; because, though in that case there could be no possible doubt of the intention, since the act of a deliberate execution involves, in common sense, the intention to destroy life, yet still the anomaly of the offence, which exists wholly in the INTENTION, and not in the overt act, required the preservation of the form of the indictment.—It is surely impossible to read this commentary of Forster, without seeing the true purpose of the statute: The common law had anciently considered, even in the case of a fellow-subject, the malignant intention to destroy, as equivalent to the act itself; but that noble spirit of humanity which pervades the whole system of our jurisprudence, had, before the time of King Edward the Third, eat out and destroyed this rule, too rigorous in its *general* application; but, as Forster truly observes in the passage I have read—" This

"rule, too rigorous in the case of the subject, the "statute of treasons RETAINED *in the case of* "*the King, and* RETAINED ALSO THE VERY EX-"PRESSION used by the law when compassing the "death of a subject was felony."

The statute, therefore, being expressly made to remove doubts, and accurately to define treason, adopted the ancient expression of the common law, as applicable to felonious homicide, meaning that the life of the Sovereign should remain an exception, and that VOLUNTAS PRO FACTO, the wicked intention for the deed itself (as it regarded his sacred life), should continue for the rule: and, therefore, says Forster, the statute meaning to RETAIN the law which was before general, RETAINED also the expression. It appears to me, therefore, incontrovertible, not only by the words of the statute itself, but upon the authority of Forster, which I shall follow up by that of Lord Coke and Hale, contradicted by no syllable in their works, as I shall demonstrate, that the statute, as it regarded the security of the King's LIFE, did not mean to enact a new security never known to the common law in other cases, but meant to suffer a common law rule which formerly existed universally, which was precisely known, but which was too severe in common cases, to remain as an exception in favour of the King's security. I do therefore positively maintain, not as an advocate merely, but IN MY OWN PERSON, that, within the letter and meaning of the statute, nothing can be a

compassing the death of the King that would not, in ancient times, have been a felony in the case of a subject; for otherwise Forster and Coke, as will be seen, are very incorrect when they say the statute RETAINED the old law, and the appropriate word to express it; for if it went BEYOND it, it would, on the contrary, have been a NEW rule unknown to the common law, enacted, for the first time, for the preservation of the King's life. Unquestionably the Legislature might have made such a rule; but we are not inquiring what it *might* have enacted, but what it *has* enacted. But I ought to ask pardon for having relapsed into any argument of my own upon this subject, when the authorities are more express to the purpose than any language I can use. For Mr. Justice Forster himself expressly says, Discourse 1st, of High Treason, p. 207, "*All the "words descriptive of the offence*, viz. '*If a man "doth compass or imagine, and thereof be attainted of open deed*,' *are plainly borrowed from "the common law, and therefore must bear the* SAME "*construction they did at common law.*"—Is this distinct?—I will read it to you again: "*All the "words descriptive of the offence*, viz. "*If a man "doth compass or imagine, and thereof be attainted "of open deed*,' *are plainly borrowed from the com-"mon law, and therefore must bear the* SAME *con-"struction they did at common law.*"

Gentlemen, Mr. Justice Forster is by no means singular in this doctrine.—Lord Coke, the oracle of

the law, and the best oracle that one can consult, when standing for a prisoner charged with treason, as he was the highest prerogative lawyer that ever existed, maintains the same doctrine;—even he, even Coke, the infamous prosecutor of Raleigh, whose character with posterity, as an Attorney General, my worthy and honourable friend would disdain to hold, to be author of all his valuable works; yet even this very Lord Coke himself, holds precisely the same language with Forster.—For, in his commentary on this statute, in his third Institute, p. 5, when he comes to the word, "POTH COMPASS," he says, "Let us see first what the compassing the death of "A SUBJECT was before the making of this statute, "when voluntas reputabatur pro facto."—Now what is the plain English of this?—The commentator says, I am going to instruct you, the student, who are to learn from me the law of England, what is a compassing of the death of the KING; but that I cannot do, but by first carrying you to look into what was the compassing of the death of A SUBJECT at the ancient common law; because the statute having made a compassing, as applied to the KING, the crime of high treason, which, at common law, was felony in the case of a SUBJECT, it is impossible to define the ONE, without looking back to the records which illustrate the OTHER. This is so directly the train of Lord Coke's reasoning, that in his own singularly precise style of commentating, he immediately lays before his reader a variety of instances

from the ancient records and year-books, of compassing the SUBJECT'S DEATH; and what are they?—Not acts wholly collateral to attacks upon life, dogmatically laid down by the law from speculations upon probable or possible consequences; but assaults WITH INTENT TO MURDER;—conspiracies to waylay the person with the SAME INTENTION; and other MURDEROUS machinations. These were only compassings before the statute against the subject's life; and the extension of the expression was never heard of in the law till introduced by the craft of political judges, when it became applicable to crimes against THE STATE. Here again I desire to appeal to the highest authorities for this source of constructive treasons; for although the statute of Edward the Third had expressly directed that nothing should be declared to be treason but cases within its enacting letter, yet Lord Hale says, in his Pleas of the Crown, page 83, that "*things were so carried by* PARTIES *and* FACTIONS, *in the succeeding reign of Richard the Second,* "*that this statute was but little observed, but as this or* "*that party got the better. So the crime of high* "*treason was in a manner arbitrarily imposed and* "*adjudged, to the disadvantage of the party that* "*was to be judged; which, by various vicissitudes* "*and revolutions, mischiefed all parties, first and* "*last, and left a great unsettledness and unquietness* "*in the minds of the people, and was one of the oc-* "*casions of the unhappiness of that King.*

"*All this mischief was produced by the statute*

"*of the 21st of Richard the Second, which enacted,* "*That every man that compasseth or pursueth the* "*death of the King,* OR TO DEPOSE HIM, OR TO "RENDER UP HIS HOMAGE LIEGE, *or he that raiseth* "*people, and rideth against the King, to make war* "*within his realm, and of that be* DULY *attainted* "*and adjudged, shall be adjudged a traitor, of high* "*treason against the Crown.*

"*This*" says Lord Hale, "*was a great share to* "*the subject, insomuch that the statute, 1st of Henry* "*Fourth, which repealed it, recited that no man* "*knew how he ought to behave himself, to do, speak,* "*or say, for doubt of such pains of treason; and* "*therefore wholly to remove the prejudice, which* "*might come to the King's subjects, the statute, 1st* "*of Henry Fourth, chap.* 10, *was made,* WHICH "BROUGHT BACK TREASON TO THE STANDARD OF "THE 25TH OF EDWARD THE THIRD."

Now if we look to this statute of Richard the Second, which produced such mischiefs—what are they?—As far as it re-enacted the treason of compassing the King's death, and levying war, it only re-enacted the statute of Edward the Third, but it went beyond it by the loose construction of compassing to depose the King, and raising the people, and riding to make war, or a compassing to depose him, TERMS NEW TO THE COMMON LAW. *The actual levying of force, to imprison, or depose the King, was already and properly high treason,* within the second branch of the statute; but this

statute of Richard the Second enlarged only the crime of compassing, making it extend to a compassing to imprison or depose, which are the great objects of an actual levying of war, and making a compassing to levy war, on a footing with the actual levying it. It seems, therefore, most astonishing, that any Judge could be supposed to have decided, as an abstract rule of law, that a compassing to imprison or depose the King was high treason, SUBSTANTIVELY, WITHOUT PREVIOUS COMPASSING OF HIS DEATH: since it was made so by this statute, 21st of Richard the Second, and reprobated, stigmatized, and repealed by the statute, 1st of Henry the Fourth, chap. 10. "*And so little effect*," says Mr. Justice Blackstone, "*have over-violent laws* "*to prevent any crime, that within two years after* "*this new law of treason respecting imprisonment* "*and deposing, this very prince was both deposed* "*and murdered.*"

Gentlemen, this distinction, made by the humane statute of Edward the Third, between treason against the King's natural life, and rebellion against his civil authority, and which the act of Richard the Second, for a season, broke down, is founded in wise and sound policy. A successful attack may be made upon the King's person by the malignity of an individual, without the combination of extended conspiracy, or the exertions of rebellious force; the law therefore justly stands upon the watch to crush the first overt manifestation of so evil and detestable a purpose.—Considering the life of the Chief Ma-

gistrate as infinitely important to the public security, it does not wait for the possible consummation of a crime, which requires neither time, combination, nor force to accomplish, but considers the traitorous purpose as a consummated treason: but the wise and humane policy of our forefathers extended the severity of the rule, *voluntas pro facto*, no further than they were thus impelled and justified by the necessity; and therefore an intention to levy war and rebellion, not consummated, however manifested by the most overt acts of conspiracy, was not declared to be treason, and upon the plainest principle in the world; The King's REGAL capacity, guarded by all the force and authority of the state, could not, like his NATURAL existence, be overthrown or endangered in a moment, by the first machinations of the traitorous mind of an individual, or even by the unarmed conspiracy of numbers; and therefore this humane and exalted institution, measuring the sanctions of criminal justice by the standard of civil necessity, thought it sufficient to scourge and disperse unarmed conspirators by a less vindictive proceeding.

These new treasons were, however, at length all happily swept away on the accession of King Henry the Fourth, which brought the law back to the standard of Edward the Third; and, indeed, in reviewing the history of this highly favoured island, it is most beautiful, and, at the same time, highly encouraging to observe, by what an extraordinary concurrence of circumstances, under the superintend-

ance of a benevolent Providence, the liberties of our country have been established. Amidst the convulsions, arising from the maddest ambition and injustice, and whilst the State was alternately departing from its poise, on one side, and, on the other, the great rights of mankind were still insensibly taking root and flourishing;—though sometimes monarchy threatened to lay them prostrate, though aristocracy occasionally undermined them, and democracy, in her turn, rashly trampled on them, yet they have ever come safely round at last.—This awful and sublime contemplation should teach us to bear with one another when our opinions do not quite coincide; extracting final harmony from the inevitable differences which ever did, and ever must exist amongst men.

Gentlemen, the act of Henry the Fourth was scarcely made when it shared the same fate with the venerable law which it restored.—Nobody regarded it.—It was borne down by factions, and, in those days, there were no Judges, as there are now, to hold firm the balance of justice amidst the storms of state;—men could not then, as the Prisoner can to-day, look up for protection to magistrates independent of the Crown, and awfully accountable in character to an enlightened world. As fast as arbitrary constructions were abolished by one statute, unprincipled Judges began to build them up again, till they were beat down by another: to recount their strange treasons would be tiresome and disgusting; but their system of construction, in the teeth of positive law, may be well illustrated by two lines from Pope:

" Destroy his fib and sophistry in vain,
" The creature's at his dirty work again."

This system, both judicial and parliamentary, became indeed so intolerable, in the interval between the reign of Henry the Fourth, and that of Philip and Mary, that it produced, in the first year of the latter reign, the most remarkable statute that ever passed in England, repealing not only all former statutes upon the subject, except that of Edward the Third, but also stigmatizing, upon the records of Parliament, the arbitrary CONSTRUCTIONS of Judges, and limiting them, in all times, to every LETTER of the statute. I will read to you Lord Coke's commentary upon the subject. In his third Institute, page 23, he says,—" *Before the act of* " *the 25th of Edward the Third, so many trea-* " *sons had been made and declared, and in such* " *sort penned, as not only the ignorant and un-* " *learned people, but also learned and expert men,* " *were trapped and snared,* * * *so as the mischief* " *before Edward the Third, of the uncertainty of* " *what was treason and what not, became so fre-* " *quent and dangerous, as that the safest and surest* " *remedy was by this excellent act of Mary to abro-* " *gate and repeal all, but only such as are specified* " *and expressed in this statute of Edward the Third.* " *By which law the safety of both the King and of the* " *subject, and the preservation of the common weal,* " *were wisely and sufficiently provided for, and in such* " *certainty, that* nihil relictum est arbitrio judicis."

The whole evil, indeed, to be remedied and

avoided by the act of Queen Mary was, the ARBITRIUM JUDICIS, or judicial construction beyond the LETTER of the statute. The statute itself was perfect, and was restored in its full vigour; and to suppose, therefore, that when an act was expressly made, because Judges had built treasons by constructions beyond the law, they were to be left, consistently with their duty, to go on building AGAIN, is to impute a folly to the Legislature, which never yet was imputed to the framers of this admirable statute. But this absurd idea is expressly excluded, not merely by the statute, according to its plain interpretation, but according to the direct authority of Lord Coke himself, in his commentary upon it. For he goes on to say, "*Two things are to be observed, first, that the "word* EXPRESSED, *in the statute of Mary, excludes "all* IMPLICATIONS OR INFERENCES WHATSOEVER; "*secondly, that no former attainder, judgment, pre-"cedent, resolution, or opinion of judges, or justices, "of high treason, other than such as are specified "and expressed in the statute of Edward the Third, "are to be followed or drawn into example. For the "words be plain and direct; that from henceforth "no act, deed, or offence shall be taken, had, deemed "or adjudged to be high treason, but only such as "are declared and expressed in the said act of the "25th of Edward the Third, any act of Parliament "or statute after 25th of Edward the Third, or any "other declaration or matter, to the contrary not-"withstanding."

Gentlemen, if the *letter* of the statute of Mary,

when coupled with Lord Coke's commentary, required further illustration, it would amply receive it from the PREAMBLE, which ought to be engraved on the heart of every man who loves the King, or who is called to any share in his councils; for, as Lord Coke observes, in the same commentary: It truly recites, that "*the state of a King standeth and consisteth more assured by the love and favour of the subjects towards their Sovereign, than in the dread and fear of laws, made with rigorous and extreme punishment; and that laws, justly made for the preservation of the common weal, without extreme punishment or penalty, are more often and far the most part better kept and obeyed, than laws and statutes made with extreme punishment.*"

But, Gentlemen, the most important part of Lord Coke's commentary on this statute is yet behind, which I shall presently read to you, and to which I implore your most earnest attention; because I will show you by it, that the unfortunate man, whose innocence I am defending, is arraigned before you of high treason, upon evidence not only wholly repugnant to this particular statute, but such as never yet was heard of in England upon any capital trial:—EVIDENCE which, even with all the attention you have given to it, I defy any one of you, at this moment, to say of what it consists;—EVIDENCE, which (since it must be called by that name) I tremble for my boldness in presuming to stand up for the life of a man, when I am conscious that I am in-

capable of understanding from it, even what acts are imputed to him;—EVIDENCE, which has consumed four days in the reading;—not in reading the acts of the Prisoner, but the unconnected writings of men, unknown to one another, upon a hundred different subjects;—EVIDENCE, the very listening to which has deprived me of the sleep which nature requires;—which has filled my mind with unremitting distress and agitation, and which, from its discordant unconnected nature, has suffered me to reap no advantage from the indulgence, which I began with thanking you for; but which, on the contrary, has almost set my brain on fire, with the vain endeavour of collecting my thoughts upon a subject never designed for any rational course of thinking.

Let us, therefore, see how the unexampled condition I am placed in falls in with Lord Coke upon this subject, whose authority is appealed to by the Crown itself;—and let us go home and burn our books if they are to blazon forth the law by eulogium, and accurately to define its protector, which yet the subject is to be totally cut off from, when, even under the sanction of these very authors, he stands upon his trial for his existence. Lord Coke says, in the same Commentary, page 12, that the statute had not only accurately defined the CHARGE, but the nature of the PROOF on which alone a man shall be attainted of any of the branches of high treason.—"It is to be observed," says he, "that the word "in the act of Edward the Third is PROVEABLE-"MENT: *i. e. Upon direct and manifest proof, not*

" *upon conjectural presumptions, or inferences, or*
" *strains of wit, but upon good and sufficient proof.*
" *And herein the adverb* PROVABLY *hath a great*
" *force, and signifieth a DIRECT PLAIN proof,*
" *which word the Lords and Commons in Parliament*
" *did use, for that the offence of treason was so*
" *heinous, and was so heavily and severely punished,*
" *as none other the like, and therefore the offender*
" *must be PROVABLY attainted, which words are*
" *as forcible as upon direct and manifest proof.*
" *Note, the word is not* PROBABLY, *for then com-*
" *mune argumentum might have served, but the word*
" *is* PROVABLY *be attainted.*"

Nothing can be so curiously and tautologously laboured as this Commentary, of even that great prerogative lawyer Lord Coke, upon this single word in the statute; and it manifestly shows, that, so far from its being the spirit and principle of the law of England, to loosen the construction of this statute, and to adopt rules of construction and proof, unusual in trials for other crimes, on the contrary, the Legislature did not even leave it to the Judges to apply the ordinary rules of legal proof to trials under it, but admonished them to do justice in that respect in the very body of the statute.

Lord Hale treads in the same path with Lord Coke, and concludes this part of the subject by the following most remarkable passage—vol. i. chap. xi. 86.

" *Now although the crime of high treason is the*
" *greatest crime against faith, duty, and human*

" *society, and brings with it the greatest and most* " *fatal dangers to the government, peace, and happi-* " *ness of a kingdom, or state; and, therefore, is* " *deservedly branded with the highest ignominy, and* " *subjected to the greatest penalties that the laws* " *can inflict: it appears,* first, *how necessary it was* " *that there should be some* KNOWN, FIXED, SET- " TLED *boundary for this great crime of treason,* " *and of what great importance the statute of 25th* " *of Edward the Third was, in order to that end.* " Second, *How dangerous it is to depart from the* " LETTER *of that statute, and to multiply and en-* " *hance crimes into treason by ambiguous and gene-* " *ral words, such as accroaching royal power, sub-* " *verting fundamental laws, and the like.* And " third, *how dangerous it is by construction, and* " *ANALOGY, to make treasons where the* LETTER " *of the law has not done it. For such a method* " *admits of no limits, or bounds, but runs as far* " *and as wide as the wit and invention of accusers,* " *and the detestation of persons accused, will carry* " *men.*"

Surely the admonition of this supereminent Judge ought to sink deep into the heart of every Judge, and of every Juryman, who is called to administer justice under this statute; above all, in the times and under the peculiar circumstances which assemble us in this place. Honourable men, feeling, as they ought, for the safety of Government, and the tranquillity of the country, and naturally indignant against those who are supposed to have brought them into peril, ought

for that very cause to proceed with more abundant caution, lest they should be surprised by their resentments or their fears; they ought to advance, in the judgments they form, by slow and trembling steps; —they ought even to fall back and look at every thing again, lest a false light should deceive them, admitting no fact but upon the foundation of clear and precise evidence, and deciding upon no intention that does not result with equal clearness from the fact. This is the universal demand of justice in every case criminal or civil;—how much more then in this, when the judgment is every moment in danger of being swept away into the fathomless abyss of a thousand volumes; where there is no anchorage for the understanding; where no reach of thought can look round in order to compare their points; nor any memory be capacious enough to retain even the imperfect relation that can be collected from them?

Gentlemen, my mind is the more deeply affected with this consideration by a very recent example in that monstrous phenomenon which, under the name of a trial, has driven us out of Westminster Hall for a large portion of my professional life. No man is less disposed than I am to speak lightly of great state prosecutions, which bind to their duty those who have no other superiors, nor any other control; last of all am I capable of even glancing a censure against those who have led to or conducted the impeachment, because I respect and love many of them, and know them to be amongst the best and wisest men in the

nation.—I know them indeed so well, as to be persuaded that could they have foreseen the vast field it was to open, and the length of time it was to occupy, they never would have engaged in it; for I defy any man, not illuminated by the Divine Spirit, to say, with the precision and certainty of an English Judge deciding upon evidence before him, that Mr. Hastings is guilty or not guilty:—for who knows what is before him, or what is not?—Many have carried what they knew to their graves, and the living have lived long enough to forget it. Indeed I pray God that such another proceeding may never exist in England; because I consider it as a dishonour to the constitution, and that it brings, by its example, insecurity into the administration of justice *. Every man in civilized society has a right to hold his life, liberty, property, and reputation, under plain laws that can be well understood, and is entitled to have some *limited specific* part of his conduct, compared and examined by their standard; but he ought not for seven years, no, nor for seven days, to stand as a criminal before the highest human tribunal, until judgment is bewildered and confounded, to come at last, perhaps, to defend himself, broken down with fatigue, and dispirited with anxiety, which, indeed, is my own condition at this moment, who am only stating

* It was the good fortune of Mr. Erskine to remedy, in his own person, the evil thus complained of, when he presided as Chancellor on the trial of Lord Melville.

the case of another—What then must be the condition of the unfortunate person whom you are trying?

The next great question is, how the admonitions of these great writers are to be reconciled with what is undoubtedly to be found in other parts of their works; and I think I do not go too far, when I say, that it ought to be the inclination of every person's mind who is considering the meaning of any writer, particularly if he be a person of superior learning and intelligence, to reconcile as much as possible all he says upon any subject, and not to adopt such a construction as necessarily raises up one part in direct opposition to another.

The law itself, indeed, adopts this sound rule of judgment in the examination of every matter which is laid before it, for a sound construction; and the Judges, therefore, are bound by duty as well as reason to adopt it.

It appears to me then, that the only ambiguity which arises, or can possibly arise, in the examination of the great authorities, and in the comparison of them with themselves, or with one another, is, from not rightly understanding the meaning of the term OVERT ACT as applied to this species of treason. The moment you get right upon the true meaning and signification of this expression, the curtain is drawn up, and all is light and certainty.

Gentlemen, an overt act of the high treason charged upon this Record, I take, with great submission to the Court, to be plainly and simply this:

—the high treason charged, is the compassing or imagining (in other words, the intending or designing) the death of the King; I mean his NATURAL DEATH; which being a hidden operation of the mind, an overt act is any thing which legally proves the existence of such traitorous design and intention—I say, that the design against the King's natural life, is the high treason under the first branch of the statute; and whatever is evidence, which may be legally laid before a Jury to judge of the traitorous intention, is a legal overt act; because an overt act is nothing but legal evidence embodied upon the record.

The charge of compassing being a charge of *intention*, which, without a manifestation by *conduct*, no human tribunal could try; the statute requires by its very letter (but without which letter reason must have presumed) that the intention to cut off the Sovereign should be manifested by an open act; and as a prisoner charged with an intention, could have no notice how to defend himself without the charge of actions from whence the intention was to be imputed to him, it was always the practice, according to the sound principles of English law, to state upon the face of the Indictment the overt act, which the Crown charges as the means made use of by the Prisoner to effect his traitorous purpose; and as this rule was too frequently departed from, the statute of the seventh of King William enacted, for the benefit of the Prisoner, that no evidence should even be given of any overt act not charged in the Indictment.

The charge, therefore, of the overt acts in the Indictment is the notice, enacted by statute to be given to the Prisoner for his protection, of the means by which the Crown is to submit to the Jury the existence of the traitorous purpose, which is the crime alleged against him, and in pursuance of which traitorous purpose the overt acts must also be charged to have been committed. Whatever, therefore, is relevant or competent evidence to be received in support of the traitorous intention, is a legal overt act, and what acts are competent to that purpose, is (as in all other cases) matter of law for the Judges; but whether, after the overt acts are received upon the record as competent, and are established by proof upon the trial, they be sufficient or insufficient in the particular instance, to convince the Jury of the traitorous compassing or intention, is a mere matter of FACT, which, from its very nature, can be reduced to no other standard than that which each man's own conscience and understanding erects in his mind, as the arbiter of his judgment. This doctrine is by no means new nor peculiar to high treason, but pervades the whole law, and may be well illustrated in a memorable case lately decided upon writ of error in the House of Lords, and which must be in the memory of all the Judges now present, who took a part in its decision:—there the question was, whether, upon the establishment of a number of facts by legal evidence, the Defendant had knowledge of a fact, the knowing of which would

leave him defenceless. To draw that question from the Jury to the Judges, I demurred to the evidence, saying, that though each part of it was legally admitted, it was for the law, by the mouth of the Judges, to pronounce whether this fact of knowledge could legally be inferred from it; but the Lords, with the assent of all the Judges, decided, to my perfect satisfaction, that such a demurrer to the evidence was irregular and invalid; *that the province of the Jury over the effect of evidence, ought not to be so transferred to the Judges, and converted into matter of law*;—that what was relevant evidence to come before a Jury, was the province of the Court,—but that the *conclusion* to be drawn from admissible evidence, was the unalienable province of the country.

To apply that reasoning to the case before us:—The matter to be inquired of here is, the fact of the Prisoner's intention, as in the case I have just cited, it was the fact of the Defendant's knowledge. The charge of a conspiracy to depose the King, is therefore laid before you to establish that intention; its competency to be laid before you for that purpose, is not disputed; I am only contending with all reason and authority on my side, that it is to be submitted to your consciences and understandings, whether, even if you believed the overt act, you believe also that it proceeded from a traitorous machination against the life of the King. I am only contending that these two beliefs must coincide to establish a verdict of Guilty. I am not contending, that, under circum-

stances, a conspiracy to depose the King, and to annihilate his regal capacity, may not be strong and satisfactory evidence of the intention to destroy his LIFE;—but only that in this, as in every other instance, it is for you to collect or not to collect this treason against the King's life, according to the result of your conscientious belief and judgment, from the acts of the Prisoner laid before you; and that the establishment of the overt act, even if it were established, does not establish the treason against the King's life, BY A CONSEQUENCE OF LAW: but on the contrary, the overt act, though punishable in another shape, as an independent crime, is a dead letter upon this record, unless you believe, *exercising your exclusive jurisdiction over the facts laid before you*, that it was committed in accomplishment of the treason against THE NATURAL LIFE OF THE KING.

Gentlemen, this particular crime of compassing the King's death, is so complete an anomaly, being wholly seated in unconsummated intention, that the law cannot depart from describing it according to its real essence, even when it is followed by his death:—a man cannot be indicted for killing the King, as was settled in the case of the Regicides of Charles the First, after long consultation among all the Judges:—it was held that the very words of the statute must be pursued, and that although the King was actually murdered, the prisoners who destroyed him could not be charged with the act itself, as high treason, but with the compassing of his death: the

very act of the executioner in beheading him, being only laid as the overt act upon the record. There, though the overt act was so connected with, as to be even inseparable from the traitorous intention, yet they were not confounded because of the effect of the precedent in dissimilar cases: and although the Regicides came to be tried immediately on the restoration of the King, in the day-spring of his authority, and before high prerogative Judges, and under circumstances when, in any country but England, their trial would have been a mockery, or their execution have been awarded without even the forms of trial; yet in England, that sacred liberty, which has for ever adorned the constitution, refused to sacrifice to zeal or enthusiasm, either the substance or the forms of justice. Hear what the Chief Baron pronounced upon that occasion:—"*These persons are to be pro-*
"*ceeded with according to the laws of the land, and*
"*I shall speak nothing to you but what are* THE
"WORDS *of the law. By the statute of Edward the*
"*Third, it is made high treason to compass and ima-*
"*gine the death of the King; in no case else imagina-*
"*tion or compassing, without an actual effect, is pu-*
"*nishable by law.*" He then speaks of the sacred life of the King, and speaking of the treason, says;—"*The treason consists in the wicked imagination*
"*which is not apparent: but when this poison swells*
"*out of the heart, and breaks forth into action, in*
"*that case it is high treason.* THEN WHAT IS AN
"OVERT ACT OF AN IMAGINATION, OR COMPASSING

" OF THE KING'S DEATH? TRULY, IT IS ANY THING " WHICH SHOWS WHAT THE IMAGINATION OF THE " HEART IS."

Indeed, Gentlemen, the proposition is so clear, that one gets confounded in the argument from the very simplicity of it; but still I stand in a situation which I am determined at all events to fulfil to the utmost; and I shall therefore not leave the matter upon these authorities, but will bring it down to our own times, repeating my challenge to have produced one single authority in contradiction. Lord Coke, in his third Institute, page 11 and 12, says:—" *The In-* " *dictment must charge that the Prisoner traitorously* " *compassed and imagined the death and destruction* " *of the King.*" He says too,—" *There must be a* " *compassing or imagination; for an act without* " *compassing, intent, or imagination, is not within the* " *act, as appeareth by the express letter thereof. Et* " *actus non facit reum nisi mens sit rea.*" Nothing in language can more clearly illustrate my proposition.—The Indictment, like every other indictment, must charge distinctly and specifically the crime: that charge must therefore be in the very words of the statute which creates the crime; the crime created by the statute not being the perpetration of any act, but being, in the rigorous severity of the law, the very contemplation, intention, and contrivance of a purpose directed to an act: that contemplation, purpose, and contrivance, must be found to exist, without which, says Lord Coke, there can

be no compassing: and as the intention of the mind cannot be investigated without the investigation of conduct, the overt act is required by the statute, and must be laid in the Indictment and proved. It follows from this deduction, that upon the clear principles of the English law, every act may be laid as an overt act of compassing the King's death, which may be reasonably considered to be relevant and competent to manifest that intention; for, were it otherwise, it would be shutting out from the view of the Jury, certain conduct of the Prisoner, which might, according to circumstances, lead to manifest the criminal intention of his mind; and as more than one overt act may be laid, and even overt acts of different kinds, though not in themselves substantively treason, the Judges appear to be justified in law, when they ruled them to be overt acts of compassing the death of the King; because they are such acts as before the statute of King William, which required that the Indictment should charge all overt acts, would have been held to be relevant proof; of which relevancy of proof the Judges are to judge as matter of law; and therefore being relevant proof, must also be relevant matter of charge, because nothing can be relevantly charged which may not also be relevantly admitted to proof. These observations explain to the meanest capacity, in what sense Lord Coke must be understood, when he says, in the very same page, that, "*A preparation to depose the King, and to* "*take the King by force and strong hand, until he has*

"*yielded to certain demands, is a sufficient overt act* "*to* PROVE *the compassing of the King's death.*" He does not say AS A PROPOSITION OF LAW, that he who prepares to seize the King, compasseth his death, but that a preparation to seize him is a sufficient overt act TO PROVE the compassing; and he directly gives the reason, "because of the strong tendency it has "to that end." This latter sentence destroys all ambiguity. I agree perfectly with Lord Coke, and I think every Judge would so decide, upon the general principles of law and evidence, without any resort to his authority for it; and for this plain and obvious reason:—The Judges who are by law to decide upon the relevancy or competency of the proof, in every matter criminal and civil, have immemorially sanctioned the indispensable necessity of charging the traiterous intention as the crime, before it was required by the statute of King William.—As the crime is in its nature invisible and inscrutable, until manifested by such conduct as in the eye of reason is indicative of the intention, which constitutes the crime; no overt act is therefore held to be sufficient to give jurisdiction, even to a Jury to draw the inference in fact of the traitorous purpose, but such acts from whence it may be reasonably inferred; and therefore as the restraint and imprisonment of a Prince has a greater tendency to his destruction than in the case of a private man, such conspiracies are admitted to be laid as overt acts, upon this principle: that if a man does an act from whence either an

inevitable or a mainly probable consequence may be expected to follow, much more if he persists deliberately in a course of conduct, leading certainly or probably to any given consequence, it is reasonable to believe that he foresaw such consequence, and by pursuing his purpose with that foreknowledge, the intention to produce the consequence may be fairly imputed. *But then all this is matter of fact for the Jury from the evidence, not matter of law for the Court*; further than it is the privilege and duty of the Judge to direct the attention of the Jury to the evidence, and to state the law as it may result from the different views the Jury may entertain of the facts; and if such acts could not be laid as overt acts, they could not be offered in evidence; and if they could not be offered in evidence, the *mind* of the Prisoner, which it was the object of the trial to lay open as a clue to his intention, would be shut up and concealed from the Jury, whenever the death of the Sovereign was sought by circuitous but obvious means, instead of by a direct and murderous machination. But when they are thus submitted, as matter of charge and evidence to prove the traitorous purpose which is the crime, the security of the King and of the subject is equally provided for: all the matter which has a relevancy to the crime, is chargeable and proveable, not *substantively* to raise from their establishment a *legal* inference, but to raise a presumption in *fact*, capable of being weighed by the Jury with all the circumstances of the transaction, as

offered to the Crown and the Prisoner; their province being finally to say—not what was the possible or the probable consequence of the overt act laid in the Indictment, but whether it has brought them to a safe and conscientious judgment of the guilt of the Prisoner; i. e. of his guilt in compassing the death of the King, which is the treason charged in the Indictment. Lord Hale is, if possible, more direct and explicit upon the subject.—He says, page 107, "*The words compass or imagine, are of a great latitude; they refer to the purpose or design of the* "MIND OR WILL, *though the purpose or design takes not effect: but compassing or imagining, singly of itself, is an* INTERNAL *act, and, without something to* MANIFEST *it, could not possibly fall under any judicial cognizance but of God alone; and therefore this statute requires such* AN OVERT ACT *as may render the compassing or imagining capable of a trial and sentence by human judicatures.*" Now can any man possibly derive from such a writing (proceeding too from an author of the character of Lord Hale), that an overt act of compassing, might in his judgment be an act committed inadvertently without the intention? Can any man gather from it, that a man, by falling into bad company, can be drawn in to be guilty of this species of treason by rash conduct, while the love of his Sovereign was glowing in his bosom? Can there be any particular acts which can entitle a Judge or Counsel to pronounce *as a matter of law*, what another man in-

tends? or that what a man intends is *not* a matter of fact? Is there any man that will meet the matter fairly, and advance and support that naked proposition? At all events, it is certainly not a proposition to be dealt with publicly; because the man whose mind is capable even of conceiving it, should be treasured up in a museum, and exhibited there as a curiosity, for money.

Gentlemen, all I am asking however, from my argument, and I defy any power of reason upon earth to move me from it, is this: that the Prisoner being charged with *intending the King's death*, YOU are to find whether this charge be founded or unfounded; and that therefore, put upon the record what else you will,—prove what you will,—read these books over and over again,—and let us stand here a year and a day in discoursing concerning them,—still the question must return at last to what YOU and YOU ONLY can resolve—*Is he guilty of that base detestable intention to destroy the King?* NOT whether you incline to *believe* that he is guilty; NOT whether you *suspect*, nor whether it be *probable*; NOT whether he *may* be GUILTY;—no, but that PROVEABLY HE IS GUILTY. If you can say this upon the evidence, it is your duty to say so, and you may, with a tranquil conscience, return to your families; though by your judgment the unhappy object of it must return no more to his.—Alas! Gentlemen, what do I say? HE has no family to return to;—the affectionate partner of his life has already fallen a victim to the

surprise and horror which attended the scene now transacting. But let that melancholy reflection pass—it should not, perhaps, have been introduced—it certainly ought to have no effect upon you who are to judge upon your oaths.—I do not stand here to desire you to commit perjury from compassion;—but at the same time my earnestness may be forgiven, since it proceeds from a weakness common to us all. I claim no merit with the Prisoner for my zeal;—it proceeds from a selfish principle inherent in the human heart.—I am Counsel, Gentlemen, for myself. In every word I utter, I feel that I am pleading for the safety of my own life, for the lives of my children after me, for the happiness of my country, and for the universal condition of civil society throughout the world.

But let us return to the subject, and pursue the doctrine of Lord Hale upon the true interpretation of the term overt act, as applicable to this branch of treason. Lord Hale says, and I do beseech most earnestly the attention of the Court and Jury to this passage—"If men conspire the death of the King, "and thereupon provide weapons, or send letters, "this is an overt act within the statute." Take this to pieces, and what does it amount to?—"If men "conspire the death of the King," *that* is the first thing, viz. the *intention*, "and thereupon," that is, in pursuance of that *wicked intention*, "provide "weapons, or send letters for the execution thereof," i. e. for the execution of that destruction of the King,

which they have meditated, "this is an overt act "within the statute." Surely the meaning of all this is self-evident—If the intention be against the King's life, though the conspiracy does not immediately and directly point to his death, yet still the overt act will be sufficient if it be something which has so direct a tendency to that end, as to be competent rational evidence of the intention to obtain it. But the instances given by Lord Hale himself furnish the best illustration—"*If men conspire to im-* "*prison the King by* FORCE AND A STRONG HAND "*until he has yielded to certain demands, and* FOR "THAT PURPOSE GATHER COMPANY, OR WRITE LET- "TERS, *that is an overt act* TO PROVE *the compass-* "*ing the King's death, as it was held in Lord Cob-* "*ham's case by all the Judges.*" In this sentence Lord Hale does not depart from that precision which so eminently distinguishes all his writings; he does not say, that if men conspire to imprison the King until he yields to certain demands, and for that purpose to do so and so, *This is high treason*—no, nor even an overt act of high treason, though he might in legal language correctly have said so; but to prevent the possibility of confounding the treason with matter which may be legally charged as relevant to *the proof of it*, he follows Lord Coke's expression in the third Institute, and says, This is an overt act *to prove* the compassing of the King's death: and as if by this mode of expression he had not done enough to keep the ideas asunder, and from abundant regard

for the rights and liberties of the subject, he immediately adds, "*But then there must be an overt act* "TO PROVE *that conspiracy*; *and then that overt act* "*to* PROVE *such design, is an overt act* TO PROVE *the* "*compassing of the death of the King.*" The language of this sentence labours in the ear from the excessive caution of the writer;—afraid that his reader should jump too fast to his conclusion upon a subject of such awful moment, he pulls him back after he has read that a conspiracy to imprison the King, is an overt act to prove the compassing of his death, and says to him, But recollect that there must be an overt act to PROVE, in the first place, that conspiracy to imprison the King, and even then that intention to imprison him so manifested by the overt act, is but in its turn an overt act TO PROVE the compassing or intention to destroy the King. Nor does the great and benevolent Hale rest even here, but after this almost tedious perspicuity, he begins the next sentence with this fresh caution and limitation, "*But then this must be intended of a conspiracy,* "FORCIBLY *to detain and imprison the King.*" What then is a conspiracy forcibly to imprison the King?—surely it can require no explanation: it can only be a *direct* machination to seize and detain his PERSON by rebellious force. Will this expression be satisfied by a conspiracy to seize speculatively upon his authority by the publication of pamphlets, which, by the inculcation of republican principles, may in the eventual circulation of a course of years, perhaps in a

course of centuries, in this King's time, or in the time of a remote successor, debauch men's minds from the English constitution, and, by the destruction of monarchy, involve the life of the Monarch?—Will any man say that this is what the law means by a conspiracy against the King's government, supposing even that a conspiracy against his government were synonimous with a design upon his life? Can any case be produced where a person has been found guilty of high treason, under this branch of the statute, where no war has been actually levied, unless where the conspiracy has been a forcible invasion of the King's personal liberty or security? I do not mean to say that a conspiracy to levy war may not, in many instances, be laid as an overt act of compassing the King's death, because the war may be mediately or immediately pointed distinctly to his destruction or captivity; and as Lord Hale truly says, "small is the distance between the prisons and "graves of Princes." But multiply the instances as you will, still the principle presents itself. The truth of this very maxim, built upon experience, renders an overt act of this description rational and competent evidence to be left to a Jury of a design against the King's life; but it does not, therefore, change the nature of the crime, nor warrant any Court to declare the overt act to be legally and conclusively indicative of the traitorous intention; because, if this be once admitted to be law, and the Jury are bound to find the treason upon their belief of the existence

of the overt act, the trial by the country is at an end, and the Judges are armed with an arbitrary uncontrollable dominion over the lives and liberties of the nation.

Gentlemen, I will now proceed to show you that the doctrines which I am insisting on have been held by all the great Judges of this country, in even the worst of times, and that they are, besides, not at all peculiar to the case of high treason, but pervade the whole system of the criminal law. Mr. Justice Forster, so justly celebrated for his writings, lays down the rule thus:—It may be laid down as a general rule, that "indictments founded UPON PENAL STATUTES, ESPECIALLY THE MOST PENAL, "*must pursue the statute so as to bring the party* "*within it.*" And this general rule is so expressly allowed to have place in high treason, that it is admitted on all hands, that an indictment would be radically and incurably bad, unless it charged the compassing of the King's death, as the leading and fundamental averment, and unless it formally charged the overt act to be committed in order to effectuate the traitorous purpose. Nobody ever denied this proposition; and the present indictment is framed accordingly. Now it is needless to say that if the benignity of the general law requires this precision in the indictment, the proof must be correspondingly precise, for otherwise the subject would derive no benefit from the strictness of the indictment; the strictness of which can have no other meaning in law

or common sense, than the protection of the Prisoner; for if, though the indictment must directly charge a breach of the very LETTER of the statute, the Prisoner could, nevertheless, be convicted by evidence not amounting to a breach of the LETTER, then the strictness of the indictment would not only be no protection to the Prisoner, but a direct violation of the first principles of justice criminal and civil, which call universally for the proof of all material averments in every legal proceeding. But Mr. Justice Forster expressly adverts to the necessary severity of proof, as well as of charge—for he says, that "although a "case is brought within the *reason* of a penal sta-"tute, and within the *mischief* to be prevented, yet, "if it does not come within the unequivocal *letter*, "the benignity of the law interposeth." If the law then be thus severe in the interpretation of every penal proceeding, even down to an action for the killing of a hare or a partridge, are its constructions only to be enlarged and extended as to the statute of high treason, although the single object of passing it was to guard against constructions?

Gentlemen, the reason of the thing is so palpably and invincibly in favour of this analogy, that it never met with a direct opposition. The Attorney General himself distinctly admits it in one part of his address to you, though he seems to deny it in another. I hope that when I state one part of his speech to be in diametrical opposition to another, he will not suppose that I attribute the inconsistency to any defect, either

in his understanding or his heart; far from it—they arise, I am convinced, from some of the authorities not being sufficiently understood.

In the beginning of his speech he admits that the evidence must be satisfactory and convincing as to the intention; but in the latter part he seems, as it were, to take off the effect of that admission. I wish to give you the very words. I took them down at the time; and if I do not state them correctly, I desire to be corrected. "I most distinctly disavow," said my Honourable Friend, "every case of con-"struction. I most distinctly disavow any like case "of treason not within the letter of the statute. I "most distinctly disavow cumulative treason. I most "distinctly disavow enhancing guilt by parity of "reason. The question undoubtedly is, whether "the proof be full and satisfactory to your reasons "and consciences that the Prisoner is guilty of the "treason of compassing the King's death." Gentlemen, I hope that this will always with equal honour be admitted. Now let us see how the rest of the learned Gentleman's speech falls in with this.—For he goes on to say, that it is by no means necessary that the distinct, specific intention should pre-exist the overt act. "If the overt act," says he, "be de-"liberately committed, it is a compassing." But how so, if the intention be admitted to be the treason? What benefit is obtained by the rigorous demand of the statute, that the compassing of the King's death shall be charged by the indictment as

the crime, if a crime different, or short of it, can be substituted for it in the proofs? And how can the statute of Richard the Second be said to be repealed, which made it high treason to compass to depose the King, independently of intention upon his life, if the law shall declare, notwithstanding the repeal, that they are synonimous terms, and that the one CONCLUSIVELY involves the other?

Gentlemen, if we examine the most prominent cases, which have come in judgment before Judges of the most unquestionable authority, and after the constitution had become fixed, you will find every thing that I have been saying to you justified and confirmed.

The first great state trial, after the Revolution, was the case of Sir John Freind, a conspirator in the assassination plot. Sir John Freind was indicted for compassing and imagining the death of King William; and the overt acts charged, and principally relied on, were, first, the sending Mr. Charnock into France to King James, to desire him to persuade the French King to send forces over to Great Britain, to levy war against, and to depose the King, and that Mr. Charnock was actually sent; and, secondly, the preparing men to be levied to form a corps to assist in the restoration of the Pretender, and the expulsion of King William, of which Sir John Freind was to be colonel.—In this case, if the proofs were not to be wholly discredited, and the overt acts were consequently established, they went rationally to convince

the mind of every man of the pre-existing intention to destroy the King. The conspiracy was not to do an act which, though it might lead eventually and speculatively to the King's death, might not be foreseen or designed by those who conspired together:—the conspiracy was not directed to an event, probably leading to another, and a different one, and from the happening of which second, a third still different might be engendered, which third might again lead in its consequences to a fourth state of things, which might, in the revolution of events, bring on the death of the King, though never compassed or imagined:—Freind's conspiracy, on the contrary, had for its *direct* and *immediate* object the restoration of the Pretender to the throne, by the junction of foreign and rebellious force. In my opinion (and I am not more disposed than others to push things beyond their mark in the administration of criminal justice), Sir John Freind, if the evidence against him found credit with the Jury, could have no possible defence; since the evidence went directly to prove the dispatch of Charnock to France, under his direction, to invite the French King to bring over the Pretender into England, and to place him on the throne. The intention, therefore, of Sir John Freind to cut off King William, was a clear inference from the overt act in question; not an inference of *law* for the Court, but of *fact* for the Jury, under the guidance of plain common sense; because the consequence of the Pretender's regaining the throne, must have been the

attainder of King William by act of Parliament.—Some gentlemen seem to look as if they thought not—but I should be glad to hear the position contradicted. I repeat, that if the Pretender had been restored, as King of England, the legal consequence would have been, that King William would have been a traitor and an usurper, and subject as such to be tried at the Old Bailey, or wherever else the King, who took his place, thought fit to bring him to judgment. From these premisses, therefore, there could be no difficulty of inferring the intention; and, therefore, if ever a case existed, where, from the clearness of the inference, the province of the Jury might have been overlooked, and the overt act confounded with the treason, it was in the instance of Freind; but so far was this from being the case, that you will find, on the contrary, every thing I have been saying to you, since I began to address you, summed up and confirmed by that most eminent magistrate Lord Chief Justice Holt, who presided upon that trial.

He begins thus:—"*Gentlemen of the Jury, Look "ye, the treason that is mentioned in the Indictment is "conspiring, compassing, and imagining the death of "the King.* TO PROVE THE CONSPIRACY AND DE-"SIGN *of the King's* DEATH, *two principal overt "acts are insisted on.*" He does not consider the overt act of conspiracy and consultation to be the treason, but evidence (as it undoubtedly was in that case) to prove the compassing the death. The Chief Justice then states the two overt acts above

mentioned, and sums up the evidence for and against the Prisoner, and leaves the intention to the Jury *as matter of fact*.—For it is not till afterwards that he comes to answer the Prisoner's objection in point of law, as the Chief Justice in terms puts it—"*There is* "*another thing*," said Lord Chief Justice Holt, "*he* "*did insist upon*, AND THAT IS MATTER OF LAW: "*The statute 25th Edward* III. *was read, which is* "*the great statute about treasons, and that does con-* "*tain divers species of treason, and declares what shall* "*be treason: one treason is the compassing and ima-* "*gining the death of the King*; *another is the levying* "*war. Now says he*" (i. e. FREIND), "*here is no* "*war actually levied*; *and a bare conspiracy to levy* "*war, does not come within the law against treason.*" To pause here a little: Freind's argument was this—Whatever my intentions might be—whatever my object of levying war might have been—whatever might have been my design to levy it—however the destruction of the King might have been effected by my conspiracy, if it had gone on—and however it might have been my intention that it should,—it is not treason within the 25th of Edward III.—To which Holt replied, a little incorrectly in language, but right in substance—"*Now for that I must tell* "*you, if there be only a conspiracy to levy war, it is* "NOT *treason*;" *i. e.* it is not a substantive treason: it is not a treason in the abstract. "*But if the de-* "*sign and conspiracy be either to kill the King, or to* "*depose him, or imprison him, or put any force or*

"*restraint upon him,*" i. e. personal restraint by force, "*and the way of effecting these purposes* IS BY "LEVYING A WAR; *there the conspiracy and consult-* "*ation, to levy war for that purpose, is high treason,* "*though no war be levied: for such consultation and* "*conspiracy is* AN OVERT ACT PROVING *the com-* "*passing the death of the King.*" But what sort of war is it, the bare conspiracy to levy which, is an overt act to prove a design against the King's life, though no war be actually levied? Gentlemen, Lord Holt himself illustrates this matter so clearly, that if I had any thing at stake short of the honour and life of the Prisoner, I might sit down as soon as I had read it:—for if one did not know it to be an extract from an ancient trial, one would say it was admirably and accurately written for the present purpose.—It is a sort of prophetic bird's eye view of what we are engaged in at this moment:—"*There* "*may be war levied* (continues Lord Holt in Freind's "case) *without any design upon the King's person,* "*which, if* ACTUALLY LEVIED, *is high treason,* "*though purposing and designing such a levying of* "*war is not so. As for example: if persons do as-* "*semble themselves, and act with force, in opposition* "*to some law, and hope thereby to get it repealed;* "*this is a levying war, and treason,* THOUGH THE "PURPOSING AND DESIGNING OF IT IS NOT SO. *So* "*when they endeavour, in great numbers,* WITH "FORCE, *to make reformation of their own heads,* "*without pursuing the methods of the law, that is a*

" *levying war*, BUT THE PURPOSE AND DESIGNING IS " NOT SO. *But if there be, as I told you, a purpose* " *and design* TO DESTROY THE KING, AND" (not *or* to depose him, but *and* to depose him) " *to depose* " *him from his throne, which is proposed and designed* " *to be effected by war that is to be levied*; *such a con-* " *spiracy and consultation to levy war* FOR THE " BRINGING THIS TO PASS" (i. e. for bringing the King's death to pass) " *is an overt act of high trea-* " *son. So that, Gentlemen, as to that objection which* " *he makes*, IN POINT OF LAW, *it is of no force,* " *if there be evidence sufficient to convince you that* " *he did conspire to levy war* FOR SUCH AN " END." And he concludes by again leaving the intention expressly to the Jury.

It is THE END THEREFORE FOR WHICH the war is to be levied, and not the conspiracy to do any act which the law considers as a levying of war, that constitutes an overt act of treason against the King's life. The most rebellious movements towards a reform in *government*, not directed against the *King's person*, will not, according to Lord Holt, support the charge before you.—I might surround the House of Commons with fifty thousand men, for the express purpose of forcing them, by duress, to repeal any law that is offensive to me, or to pass a bill for altering elections, without being a possible object of *this* prosecution.—Under the other branch of the statute, I might indeed be convicted of levying war, but not of compassing the King's death; and if I

only conspired and meditated this rising to repeal laws by rebellion, I could be convicted of nothing but a high misdemeanor.—I would give my friends the case upon a special verdict, and let them hang me if they could.—How much more might I give it them if the conspiracy imputed was not to effect a reform by violence, but, as in the case before us, by pamphlets and speeches, which might produce universal suffrage, which universal suffrage might eat out and destroy Aristocracy, which destruction might lead to the fall of Monarchy, and, in the end, to the death of the King.—Gentlemen, if the cause were not too serious, I should liken it to the play with which we amuse our children: This is the cow with the crumpledy horn, which gored the dog, that worried the cat, that ate the rat, &c. ending in the house which Jack built.

I do therefore maintain, upon the express authority of Lord Holt, that, to convict a Prisoner, charged with this treason, it is absolutely necessary that you should be satisfied of his *intention against the King's life, as charged in the indictment,* and that no design against the King's government will even be a legal overt act to be left to a Jury as the evidence of such an intention (much less the substantive and consummate treason), unless the conspiracy be directly pointed against the person of the King. The case of Lord George Gordon is opposed to this as a high and modern decision; and the Attorney General descended indeed to a very humble and lowly

authority, when he sought to maintain his argument by my own speech, as Counsel for that unfortunate person. The passage of it alluded to lies at this moment before me; and I shall repeat it, and re-maintain it to-day.—But let it first be recollected, that Lord George Gordon was not indicted for compassing or imagining the King's death, under the first branch of the statute, but for levying war under the second. It never indeed entered into the conception of any man living, that such an indictment could have been maintained, or attempted against him: I appeal to one of your Lordships now present, for whose learning and capacity I have the greatest and highest respect, and who sat upon that trial, that it was not insinuated from the Bar, much less adjudged by the Court, that the evidence had *any bearing upon the first branch of treason*. I know that I may safely appeal to Mr. Justice Buller for the truth of this assertion; and nothing surely in the passage from my address to the Jury, has the remotest allusion to assimilate a conspiracy against the King's government (collateral to his person) with a treason against his life. My words were, "*To compass, or imagine the death of the King*; "such imagination, or purpose of the mind, visible "only to its great Author, being manifested by some "open act; an institution obviously directed, not "only to the security of his natural person, but to "the stability of the government; the life of the "Prince being so interwoven with the constitution

"of the State, that an attempt to destroy the one, "is justly held to be a rebellious conspiracy against "the other *."

What is this but to say that the King's sacred life is guarded by higher sanctions than the ordinary laws, because of its more inseparable connexion with the public security, and that an attempt to destroy it is therefore made treason against the State? But the Attorney General is, I am sure, too correct in his logic to say, that the converse of the proposition is therefore maintained, and that an attack upon the King's authority, without design upon his person, is affirmed by the same expression to be treason against his life. His correct and enlarged mind is incapable of such confusion of ideas.

But it is time to quit what fell from me upon this occasion, in order to examine the judgment of the Court, and to clothe myself with the authority of that great and venerable magistrate, whose memory will always be dear to me, not only from the great services he rendered to his country in the administration of her justice, but on account of the personal regard and reverence I had for him when living.

Lord Mansfield, in delivering the law to the Jury upon Lord George Gordon's trial (I appeal to the trial itself, and to Mr. Justice Buller, now present, who agreed in the judgment), expressly distinguished between the safety provided for the King's *natural*

* See the Speech for Lord George Gordon, vol. i. page 74.

person, by the first branch of the statute, and the security of his executive power under the second. That great Judge never had an idea that the *natural* person of the King, and the *majesty* of the King, were the same thing, nor that the treasons against them were synonimous: he knew, on the contrary, for he knew all that was to be known, that as *substantive* crimes they never had been blended. I will read his own words:—"There are two kinds of "levying war:—one against the person of the King; "to imprison, to dethrone, or to kill him; or to "make him change measures, or remove counsel- "lors:—the other, which is said to be levied against "the majesty of the King, or, in other words, "against him in his regal capacity; as when a mul- "titude rise and assemble to attain by force and "violence any object of a general public nature; "that is levying war against the majesty of the "King; and most reasonably so held, because it "tends to dissolve all the bonds of society, to de- "stroy property, and to overturn government; and, "by force of arms, to restrain the King from reign- "ing according to law." But then observe, Gentlemen, *the war must be actually levied*; and here again I appeal to Mr. Justice Buller, for the words of Lord Mansfield, expressly referring for what he said to the authority of Lord Holt, in Sir John Freind's case, already cited: "Lord Chief Justice "Holt, in Sir John Freind's case, says:—If per- "sons do assemble themselves and act with force,

" in opposition to some law which they think incon-
" venient, and hope thereby to get it repealed, this
" is a levying war and treason. In the present case
" it don't rest upon an implication that they hoped
" by opposition to a law to get it repealed; but the
" prosecution proceeds upon the direct ground, that
" the object was, by *force and violence*, to compel
" the Legislature to repeal a law; and therefore,
" without any doubt, I tell you the joint opinion
" of us all, that, if this multitude assembled *with*
" *intent, by acts of force and violence*, to compel
" the Legislature to repeal a law, it is high trea-
" son." Let these words of Lord Mansfield be taken down, and then show me the man, let his rank and capacity be what they may, who can remove me from the foundation on which I stand, when I maintain that a conspiracy to levy war for the objects of reformation, is not only not the high treason charged by this Indictment, when not directly pointed against the King's person, but that even the actual levying it would not amount to the constitution of the crime. But this is the least material part of Lord Mansfield's judgment, as applicable to the present question; for he expressly considers THE INTENTION of the Prisoner, whatever be the act of treason alleged against him, to be all in all. So far from holding the probable or even inevitable consequence of the thing done as constituting the quality of the act, he pronounces them to be nothing as separated from the *criminal design* to produce

them. Lord George Gordon assembled an immense multitude around the House of Commons, a system so opposite to that of the persons accused before this commission, that it appears from the evidence they would not even allow a man to come amongst them, because he had been Lord George's Attorney. The Lords and Commons were absolutely blockaded in the chambers of Parliament; and if control was the intention of the Prisoner, it must be wholly immaterial what were the deliberations that were to be controlled; whether it was the continuance of Roman Catholics under penal laws, the repeal of the septennial act, or a total change of the structure of the House of Commons, that was the object of violence;—the attack upon the legislature of the country would have been the same. That the multitude were actually assembled round the Houses, and brought there by the Prisoner, it was impossible for me as his Counsel even to think of denying, nor that their tumultuous proceedings were not in effect productive of great intimidation, and even danger, to the Lords and Commons, in the exercise of their authority:—neither did I venture to question the law, that the assembling the multitude *for that purpose*, was levying war within the statute. Upon these facts therefore, applied to the doctrines we have heard upon this Trial, there would have been nothing in Lord George Gordon's case to try; he must have been instantly, without controversy, convicted. But Lord Mansfield did not say to the Jury

(according to the doctrines that have been broached here), that if they found the multitude assembled by the Prisoner, were in fact palpably intimidating and controlling the Parliament in the exercise of their functions, he was guilty of high treason, *whatever his intentions might have been.*—He did not tell them that the inevitable consequence of assembling a hundred thousand people round the Legislature, being a control on their proceedings, was therefore a levying war; though collected from folly and rashness, without the *intention* of violence or control.—If this had been the doctrine of Lord Mansfield, there would (as I said before) have been nothing to try; for I admitted in terms, that his conduct was the extremity of rashness, and totally inconsistent with his rank in the country, and his station as a member of the House of Commons. But the venerable magistrate never for a moment lost sight of the grand ruling principle of criminal justice, that crimes can have no seat but in the mind; and upon the Prisoner's *intention*, and upon his *intention alone*, he expressly left the whole matter to the Jury, with the following directions, which I shall read verbatim from the Trial: "Having premised these several "propositions and principles, the subject matter for "your consideration naturally resolves itself into "two points:

"First, Whether this multitude did assemble and "commit acts of violence, with intent to terrify "and compel the Legislature to repeal the act called

"Sir George Savile's—If upon this point your opi-
"nion should be in the negative, that makes an end
"of the whole, and the Prisoner ought to be ac-
"quitted: but if your opinion should be, that *the*
"*intent of this multitude*, and the violence they
"committed, was to force a repeal, there arises a
"second point—

"Whether the Prisoner at the Bar incited, en-
"couraged, promoted, or assisted in raising this
"insurrection, and the terror they carried with
"them, WITH THE INTENT of forcing a repeal of
"this law.

"Upon these two points, which you will call your
"attention to, depends the fate of this trial; for if
"either the multitude had *no such intent, or suppo-*
"*sing they had, if the Prisoner was no cause, did not*
"*excite*, and took no part in conducting, counsel-
"ling, or fomenting the insurrection, the Prisoner
"ought to be acquitted; and there is no pretence
"that he personally concurred in any act of vio-
"lence."

I therefore consider the case of Lord George Gordon, as a direct authority in my favour.

To show that a conspiracy to depose the King, independently of ulterior intention against his life, is high treason within the statute, the Attorney General next supposes that traitors had conspired to depose King William, but still to preserve him as Stadtholder in Holland, and asks whether that conspiracy would not be a compassing his death: to that

question I answer, that it would not have been a compassing the death of King William, provided the conspirators could have convinced the Jury that their firm and *bonâ fide* intention was to proceed no further, and that, under that belief and impression, the Jury (as they lawfully might) had negatived by their finding the fact of the intention against the King's natural existence. I have no doubt at all, that, upon such a finding, no judgment of treason could be pronounced: but the difficulty would be, to meet with a Jury, who, upon the bare evidence of such a conspiracy, would find such a verdict. There might be possible circumstances to justify such a negative of the intention, but they must come from the Prisoner. In such a case the Crown would rest upon the conspiracy to depose, which would be *primâ facie* and cogent evidence of the compassing, and leave the hard task of rebutting it, on the Defendants:—I say the hard task, because the case put is of a direct rebellious force, acting against the King; not only abrogating his authority, but imprisoning and expelling his person from the kingdom. I am not seeking to abuse the reasons and consciences of Juries in the examination of facts, but am only resisting the confounding them with arbitrary propositions of law.

Gentlemen, I hope I have now a right to consider that the existence of the high treason charged against the unfortunate man before you, is a matter of fact for your consideration upon the evidence. To esta-

blish this point, has been the scope of all that you have been listening to, with so much indulgence and patience. It was my intention to have further supported myself, by a great many authorities, which I have been laboriously extracting from the different books of the law; but I find I must pause here, lest I consume my strength in this preliminary part of the case, and leave the rest defective.

Gentlemen, the persons named in the Indictment, are charged with a conspiracy to subvert the rule, order, and government of this country; and it is material that you should observe most particularly the means by which it alleges this purpose was to be accomplished. The charge is not of a conspiracy to hold the Convention in Scotland, which was actually held there; nor of the part they took in its actual proceedings; but the overt act, to which all the others are subsidiary and subordinate, is a supposed conspiracy *to hold a Convention in England*, which never in fact was held; and consequently all the vast load of matter which it has been decided you should hear, that does not immediately connect itself with the charge in question, is only laid before you (as the Court has repeatedly expressed it) to prove that in point of fact such proceedings were had, the quality of which is for your judgment; and as far, and as far only, as they can be connected with the Prisoner, and the act which he stands charged with, to be left to you, as evidence of the

intention with which the holding of the second Convention was projected.

THIS INTENTION is therefore the whole cause—for the charge is not the agreement to hold a Convention, which it is notorious, self-evident, and even admitted that they intended to hold; but the agreement to hold it *for the purpose alleged, of assuming all the authority of the state, and in fulfilment of the main intention against the life of the King.* Unless, therefore, you can collect this double intention from the evidence before you, the Indictment is not maintained.

Gentlemen, the charge being of a conspiracy, which, if made out in point of fact, involved beyond all controversy, and within the certain knowledge of the conspirators, the lives of every soul that was engaged in it; the first observation which I shall make to you (because in reason it ought to precede all others) is, that every act done by the Prisoners, and every sentence written by them, in the remotest degree connected with the charge, or offered in evidence to support it, were done and written in the public face of the world:—the transactions which constitute the whole body of the proof, were not those of a day, but in regular series for two years together; they were not the peculiar transaction of the Prisoners, but of immense bodies of the King's subjects, in various parts of the kingdom, assembled without the smallest reserve, and giving to the pub-

lic, through the channel of the daily newspapers, a minute and regular journal of their whole proceedings. . Not a syllable have we heard read, in the week's imprisonment we have suffered, that we had not all of us read for months and months before the prosecution was heard of; and which, if we are not sufficiently satiated, we may read again upon the file of every coffee-house in the kingdom. It is admitted distinctly by the Crown, that a reform in the House of Commons is the ostensible purpose of all the proceedings laid before you; and that the attainment of that object only, is the grammatical sense of the great body of the written evidence. It rests therefore with the Crown, to show by LEGAL PROOF that this OSTENSIBLE purpose, and the whole mass of correspondence upon the table, was only a cloak to conceal a hidden machination, to subvert by force the entire authorities of the kingdom, and to assume them to themselves. Whether a reform of Parliament be a wise or an unwise expedient; whether, if it were accomplished, it would ultimately be attended with benefits, or dangers, to the country, I will not undertake to investigate, and for this plain reason; because it is wholly foreign to the subject before us.—But when we are trying the integrity of men's intentions, and are examining whether their complaints of defects in the representation of the House of Commons, be *bonâ fide*, or only a mere stalking-horse for treason and rebellion, it becomes a most essential inquiry, whether they be the first

who have uttered these complaints;—whether they have taken up notions for the first time, which never occurred to others; and whether, in seeking to interfere practically in an alteration of the constitution, they have manifested, by the novelty of their conduct, a spirit inconsistent with affection for the government, and subversive of its authority. Gentlemen, I confess for one (for I think the safest way of defending a person for his life before an enlightened tribunal, is to defend him ingenuously), I confess for one, that if the defects in the constitution of Parliament, which are the subject of the writings, and the foundation of all the proceedings before you, had never occurred to other persons at other times, or, if not new, they had only existed in the history of former conspiracies, I should be afraid you would suspect, at least, that the authors of them were plotters of mischief.—In such a case I should naturally expect that you would ask yourselves this question—Why should it occur to the Prisoner at the bar, and to a few others in the year 1794, immediately after an important revolution in another country, to find fault, on a sudden, with a constitution which had endured for ages, without the imputation of defect, and which no good subject had ever thought of touching with the busy hand of reformation? I candidly admit that such a question would occur to the mind of every reasonable man, and could admit no favourable answer.—But surely this admission entitles me, on the other hand, to

the concession, that if, in comparing their writings, and examining their conduct with the writings and conduct of the best and most unsuspected persons in the best and most unsuspected times, we find them treading in the paths which have distinguished their highest superiors; if we find them only exposing the same defects, and pursuing the same or similar courses for their removal,—it would be the height of wickedness and injustice to torture expressions, and pervert conduct, into treason and rebellion, which had recently lifted up others to the love of the nation, to the confidence of the sovereign, and to all the honours of the state. The natural justness of this reasoning is so obvious, that we have only to examine the fact; and, considering under what auspices the Prisoners are brought before you, it may be fit that I should set out with reminding you, that the great Earl of Chatham began and established the fame and glory of his life upon the very cause which my unfortunate clients were engaged in, and that he left it as an inheritance to the present Minister of the Crown, as the foundation of his fame and glory after him; and his fame and glory were accordingly raised upon it; and if the Crown's evidence had been carried as far back as it might have been (for the institution of only one of the two London Societies is before us), you would have found that the Constitutional Society owed its earliest credit with the country, if not its very birth, to the labour of the present Minister, and its professed

principles to His Grace the Duke of Richmond, high also in his Majesty's present Councils, whose plan of reform has been clearly established by the whole body of the written evidence, and by every witness examined for the Crown, to have been the type and model of all the Societies in the supposed conspiracy, and uniformly acted upon in form and in substance by the Prisoner before you, up to the very period of his confinement.

Gentlemen, the Duke of Richmond's plan was universal suffrage and annual Parliaments; and urged too with a boldness, which, when the comparison comes to be made, will leave in the back ground the strongest figures in the writings on the table. I do not say this sarcastically; I mean to speak with the greatest respect of His Grace, both with regard to the wisdom and integrity of his conduct; for although I have always thought in politics with the illustrious person whose letter was read to you; although I think, with Mr. Fox, that annual Parliaments and universal suffrage would be nothing like an improvement in the constitution; yet I confess that I find it easier to say so than to answer the Duke of Richmond's arguments on the subject; and I must say besides, speaking of His Grace from a long personal knowledge, which begun when I was Counsel for his relation Lord Keppel, that, independently of his illustrious rank, which secures him against the imputation of trifling with its existence, he is a person of an enlarged understanding, of extensive

reading, and of much reflection; and that his book cannot therefore be considered as the effusion of rashness and folly, but as the well-weighed, though perhaps erroneous, conclusions drawn from the actual condition of our affairs, viz. that without a speedy and essential reform in Parliament (and there my opinion goes along with him) the very being of the country, as a great nation, would be lost. This plan of the Duke of Richmond was the grand main spring of every proceeding we have to deal with;—you have had a great number of loose conversations reported from Societies, on which no reliance can be had; sometimes they have been garbled by spies, sometimes misrepresented by ignorance; and even, if correct, have frequently been the extravagances of unknown individuals, not even uttered in the presence of the Prisoner, and totally unconnected with any design; for whenever their proceedings are appealed to, and their real object examined, by living members of them, brought before you by the Crown, to testify them under the most solemn obligations of truth, they appear to have been following, *in form and in substance, the plans adopted within our memories, not only by the Duke of Richmond, but by hundreds of the most eminent men in the kingdom.* The Duke of Richmond formally published his plan of reform in the year 1780, in a letter to Lieutenant Colonel Sharman, who was at that time practically employed upon the same object in Ireland; and this is a most material part of the case;

because you are desired to believe that the terms CONVENTION, and DELEGATES, and the holding the one, and sending the other, were all collected from what had recently happened in France, and were meant as the formal introduction of her republican constitution: but they who desire you to believe all this, do not believe it themselves; because they know certainly, and it has indeed already been proved by their own witnesses, that Conventions of Reformers were held in Ireland, and Delegates regularly sent to them, whilst France was under the dominion of her ancient government.—They knew full well that Colonel Sharman, to whom the Duke's letter was addressed, was at that very moment supporting a Convention in Ireland, at the head of ten thousand men in arms, for the defence of their country, without any commission from the King, any more than poor Franklow had, who is now in Newgate, for regimenting sixty. These volunteers asserted and saved the liberties of Ireland; and the King would, at this day, have had no more subjects in Ireland than he now has in America, if they had been treated as traitors to the government. It was never imputed to Colonel Sharman and the volunteers, that they were in rebellion;—yet they had arms in their hands, which the Prisoners never dreamed of having; whilst a grand general Convention was actually sitting under their auspices at the Royal Exchange of Dublin, attended by regular Delegates from all the counties in Ireland.—And who were

these Delegates?—I will presently tear off their names from this paper, and hand it to you.—They were the greatest, the best, and proudest names in Ireland;—men who had the wisdom to reflect (before it was too late for reflection) that greatness is not to be supported by tilting at inferiors, till, by the separation of the higher from the lower orders of mankind, every distinction is swept away in the tempest of revolution; but in the happy harmonization of the whole community; by conferring upon the people their rights; sure of receiving the auspicious return of affection, and of insuring the stability of the government, which is erected upon that just and natural basis.—Gentlemen, they who put this tortured construction on conventions and delegates, know also that repeated meetings of reforming Societies, both in England and Scotland, had assumed about the same time the style of Conventions, and had been attended by regular delegates long before the phrase had, or could have, any existence in France; and that upon the very model of these former associations, a formal Convention was actually sitting at Edinburgh, with the Lord Chief Baron of Scotland in the chair, for promoting a reform in Parliament, at the very moment the Scotch Convention, following its example, assumed that title.

To return to this letter of the Duke of Richmond:—It was written to Colonel Sharman, in answer to a letter to His Grace, desiring to know his plan of reform, which he accordingly communicated

by the letter which is in evidence; and which plan was neither more nor less than that adopted by the Prisoners, of surrounding Parliament (unwilling to reform its own corruptions), NOT by armed men, or by importunate multitudes, but by the still and universal voice of a whole people CLAIMING THEIR KNOWN AND UNALIENABLE RIGHTS.—This is so precisely the plan of the Duke of Richmond, that I have almost borrowed his expressions. His Grace says, "The lesser reform has been attempted with "every possible advantage in its favour; not only "from the zealous support of the advocates for a "more effectual one, but from the assistance of men "of great weight, both in and out of power. But "with all these temperaments and helps it has failed. "Not one proselyte has been gained from corruption, "nor has the least ray of hope been held out from any "quarter, that the House of Commons was inclined "to adopt any other mode of reform. The weight of "corruption has crushed this more gentle, as it "would have defeated any more efficacious plan in "the same circumstances. From that quarter, "therefore, I have nothing to hope. IT IS FROM "THE PEOPLE AT LARGE THAT I EXPECT ANY "GOOD:—and I am convinced, that the only way "to make them feel that they are really concerned "in the business, is to contend for their *full, clear,* "*and indisputable rights of universal representation.*" Now how does this doctrine apply to the defence of the Prisoner?—I maintain that it has the most de-

cisive application; because this book has been put into the hands of the Crown witnesses, who have one and all of them recognised it, and declared it to have been, *bonâ fide*, the plan which they pursued.

But are the Crown's witnesses worthy of credit? —If they are not, let us return home, since there is no evidence at all, and the cause is over.—All the guilt, if any there be, proceeds from their testimony; if they are not to be believed, they have proved nothing; since the Crown cannot force upon you that part of the evidence which suits its purpose, and ask you to reject the other which does not. The witnesses are either entirely credible, or undeserving of all credit, and I have no interest in the alternative. This is precisely the state of the cause.—For, with regard to all the evidence that is written, let it never be forgotten, that it is not upon me to defend my Clients against it, but for the Crown to extract from it the materials of accusation.—They do not contend that the treason is upon the surface of it, but in the latent intention; which intention must, therefore, be supported by extrinsic proof; but which is nevertheless directly negatived and beat down by every witness they have called, leaving them nothing but commentaries and criticisms against both fact and language, to which, for the present, I shall content myself with replying in the authoritative language of the Court, in the earliest stage of their proceedings:

" If there be ground to consider the professed " purpose of any of these associations, *a reform in* " *Parliament*, as mere colour, and as a pretext held " out in order to cover deeper designs—designs " against the whole constitution and government of " the country; the case of those embarked in such " designs is that which I have already considered. " Whether this be so, or not, is mere matter of " fact; as to which I shall only remind you, that " an inquiry into a charge of this nature, which " undertakes to make out that the ostensible pur- " pose is a mere veil, under which is concealed a " traitorous conspiracy, requires cool and deliberate " examination, and the most attentive considera- " tion; and that the result should be perfectly clear " and satisfactory. In the affairs of common life, " no man is justified in imputing to another a mean- " ing contrary to what he himself expresses, but " upon the fullest evidence."—To this (though it requires nothing to support it, either in reason or authority) I desire to add the direction of Lord Chief Justice Holt to the Jury, on the trial of Sir John Perkyns:

" Gentlemen, it is not fit that there should be " any strained or forced construction put upon a " man's actions when he is tried for his life. You " ought to have a full and satisfactory evidence that " he is guilty, before you pronounce him so."

In this assimilation of the writings of the societies to the writings of the Duke of Richmond and others,

I do not forget that it has been truly said by the Lord Chief Justice, in the course of this very cause, that ten or twenty men's committing crimes, furnishes no defence for other men in committing them. Certainly it does not; and I fly to no such sanctuary; but in trying the Prisoner's intentions, and the intentions of those with whom he associated and acted, if I can show them to be only insisting upon the same principles that have distinguished the most eminent men for wisdom and virtue in the country, it will not be very easy to declaim or argue them into the pains of death, whilst our bosoms are glowing with admiration at the works of those very persons who would condemn them.

Gentlemen, it has been too much the fashion of late to overlook the genuine source of all human authority, but more especially totally to forget the character of the British House of Commons as a representative of the people;—whether this has arisen from that assembly's having itself forgotten it, would be indecent for me to inquire into or to insinuate;—but I shall preface the authorities which I mean to collect in support of the Prisoner, with the opinion on that subject of a truly celebrated writer, whom I wish to speak of with great respect: I should, indeed, be ashamed, particularly at this moment, to name him invidiously, whilst he is bending beneath the pressure of a domestic misfortune, which no man out of his own family laments more sincerely than I do.*—No difference of opinion can ever

* Mr. Burke's son was then dying.

make me forget to acknowledge the sublimity of his genius, the vast reach of his understanding, and his universal acquaintance with the histories and constitutions of nations; I also disavow the introduction of the writings, with the view of involving the author in any apparent inconsistencies, which would tend, indeed, to defeat rather than to advance my purpose.—I stand here to-day to claim at your hands, a fair and charitable interpretation of human conduct, and I shall not set out with giving an example of uncharitableness.—A man may have reason to change his opinions, or perhaps the defect may be in myself, who collect that they are changed; I leave it to God to judge of the heart—my wish is, that Christian charity may prevail;—that the public harmony, which has been lost, may be restored;—that all England may re-unite in the bonds of love and affection;—and that, when the Court is broken up by the acquittal of the Prisoners, all heart-burnings and animosities may cease;—that, whilst yet we work in the light, we may try how we can save our country by a common effort; and that, instead of shamelessly setting one half of society against the other by the force of armed associations, and the terrors of courts of justice, our spirits and our strength may be combined in the glorious cause of our country.—By this, I do not mean in the cause of the present war, which I protest against as unjust, calamitous, and destructive; but this is not the place for such a subject, I only advert to it to prevent mistake or misrepresentation.

The history and character of the English House of Commons was formerly thus described by Mr. Burke: "The House of Commons was supposed "originally to be *no part* of *the standing government* "*of this country*, but was considered as a *control* "issuing *immediately* from the people, and speedily "to be resolved into the mass from whence it arose: "in this respect it was in the higher part of go-"vernment what juries are in the lower. The ca-"pacity of a magistrate being transitory, and that of a "citizen permanent, the latter capacity, it was hoped, "would of course preponderate in all discussions, "not only between the people and the standing au-"thority of the Crown, but between the people "and the fleeting authority of the House of Com-"mons itself. It was hoped, that, being of a "middle nature, between subject and government, "they would feel with a more tender and a nearer "interest every thing that concerned the people, "than the other remoter and more permanent parts "of legislature.

"Whatever alterations time and the necessary "accommodation of business may have introduced, "this character can never be sustained, unless the "House of Commons shall be made to bear some "stamp of the actual disposition of the people at "large: it would (among public misfortunes) be an "evil more natural and tolerable, that the House of "Commons should be infected with every epidemi-"cal frenzy of the people, as this would indicate

"some consanguinity, some sympathy of nature "with their constituents, than that they should, in "all cases, be wholly untouched by the opinions "and feelings of the people out of doors. By this "want of sympathy, they would cease to be a "House of Commons.

"The virtue, spirit, and essence of a House of "Commons, consists in its being the express image "of the feelings of the nation. It was not insti- "tuted to be a control *upon* the people, as of late "it has been taught, by a doctrine of the most "pernicious tendency, but as a control *for* the "people."

He then goes on to say, that to give a technical shape, a colour, dress, and duration to popular opinion, is the true office of a House of Commons, —Mr. Burke is unquestionably correct;—the control UPON the people is the King's Majesty, and the hereditary privileges of the Peers;—the balance of the state is the control FOR the people upon both, in the existence of the House of Commons; —but how can that control exist FOR the people, unless they have the actual election of the House of Commons, which, it is most notorious, they have not?—I hold in my hand a state of the representation, which, if the thing were not otherwise notorious, I would prove to have been lately offered in proof to the House of Commons, by an honourable friend of mine now present, whose motion I had the honour to second, where it appeared that 12,000

people return near a majority of the House of Commons, and those again, under the control of about 200. But though these facts were admitted, all redress, and even discussion, was refused.—What ought to be said of a House of Commons that so conducts itself, it is not for me to pronounce; I will appeal, therefore, to Mr. Burke, who says, "that a "House of Commons, which in all disputes between "the people and administration presumes against "the people, which punishes their disorders, but "refuses even to inquire into their provocations, "is an unnatural, monstrous state of things in the "constitution."

But this is nothing: Mr. Burke goes on afterwards to give a more full description of Parliament, and in stronger language (let the Solicitor General take it down for his reply), than any that has been employed by those who are to be tried at present as conspirators against its existence.—I read the passage, to warn you against considering hard words against the House of Commons as decisive evidence of treason against the King.—The passage is in a well-known work, called, Thoughts on the Causes of the PRESENT Discontents; and such discontents will always be PRESENT whilst their causes continue. —The word PRESENT will apply just as well *now*, and much better than to the times when the honourable Gentleman wrote his book; for we are now in the heart and bowels of another war, and groaning under its additional burdens. I shall therefore leave

it to the learned Gentleman, who is to reply, to show us what has happened since our author wrote, which renders the Parliament less liable to the same observations now.

" It must be always the wish of an unconstitutional statesman, that a House of Commons, who are entirely dependent upon him, should have every right of the people entirely dependent upon their pleasure. For it was soon discovered that the forms of a free, and the ends of an arbitrary government, were things not altogether incompatible.

" The power of the Crown, almost dead and rotten as prerogative, has grown up anew, with much more strength and far less odium, under the name of influence. An influence which operated without noise and violence; which converted the very antagonist into the instrument of power; which contained in itself a perpetual principle of growth and renovation; and which the distresses and the prosperity of the country equally tended to augment, was an admirable substitute for a prerogative, that, being only the offspring of antiquated prejudices, had moulded in its original stamina irresistible principles of decay and dissolution."

What is this but saying that the House of Commons is a settled and scandalous abuse fastened *upon* the people, instead of being an antagonist power *for* their protection; an odious instrument of power in the hands of the Crown, instead of a popular balance

against it? Did Mr. Burke mean that the prerogative of the Crown, properly understood and exercised, was an antiquated prejudice? Certainly not; because his attachment to a properly balanced monarchy is notorious:—why then is it to be fastened upon the Prisoners, that they stigmatize monarchy, when they also exclaim *only against its corruptions?* In the same manner, when he speaks of the abuses of Parliament, would it be fair to Mr. Burke to argue, from the strict legal meaning of the expression, that he included, in the censure on Parliament, the King's person, or majesty, which is part of the Parliament? In examining the work of an author you must collect the sense of his expressions from the subject he is discussing; and if he is writing of the House of Commons as it affects the structure and efficacy of the government, you ought to understand the word Parliament so as to meet the sense and obvious meaning of the writer.—Why then is this common justice refused to others?—Why is the word Parliament to be taken in its strictest and least obvious sense against a poor shoe-maker, or any plain tradesman at a Sheffield club, while it is interpreted in its popular, though less correct acceptation, in the works of the most distinguished scholar of the age? Add to this, that the cases are not at all similar: for Mr. Burke uses the word Parliament *throughout*, when he is speaking of the House of Commons; without any concomitant words which convey an explanation, but the sense of his subject; whereas Parliament is fastened

upon the Prisoner as meaning something beyond the House of Commons, when it can have no possible meaning beyond it; since from the beginning to the end it is joined with the words *representation of the people*:—the representation of the people in Parliament!—Does not this most palpably mean the House of Commons, when we know that the people have no representation in either of the other branches of the government?

A letter has been read in evidence from Mr. Hardy to Mr. Fox, where he says their object was universal representation. Did Mr. Fox suppose, when he received this letter, that it was from a nest of republicans, clamouring publicly for an universal representative constitution like that of France? If he had, would he have sent the answer he did, and agreed to present their petition?—They wrote also to the Society of the Friends of the People, and invited them to send delegates to the Convention:—the Attorney General, who has made honourable and candid mention of that body, will not suppose that it would have contented itself with refusing the invitation in terms of cordiality and regard, if, with all the knowledge they had of their transactions, they had conceived themselves to have been invited to the formation of a body, which was to over-rule and extinguish all the authorities of the State: yet upon the perversion of these two terms, Parliament and Convention, against their natural interpretation, against a similar use of them by others, and against the solemn explanation

of them by the Crown's own witnesses, this whole fabric of terror and accusation stands for its support: letters, it seems, written to other people, are to be better understood by the Gentlemen round this table, who never saw them till months after they were written, than by those to whom they were addressed and sent; and no right interpretation, forsooth, is to be expected from writings when pursued in their regular series, but they are to be made distinct by binding them up in a large volume, alongside of others totally unconnected with them, and the very existence of whose authors was unknown to one another.

I will now, Gentlemen, resume the reading of another part of Mr. Burke, and a pretty account it is of this same Parliament: "They who will not conform their conduct to the public good, and cannot support it by the prerogative of the Crown, have adopted a new plan. They have totally abandoned the shattered and old-fashioned fortress of prerogative, and made a lodgment in the strong-hold of Parliament itself. If they have any evil design to which there is no ordinary legal power commensurate, they bring it into Parliament. There the whole is executed from the beginning to the end: and the power of obtaining their object absolute; and the safety in the proceeding perfect; no rules to confine, nor after-reckonings to terrify. For Parliament cannot, with any great propriety, punish others, for things in which they themselves have

"been accomplices. Thus its control upon the "executory power is lost."

This is a proposition universal. It is not that the popular control was lost under this or that Administration, but, GENERALLY, that the people have no control in the House of Commons. Let any man stand up and say that he disbelieves this to be the case; I believe he would find nobody to believe him. Mr. Burke pursues the subject thus: "The dis- "tempers of monarchy were the great subjects of "apprehension and redress in the *last* century—in "*this*, the distempers of Parliament." Here the word Parliament, and the abuses belonging to it, are put in express opposition to the monarchy, and cannot therefore comprehend it: the distempers of Parliament then are objects of serious apprehension and redress. What distempers? Not of this or that year, but the habitual distempers of Parliament; and then follows the nature of the remedy, which shows that the Prisoners are not singular in thinking that it is by THE VOICE OF THE PEOPLE ONLY that Parliament can be corrected. "It is not in Parliament alone," says Mr. Burke, "that the remedy for Parliamentary "disorders can be completed; and hardly indeed can "it begin there. Until a confidence in government "is re-established, the people ought to be excited to "a more strict and detailed attention to the conduct "of their representatives. Standards for judging "more systematically upon their conduct ought to "be settled in the meetings of counties and corpo-

"rations, and frequent and correct lists of the votes "in all important questions, ought to be procured. "By such means something may be done."

It was the same sense of the impossibility of a reform in Parliament, without a general expression of the wishes of the people, that dictated the Duke of Richmond's letter: all the petitions in 1780 had been rejected by Parliament;—this made the Duke of Richmond exclaim, that from that quarter no redress was to be expected, and that from the people alone he expected any good; and he, therefore, expressly invited them to claim and to assert an equal representation as their indubitable and unalienable birthright:—how to assert their rights, when Parliament had already refused them without even the hope, as the Duke expressed it, of listening to them any more? Could the people's rights, under such circumstances, be asserted without rebellion? Certainly they might: for rebellion is, when bands of men within a state oppose themselves, by violence, to the general will, as expressed or implied by the public authority; but the sense of a *whole people*, peaceably collected, and operating by its natural and certain effect upon the public councils, is not rebellion, but is paramount to, and the parent of, authority itself.

Gentlemen, I am neither vindicating, nor speaking, the language of inflammation or discontent;—I shall speak nothing that can disturb the order of the state; I am full of devotion to its dignity and tranquillity, and would not for worlds let fall an expres-

sion in this or in any other place that could lead to disturbance or disorder:—but for that very reason, I speak with firmness of THE RIGHTS OF THE PEOPLE, and am anxious for the redress of their complaints; because I believe a system of attention to them to be a far better security and establishment of every part of the government, than those that are employed to preserve them. The state and government of a country rest, for their support, on the great body of the people, and I hope never to hear it repeated, in any Court of Justice, that peaceably to convene the people upon the subject of their own privileges, can lead to the destruction of the King:—they are the King's worst enemies who hold this language.—It is a most dangerous principle, that the Crown is in jeopardy if the people are acquainted with their rights, and that the collecting them together to consider of them, leads inevitably to the destruction of the Sovereign.—Do these gentlemen mean to say that the King sits upon his throne without the consent, and in defiance of the wishes of the great body of his people, and that he is kept upon it by a few individuals who call themselves his friends, in exclusion of the rest of his subjects?—Has the King's inheritance no deeper or wider roots than this? Yes, Gentlemen, it has—it stands upon the love of the people, who consider their own inheritance to be supported by the King's constitutional authority: this is the true prop of the throne; and the love of every people upon earth will for ever uphold a government, found-

ed, as ours is, upon reason and consent, as long as Government shall be itself attentive to the general interests which are the foundations and the ends of all human authority.—Let us banish then these unworthy and impolitic fears of an unrestrained and an enlightened people;—let us not tremble at the rights of man, but, by giving to men their rights, secure their affections, and, through their affections, their obedience;—let us not broach the dangerous doctrine, that the rights of kings and of men are incompatible.—Our government at the Revolution began upon their harmonious incorporation; and Mr. Locke defended King William's title upon no other principle than the rights of man. It is from the revered work of Mr. Locke, and not from the revolution in France, that one of the papers in the evidence, the most stigmatized, most obviously flowed; for it is proved that Mr. Yorke held in his hand Mr. Locke upon Government, when he delivered his speech on the Castle Hill at Sheffield, and that he expatiated largely upon it;—well, indeed, might the witness say he expatiated largely, for there are many well-selected passages taken verbatim from the book; and here, in justice to Mr. White, let me notice the fair and honourable manner in which, in the absence of the clerk, he read this extraordinary performance. He delivered it not merely with distinctness, but in a manner so impressive, that, I believe, every man in Court was affected by it.

Gentlemen, I am not driven to defend every ex-

pression; some of them are improper undoubtedly, rash and inflammatory; but I see nothing in the whole taken together, even if it were connected with the Prisoner, that goes at all to an evil purpose in the writer. But Mr. Attorney General has remarked upon this proceeding at Sheffield (and whatever falls from a person of his rank and just estimation, deserves great attention), he has remarked that it is quite apparent they had resolved not to petition.—They had certainly resolved not *at that season* to petition, and that seems the utmost which can be maintained from the evidence. But supposing they had negatived the measure altogether; is there no way by which the people may actively associate for the purposes of a reform in Parliament, but to consider of a petition to the House of Commons? Might they not legally assemble to consider the state of their liberties, and the conduct of their representatives?—Might they not legally form Conventions or Meetings (for the name is just nothing) to adjust a plan of rational union for a wise choice of representatives when Parliament should be dissolved?—May not the people meet to consider their interests preparatory to, and independently of, a petition for any specific object?—My friend seems to consider the House of Commons as a substantive and permanent part of the constitution;—he seems to forget that the Parliament dies a natural death;—that the people then re-enter into their rights, and that the exercise of them is the most important duty that can belong to social

man:—how are such duties to be exercised with effect, on momentous occasions, but by concert and communion?—May not the people assembled in their elective districts, resolve to trust no longer those by whom they have been betrayed? May they not resolve to vote for no man who contributed by his voice to this calamitous war, which has thrown such grievous and unnecessary burdens upon them? May they not say, "We will not vote for those who "deny we are their constituents; nor for those who "question our clear and natural right to be equally "represented?"—Since it is illegal to carry up petitions, and unwise to transact any public business attended by multitudes, because it tends to tumult and disorder, may they not, for that very reason, depute, as they have done, the most trusty of their societies to meet with one another to consider, without the specific object of petitions, how they may claim, by means which are constitutional, their imprescriptible rights? And here I must advert to an argument employed by the Attorney General, that the views of the Societies towards universal suffrage, carried in themselves (however sought to be effected) an implied force upon Parliament:—for that, supposing by invading it with the vast pressure, not of the public arm, but of the public sentiment of the nation, the influence of which upon that assembly is admitted ought to be weighty, it could have prevailed upon the Commons to carry up a bill to the King for universal representation and annual Parliaments, His

Majesty was bound to reject it; and could not, without a breach of his coronation oath, consent to pass it into an act;—I cannot conceive where my friend met with this law, or what he can possibly mean by asserting that the King cannot, consistently with his coronation oath, consent to any law that can be stated or imagined, presented to him as the act of the two Houses of Parliament:—he could not, indeed, consent to a bill sent up to him framed by a Convention of Delegates assuming legislative functions; and if my friend could have proved that the Societies, sitting as a Parliament, had sent up such a bill to His Majesty, I should have thought the Prisoner, as a member of such a parliament, was at least in a different situation from that in which he stands at present: but as this is not one of the chimeras whose existence is contended for, I return back to ask, upon what authority it is maintained, that universal representation and annual Parliaments could not be consented to by the King, in conformity to the wishes of the other branches of the Legislature:—on the contrary, one of the greatest men that this country ever saw considered universal representation to be such an inherent part of the constitution, as that the King himself might grant it by his prerogative, even without the Lords and Commons; and I have never heard the position denied upon any other footing than the Union with Scotland.—But be that as it may, it is enough for my purpose that the maxim, that the King might grant universal representation, as a right be-

fore inherent in the whole people to be represented, stands upon the authority of Mr. Locke, the man, next to Sir Isaac Newton, of the greatest strength of understanding that England, perhaps, ever had; high too in the favour of King William, and enjoying one of the most exalted offices in the state.—Mr. Locke says, book 2d, ch. 13, sect. 157 and 158—"Things of this world are in so constant a "flux, that nothing remains long in the same state. "Thus people, riches, trade, power, change their "stations, flourishing mighty cities come to ruin, "and prove, in time, neglected desolate corners, "whilst other unfrequented places grow into popu-"lous countries, filled with wealth and inhabitants. "But things not always changing equally, and pri-"vate interest often keeping up customs and privi-"leges, when the reasons of them are ceased, it "often comes to pass, that in governments, where "part of the legislative consists of *representa-"tives* chosen by the people, that in tract of time "this *representation* becomes very *unequal* and dis-"proportionate to the reasons it was at first esta-"blished upon. To what gross absurdities the fol-"lowing of custom, when reason has left it, may "lead, we may be satisfied, when we see the bare "name of a town, of which there remains not so "much as the ruins, where scarce so much housing "as a sheep-cote, or more inhabitants than a shep-"herd is to be found, sends *as many representatives* "to the grand assembly of law-makers, as a whole

" county, numerous in people, and powerful in riches.
" This strangers stand amazed at, and every one must
" confess needs a remedy."

" *Salus populi suprema lex*, is certainly so just
" and fundamental a rule, that he who sincerely fol-
" lows it, cannot dangerously err. If, therefore, the
" executive, who has the power of convoking the le-
" gislative, observing rather the true proportion, than
" fashion of *representation*, regulates, not by old cus-
" tom, but true reason, the *number of members* in
" all places that have a right to be distinctly repre-
" sented, which no part of the people, however in-
" corporated, can pretend to, but in proportion to
" the assistance which it affords to the public, it can-
" not be judged to have set up a new legislative, but
" to have restored the old and true one, and to have
" rectified the disorders which succession of time had
" insensibly, as well as inevitably introduced; for it
" being the interest as well as intention of the people
" to have a fair and *equal representative*, whoever
" brings it nearest to that, is an undoubted friend to,
" and establisher of the government, and cannot
" miss the consent and approbation of the commu-
" nity; *prerogative* being nothing but a power, in
" the hands of the Prince, to provide for the public
" good, in such cases, which depending upon unfore-
" seen and uncertain occurrences, certain and unal-
" terable laws could not safely direct; whatsoever
" shall be done manifestly for the good of the people,
" and the establishing the government upon its true

"foundations, is, and always will be, just prerogative. "Whatsoever cannot but be acknowledged to be of "advantage to the society, and people in general, "upon just and lasting measures, will always, when "done, justify itself; and whenever the people shall "choose their *representatives upon* just and undeniably "*equal measures*, suitable to the original frame of "the government, it cannot be doubted to be the "will and act of the society, whoever permitted or "caused them so to do."—But as the very idea of universal suffrage seems now to be considered not only to be dangerous to, but absolutely destructive of monarchy, you certainly ought to be reminded that the book which I have been reading, and which my friend kindly gives me a note to remind you of, was written by its immortal author in defence of King William's title to the Crown; and when Dr. Sacheverel ventured to broach those doctrines of power and non-resistance, which, under the same establishments, have now become so unaccountably popular; he was impeached by the people's representatives for denying their rights, which had been asserted and established at the glorious æra of the Revolution.

Gentlemen, if I were to go through all the matter which I have collected upon this subject, or which obtrudes itself upon my mind, from common reading, in a thousand directions, my strength would fail long before my duty was fulfilled; I had very little when I came into Court, and I have abundantly less

already; I must, therefore, manage what remains to the best advantage. I proceed, therefore, to take a view of such parts of the evidence as appear to me to be the most material for the proper understanding of the case; I have had no opportunity of considering it, but in the interval which the indulgence of the Court, and your own, has afforded me, and that has been but for a very few hours this morning: but it occurred to me, that the best use I could make of the time given to me was (if possible) to disembroil this chaos; to throw out of view every thing irrelevant, which only tended to bring chaos back again —to take what remained in order of time—to select certain stages and resting-places—to review the effect of the transactions, as brought before us, and then to see how the written evidence is explained by the testimony of the witnesses who have been examined.

The origin of the Constitutional Society not having been laid in evidence before you, the first thing both in point of date, and as applying to show the objects of the different bodies, is the original address and resolution of the Corresponding Society on its first institution, and when it first began to correspond with the other, which had formerly ranked amongst its members so many illustrious persons; and before we look to the matter of this institution, let us recollect that the objects of it were given without reserve to the public, as containing the principles of the association; and I may begin with demanding, whether the annals of this country, or indeed the universal

history of mankind, afford an instance of a plot and conspiracy voluntarily given up in its very infancy to Government, and the whole public, and of which, to avoid the very thing that has happened, the arraignment of conduct at a future period, and the imputation of secrecy where no secret was intended, a regular notice by letter was left with the Secretary of State, and a receipt taken at the public office, as a proof of the publicity of their proceeding, and the sense they entertained of their innocence. For the views and objects of the Society, we must look to the institution itself, which you are, indeed, desired to look at by the Crown; for their intentions are not considered as deceptious in this instance, but as plainly revealed by the very writing itself.

Gentlemen, there was a sort of silence in the Court—I do not say an affected one, for I mean no possible offence to any one, but there seemed to be an effect expected from beginning, not with the address itself, but with the very bold motto to it, though in verse:

"Unblest by virtue, Government a league
"Becomes, a circling junto of the great
"To rob by law; Religion mild, a yoke
"To tame the stooping soul, a trick of State
"To mask their rapine, and to share the prey.
"Without it, what are senates, but a face
"Of consultation deep and reason free,
"While the determin'd voice and heart are sold?
"What, boasted freedom, but a sounding name?
"And what election, but a market vile,
"Of slaves self-barter'd?"

I almost fancy I heard them say to me, What think you of that to set out with?—Show me the parallel of that.—Gentlemen, I am sorry, for the credit of the age we live in, to answer, that it is difficult to find the parallel; because the age affords no such poet as he who wrote it:—these are the words of Thomson;—and it is under the banners of his proverbial benevolence, that these men are supposed to be engaging in plans of anarchy and murder; under the banners of that great and good man, whose figure you may still see in the venerable shades of Hagley, placed there by the virtuous, accomplished, and public-spirited Lyttelton:—the very poem too, written under the auspices of His Majesty's Royal Father, when heir-apparent to the crown of Great Britain, nay, within the very walls of Carlton House, which afforded an asylum to matchless worth and genius in the person of this great poet: it was under the roof of A PRINCE OF WALES that the poem of LIBERTY was written;—and what better return could be given to a Prince for his protection, than to blazon, in immortal numbers, the only sure title to the Crown he was to wear—THE FREEDOM OF THE PEOPLE OF GREAT BRITAIN? And it is to be assumed, forsooth, in the year 1794, that the unfortunate Prisoner before you was plotting treason and rebellion, because, with a taste and feeling beyond his humble station, his first proceeding was ushered into view, under the hallowed sanction of this admirable person, the friend and the defender of the British constitution; whose

countrymen are preparing at this moment (may my name descend amongst them to the latest posterity!) to do honour to his immortal memory. Pardon me, Gentlemen, for this desultory digression—I must express myself as the current of my mind will carry me.

If we look at the whole of the institution itself, it exactly corresponds with the plan of the Duke of Richmond, as expressed in the letters to Colonel Sharman, and to the High Sheriff of Sussex: this plan they propose to follow, in a public address to the nation, and all their resolutions are framed for its accomplishment; and I desire to know in what they have departed from either, and what they have done which has not been done before, without blame or censure, in the pursuance of the same object. I am not speaking of the libels they may have written, which the law is open to punish, but what part of their conduct has, as applicable to the subject in question, been unprecedented,—I have, at this moment, in my eye, an honourable friend of mine, and a distinguished member of the House of Commons, who, in my own remembrance, I believe in 1780, sat publicly at Guildhall, with many others, some of them magistrates of the city, as a Convention of delegates, for the same objects; and, what is still more in point, just before the Convention began to meet at Edinburgh, whose proceedings have been so much relied on, there was a Convention regularly assembled, attended by the delegates from all the coun-

ties of Scotland, for the express and avowed purpose of altering the constitution of Parliament; not by rebellion, but by the same means employed by the Prisoner:—the Lord Chief Baron of Scotland sat in the chair, and was assisted by some of the first men in that country, and, amongst others, by an honourable person to whom I am nearly allied, who is at the very head of the Bar in Scotland, and most avowedly attached to the law and the constitution *. These gentlemen, whose good intentions never fell into suspicion, had presented a petition for the alteration of election laws, which the House of Commons had rejected, and on the spur of that very rejection they met in a Convention at Edinburgh in 1793; and the style of their first meeting was, "A Convention of "Delegates, chosen from the Counties of Scotland, "*for altering and amending the Laws concerning* "*Elections*"—not for considering how they might be best amended—not for petitioning Parliament to amend them; but for altering and amending the election laws.—These meetings were regularly published, and I will prove, that their first resolution, as I have read it to you, was brought up to London, and delivered to the editor of the Morning Chronicle by Sir Thomas Dundas, lately created a peer of Great Britain, and paid for by him as a public advertisement. Now, suppose any man had imputed treason or sedition to these honourable persons, what

* The Hon. Henry Erskine, Mr. Erskine's brother, then Dean of the Faculty of Advocates, at Edinburgh.

would have been the consequence? They would have been considered as infamous libellers and traducers, and deservedly hooted out of civilized life:—why then are different constructions to be put upon similar transactions?—Why is every thing to be held up as *bonâ fide* when the example is set, and *malâ fide* when it is followed?—Why have I not as good a claim to take credit for honest purpose in the poor man I am defending, against whom not a contumelious expression has been proved, as when we find the same expressions in the mouths of the Duke of Richmond or Mr. Burke?—I ask nothing more from this observation, than that a sober judgment may be pronounced from the quality of the acts which can be fairly established; each individual standing responsible only for his own conduct, instead of having our imaginations tainted with cant phrases, and a farrago of writings and speeches, for which the Prisoner is not responsible, and for which the authors, if they be criminal, are liable to be brought to justice.

But it will be said, Gentlemen, that all the constitutional privileges of the people are conceded; that their existence was never denied or invaded; and that their right to petition and to meet for the expression of their complaints, founded or unfounded, was never called in question; these, it will be said, are the rights of subjects; but that the rights of man are what alarms them: every man is considered as a traitor who talks about the rights of man; but this

bugbear stands upon the same perversion with its fellows.

The rights of man are the foundation of all government, and to secure them is the only reason of men's submitting to be governed;—it shall not be fastened upon the unfortunate Prisoner at the bar, nor upon any other man, that because these natural rights were asserted in France, by the destruction of a government which oppressed and subverted them, a process happily effected here by slow and imperceptible improvements, that therefore they can only be so asserted in England, where the government, through a gradation of improvement, is well calculated to protect them. We are, fortunately, not driven in this country to the terrible alternatives which were the unhappy lot of France, because we have had a happier destiny in the forms of a free constitution: this, indeed, is the express language of many of the papers before you, that have been complained of; particularly in one alluded to by the Attorney General, as having been written by a gentleman with whom I am particularly acquainted; and though in that spirited composition there are, perhaps, some expressions proceeding from warmth which he may not desire me critically to justify, yet I will venture to affirm, from my own personal knowledge, that there is not a man in Court more honestly public-spirited and zealously devoted to the constitution of King, Lords, and Commons, than the honourable gentleman I allude to (Felix Vaughan, Esq.

barrister at law): it is the phrase, therefore, and not the sentiment expressed by it, that can alone give justifiable offence;—it is, it seems, a *new* phrase commencing in revolutions, and never used before in discussing the rights of British subjects, and therefore can only be applied in the sense of those who framed it;—but this is so far from being the truth, that the very phrase sticks in my memory, from the memorable application of it to the rights of subjects, under this and every other establishment, by a gentleman whom you will not suspect of using it in any other sense. The rights of man were considered by Mr. Burke, at the time that the great uproar was made upon a supposed invasion of the East India Company's charter, to be the foundation of, and paramount to all, the laws and ordinances of a state:—the ministry, you may remember, were turned out for Mr. Fox's India Bill, which their opponents termed an attack up the chartered rights of man, or, in other words, upon the abuses supported by a monopoly in trade.—Hear the sentiments of Mr. Burke, when the NATURAL and CHARTERED rights of men are brought into contest. Mr. Burke, in his speech in the House of Commons, expressed himself thus: "The first objection is, that the bill is an attack on the chartered rights of men.—As to this objection, I must observe that the phrase of 'the chartered rights *of men*,' is full of affectation; and very unusual in the discussion of privileges conferred by charters of the present description. But

"it is not difficult to discover what end that am-
"biguous mode of expression, so often reiterated, is
"meant to answer.

"The rights of *men*, that is to say, the *natural*
"*rights of mankind*, are indeed sacred things; and
"if any public measure is proved mischievously to
"affect them, the objection ought to be fatal to that
"measure, even if no charter at all could be set up
"against it. And if these natural rights are further
"affirmed and declared by express covenants, clearly
"defined and secured against chicane, power, and
"authority, by written instruments and positive en-
"gagements, they are in a still better condition;
"they then partake not only of the sanctity of the
"object so secured, but of that solemn public faith
"itself, which secures an object of such importance.
"Indeed, this formal recognition, by the sovereign
"power, of an original right in the subject, can
"never be subverted, but by rooting up the holding
"radical principles of government, and even of so-
"ciety itself."

The Duke of Richmond also, in his public letter to the High Sheriff of Sussex, rests the rights of the people of England upon the same horrible and damnable principle of the rights of man. Let Gentlemen, therefore, take care they do not pull down the very authority which they come here to support;—let them remember, that His Majesty's family was called to the Throne upon the very principle, that the ancient Kings of this country had violated these sacred

trusts;—let them recollect too in what the violation was charged to exist;—it was charged by the Bill of Rights to exist in cruel and infamous trials; in the packing of juries; and in disarming the people, whose arms are their unalienable refuge against oppression.—But did the people of England assemble to make this declaration?—No!—because it was unnecessary.—The sense of the people, against a corrupt and scandalous government, dissolved it, by almost the ordinary forms by which the old government itself was administered.—King William sent his writs to those who had sat in the former Parliament: but will any man, therefore, tell me, that that Parliament reorganized the government without the will of the people? and that it was not their consent which entailed on King William a particular inheritance, to be enjoyed under the dominion of the law? Gentlemen, it was the denial of these principles, asserted at the Revolution in England, that brought forward the author of the Rights of Man, and stirred up this controversy which has given such alarm to Government:—but for this the literary labours of Mr. Paine had closed.—He asserts it himself in his book, and every body knows it. It was not the French revolution, but Mr. Burke's Reflections upon it, followed up by another work on the same subject, *as it regarded things in England*, which brought forward Mr. Paine, and which rendered his works so much the object of attention in this country. Mr. Burke denied positively the very

foundation upon which the Revolution of 1688 must stand for its support, viz. the right of the people to change their government; and he asserted, in the teeth of His Majesty's title to the Crown, that no such right in the people existed;—this is the true history of the Second Part of the Rights of Man.—The First Part had little more aspect to this country than to Japan;—it asserted the right of the people of France to act as they had acted, but there was little which pointed to it as an example for England.—There had been a despotic authority in France which the people had thrown down, and Mr. Burke seemed to question their right to do so:—Mr. Paine maintained the contrary in his answer; and having imbibed the principles of republican government, during the American revolution, he mixed with the controversy many coarse and harsh remarks upon monarchy as established, even in England, or in any possible form. But this was collateral to the great object of his work, which was to maintain the right of the people to choose their government;—this was the right which was questioned, and the assertion of it was most interesting to many who were most strenuously attached to the English government. For men may assert the right of every people to choose their government without seeking to destroy their own. This accounts for many expressions imputed to the unfortunate Prisoners, which I have often uttered myself, and shall continue to utter every day of my life, and call upon the spies of Go-

vernment to record them:—I WILL SAY ANY WHERE, WITHOUT FEAR, NAY, I WILL SAY HERE, WHERE I STAND, THAT AN ATTEMPT TO INTERFERE, BY DESPOTIC COMBINATION AND VIOLENCE, WITH ANY GOVERNMENT WHICH A PEOPLE CHOOSE TO GIVE TO THEMSELVES, WHETHER IT BE GOOD OR EVIL, IS AN OPPRESSION AND SUBVERSION OF THE NATURAL AND UNALIENABLE RIGHTS OF MAN; AND THOUGH THE GOVERNMENT OF THIS COUNTRY SHOULD COUNTENANCE SUCH A SYSTEM, IT WOULD NOT ONLY BE STILL LEGAL FOR ME TO EXPRESS MY DETESTATION OF IT, AS I HERE DELIBERATELY EXPRESS IT, BUT IT WOULD BECOME MY INTEREST AND MY DUTY. FOR, IF COMBINATIONS OF DESPOTISM CAN ACCOMPLISH SUCH A PURPOSE, WHO SHALL TELL ME, WHAT OTHER NATION SHALL NOT BE THE PREY OF THEIR AMBITION?—Upon the very principle of denying to a people the right of governing themselves, how are we to resist the French, should they attempt by violence to fasten their government upon us? Or, what inducement would there be for resistance to preserve laws, which are not, it seems, our own, but which are unalterably imposed upon us? The very argument strikes, as with a palsy, the arm and vigour of the nation. I hold dear the privileges I am contending for, not as privileges hostile to the constitution, but as necessary for its preservation; and if the French were to intrude by force upon the government of our own free choice, I should leave these papers, and return to a profession that, perhaps, I better understand.

The next evidence relied on, after the institution of the Corresponding Society, is a letter written to them from Norwich, dated the 11th of November 1792, with the answer, dated the 26th of the same month:—It is asserted, that this correspondence shows, they aimed at nothing less than the total destruction of the monarchy, and that they, therefore, veil their intention under covert and ambiguous language. I think, on the other hand, and I shall continue to think so, as long as I am capable of thought, that it was impossible for words to convey more clearly the explicit avowal of their original plan for a constitutional reform in the House of Commons. This letter from Norwich, after congratulating the Corresponding Society on its institution, asks several questions arising out of the proceedings of other societies in different parts of the kingdom, which they profess not thoroughly to understand.

The Sheffield people (they observe) seemed at first determined to support the Duke of Richmond's plan only, but that they had afterwards observed a disposition in them to a more moderate plan of reform proposed by the Friends of the People in London, whilst the Manchester people, by addressing Mr. Paine (whom the Norwich people had not addressed), seemed to be intent on republican principles only; they therefore put a question, not at all of distrust, or suspicion, but *bonâ fide*, if ever there was good faith between men, whether the Corresponding Society meant to be satisfied with the plan of the Duke of

Richmond? or, whether it was their private design to rip up monarchy by the roots, and place democracy in its stead? Now hear the answer, from whence it is inferred that this last is their intention: they begin their answer with recapitulating the demand of their correspondent, as regularly as a tradesman, who has had an order for goods, recapitulates the order, that there may be no ambiguity in the reference or application of the reply, and then they say, as to the objects they have in view they refer them to their addresses. "You will thereby see "that they mean to disseminate political knowledge, "and thereby engage the judicious part of the nation "to demand the RECOVERY of their LOST rights in "ANNUAL Parliaments; the members of these Par-"liaments owing their election to unbought suf-"frages." They then desire them to be careful to avoid all dispute, and say to them, Put monarchy, democracy, and even religion, quite aside; and "Let "your endeavours go to increase the numbers of "those who desire a full and equal representation of "the people, and leave to a Parliament, so chosen, "to reform all existing abuses; and if they don't an-"swer, at the year's end, you may choose others in "their stead." The Attorney General says, this is lamely expressed;—I, on the other hand, say, that it is not only not lamely expressed, but anxiously worded to put an end to dangerous speculations.—Leave all theories undiscussed;—do not perplex yourselves with abstract questions of government;—

endeavour practically to get honest representatives,—and if they deceive you—then, what?—bring on a revolution?—No!—Choose others in their stead. They refer also to their address, which lay before their correspondent, which address expresses itself thus: "Laying aside all claim to originality, we claim no "other merit than that of reconsidering and verify-"ing what has already been urged in our common "cause by the Duke of Richmond and Mr. Pitt, and "their then honest party."

When the language of the letter, which is branded as ambiguous, thus stares them in the face as an undeniable answer to the charge, they then have recourse to the old refuge of *mala fides*; all this they say is but a cover for hidden treason. But I ask you, Gentlemen, in the name of God, and as fair and honest men, what reason upon earth there is to suppose, that the writers of this letter did not mean what they expressed? Are you to presume in a Court of Justice, and upon a trial for life, that men write with duplicity in their most confidential correspondence, even to those with whom they are confederated? Let it be recollected also, that if this correspondence was calculated for deception, the deception must have been understood and agreed upon by all parties concerned;—for otherwise you have a conspiracy amongst persons who are at cross purposes with one another: consequently the conspiracy, if this be a branch of it, is a conspiracy of thousands and ten thousands, from one end of the

kingdom to the other, who are all guilty, if any of the Prisoners are guilty:—upwards of forty thousand persons, upon the lowest calculation, must alike be liable to the pains and penalties of the law, and hold their lives as tenants at will of the Ministers of the Crown.—In whatever aspect, therefore, this prosecution is regarded, new difficulties and new uncertainties and terrors surround it.

The next thing in order which we have to look at, is the Convention at Edinburgh. It appears that a letter had been written by Mr. Skirving, who was connected with reformers in Scotland proceeding avowedly upon the Duke of Richmond's plan, proposing that there should be a Convention from the societies assembled at Edinburgh:—now you will recollect, in the opening, that the Attorney General considered all the great original sin of this conspiracy and treason to have originated with the societies in London—that the country societies were only tools in their hands, and that the Edinburgh Convention was the commencement of their projects; and yet it plainly appears that this Convention originated from neither of the London societies, but had its beginning at Edinburgh, where, just before, a Convention had been sitting for the reform in Parliament, attended by the principal persons in Scotland; and surely, without adverting to the nationality so peculiar to the people of that country, it is not at all suspicious, that, since they were to hold a meeting for similar objects, they should make use of the same style for

their association; and that their deputies should be called delegates, when delegates had attended the other Convention from all the counties, and whom they were every day looking at in their streets, in the course of the very same year that Skirving wrote his letter on the subject. The views of the Corresponding Society, as they regarded this Convention, and consequently the views of the Prisoner, must be collected from the written instructions to the delegates, unless they can be falsified by matter which is collateral. If I constitute an agent, I am bound by what he does, but always with this limitation, for what he does *within the scope of his agency*:—if I constitute an agent to buy horses for me, and he commits high treason, it will not, I hope, be argued that I am to be hanged.—If I constitute an agent for any business that can be stated, and he goes beyond his instructions, he must answer for himself beyond their limits; for beyond them he is not my representative.—The acts done, therefore, at the Scotch Convention, whatever may be their quality, are evidence to show that, in point of fact, a certain number of people got together, and did any thing you choose to call illegal; but, as far as it concerns me, if I am not present, you are limited by my instructions, and have not advanced a single step upon your journey to convict me: the instructions to Skirving have been read, and speak for themselves; they are strictly legal, and pursue the avowed object of the Society; and it will be for the Solicitor General to point out, in his reply,

any counter or secret instructions, or any collateral conduct, contradictory of the good faith with which they were written. The instructions are in these words—"The delegates are instructed, on the part "of this Society, to assist in bringing forward and "supporting any *constitutional* measure for procuring "a real representation of the Commons of Great "Britain." What do you say, Gentlemen, to this language?—how are men to express themselves who desire a constitutional reform? The object and the mode of effecting it were equally legal—this is most obvious from the conduct of the Parliament of Ireland, acting under directions from England; they passed the Convention Bill, and made it only a misdemeanor, knowing that, by the law as it stood, it was no misdemeanor at all. Whether this statement may meet with the approbation of others, I care not; I know the fact to be so, and I maintain that you cannot prove upon the Convention which met at Edinburgh, and which is charged to-day with high treason, one thousandth part of what, at last, worked up Government in Ireland to the pitch of voting it a misdemeanor.

Gentlemen, I am not vindicating any thing that can promote disorder in the country, but I am maintaining that the worst possible disorder that can fall upon a country is, when subjects are deprived of the sanction of clear and unambiguous laws.—If wrong is committed, let punishment follow according to the measure of that wrong;—if men are troublent, let

them be visited by the laws according to the measure of their turbulency:—if they write libels upon Government, let them be punished according to the quality of those libels:—but you must not, and will not, because the stability of the monarchy is an important concern to the nation, confound the nature and distinctions of crimes, and pronounce that the life of the Sovereign has been invaded, because the privileges of the people have been, perhaps, irregularly and hotly asserted:—you will not, to give security to Government, repeal the most sacred laws instituted for our protection, and which are, indeed, the only consideration for our submitting at all to Government. If the plain letter of the statute of Edward the Third applies to the conduct of the Prisoners, let it in God's name be applied;—but let neither their conduct, nor the law that is to judge it, be tortured by construction; nor suffer the transaction, from whence you are to form a dispassionate conclusion of intention, to be magnified by scandalous epithets, nor overwhelmed in an undistinguishable mass of matter, in which you may be lost and bewildered, having missed the only parts which could have furnished a clue to a just or rational judgment.

Gentlemen, this religious regard for the liberty of the subject, against constructive treason, is well illustrated by Dr. Johnson, the great author of our English Dictionary, a man remarkable for his love of order, and for high principles of government, but who had the wisdom to know that the great end of

government, in all its forms, is the security of liberty and life under the law. This man, of masculine mind, though disgusted at the disorder which Lord George Gordon created, felt a triumph in his acquittal, and exclaimed, as we learn from Mr. Boswell, "I hate Lord G. Gordon, but I am glad he was not "convicted of this constructive treason; for, though "I hate him, I love my country and myself."—This extraordinary man, no doubt, remembered with Lord Hale, that, when the law is broken down, injustice knows no bounds, but runs as far as the wit and invention of accusers, or the detestation of persons accused, will carry it.—You will pardon this almost perpetual recurrence to these considerations; but the present is a season when I have a right to call upon you by every thing sacred in humanity and justice;—by every principle which ought to influence the heart of man, to consider the situation in which I stand before you.—I stand here for a poor, unknown, unprotected individual, charged with a design to subvert the government of the country, and the dearest rights of its inhabitants;—a charge which has collected against him a force sufficient to crush to pieces any private man;—the whole weight of the Crown presses upon him; Parliament has been sitting upon ex-parte evidence for months together; and rank and property is associated, from one end of the kingdom to the other, to avert the supposed consequences of the treason. I am making no complaint of this; but surely it is an awful summons to impar-

tial attention;—surely it excuses me for so often calling upon your integrity and firmness to do equal justice between the Crown, so supported, and an unhappy Prisoner, so unprotected.

Gentlemen, I declare that I am utterly astonished, on looking at the clock, to find how long I have been speaking; and that, agitated and distressed as I am, I have yet strength enough remaining for the remainder of my duty;—at every peril of my health it shall be exerted: for although, if this cause should miscarry, I know I shall have justice done me for the honesty of my intentions; yet what is that to the public and posterity?—What is it to them, when, if upon this evidence there can stand a conviction for high treason, it is plain that no man can be said to have a life which is his own?—For how can he possibly know by what engines it may be snared, or from what unknown sources it may be attacked and overpowered?—Such a monstrous precedent would be as ruinous to the King as to his subjects. We are in a crisis of our affairs; which, putting justice out of the question, calls in sound policy for the greatest prudence and moderation. At a time when other nations are disposed to subvert *their* establishments, let it be our wisdom to make the subject feel the practical benefits of *our own*: let us seek to bring good out of evil:—the distracted inhabitants of the world will fly to us for sanctuary, driven out of their countries from the dreadful consequences of not attending to reasonable reform in government;—we

times to the folly of suffering corruptions to continue, till the whole fabric of society is dissolved and tumbles into ruin. Landing upon our shores, they will feel the blessing of security, and they will discover in what it consists; they will read this trial, and their hearts will palpitate at your decision:—they will say to one another, and their voices will reach to the ends of the earth; May the constitution of England endure for ever!—the sacred and yet remaining sanctuary for the oppressed:—here, and here only, the lot of man is cast in security;—what though authority, established for the ends of justice, may lift itself up against it;—what though the House of Commons itself should make an ex-parte declaration of guilt;—what though every species of art should be employed to entangle the opinions of the people, which in other countries would be inevitable destruction;—yet in England, in enlightened England, all this will not pluck a hair from the head of innocence;—the Jury will still look steadfastly to the law, as the great polar star, to direct them in their course;—as prudent men they will set no example of disorder, nor pronounce a verdict of censure on authority, or of approbation or disapprobation beyond their judicial province:—but, on the other hand, they will make no political sacrifice, but deliver a plain, honest man, from the toils of injustice.—When your verdict is pronounced, this will be the judgment of the world;—and if any amongst ourselves are alienated in their affections to Government, nothing will be so likely

to reclaim them:—they will say—Whatever we have lost of our control in Parliament, we have yet a sheet-anchor remaining to hold the vessel of the state amidst contending storms:—we have still, thank God, a sound administration of justice secured to us, in the independence of the Judges, in the rights of enlightened Juries, and in the integrity of the Bar;—ready at all times, and upon every possible occasion, whatever may be the consequences to themselves, to stand forward in defence of the meanest man in England, when brought for judgment before the laws of the country.

To return to this Scotch Convention.—Their papers were all seized by Government. What their proceedings were they best know: we can only see what parts they choose to show us; but, from what we have seen, does any man seriously believe, that this meeting at Edinburgh meant to assume and to maintain by force all the functions and authorities of the State?—Is the thing within the compass of human belief?—If a man were offered a dukedom, and twenty thousand pounds a year, for trying to believe it be might, say he believed it, as what will not man say for gold and honours? but he never in fact could believe that this Edinburgh meeting was a Parliament for Great Britain;—how indeed could he, from the proceedings of a few peaceable, unarmed men, discussing, in a constitutional manner, the means of obtaining a reform in Parliament; and who, to maintain the club, or whatever you choose to call it, col-

lected a little money from people who were well disposed to the cause; a few shillings one day, and perhaps as many pence another?—I think, as far as I could reckon it up, when the report, from this great committee of supply, was read to you, I counted that there had been raised, in the first session of this parliament, fifteen pounds, from which indeed you must deduct two bad shillings, which are literally noticed in the account.—Is it to be endured, Gentlemen, that men should gravely say, that this body assumed to itself the offices of Parliament?—that a few harmless people, who sat, as they profess, to obtain a full representation of the people, were themselves, even in their own imaginations, the complete representation which they sought for?—Why should they sit from day to day to consider how they might obtain what they had already got?—If their object was an universal representation of the whole people, how is it credible they could suppose that universal representation to exist in themselves—in the representatives of a few Societies, instituted to obtain it for the country at large?—If they were themselves the nation, why should the language of every resolution be, that reason ought to be their grand engine for the accomplishment of their object, and should be directed to convince the nation to speak to Parliament in a voice that must be heard? The proposition, therefore, is too gross to cram down the throats of the English people, and this is the Prisoner's security. Here again he feels the advantage of our free

administration of justice: this proposition, on which so much depends, is not to be reasoned upon on parchment, to be delivered privately to magistrates for private judgment: no—he has the privilege of appealing aloud, as he now appeals by me, to an enlightened assembly, full of eyes, and ears, and intelligence, where speaking to a Jury is, in a manner, speaking to a nation at large, and flying for sanctuary to its universal justice.

Gentlemen, the very work of Mr. Paine, under the banners of which this supposed rebellion was set on foot, refutes the charge it is brought forward to support: for Mr. Paine, in his preface, and throughout his whole book, reprobates the use of force against the most evil governments; the contrary was never imputed to him.—If his book had been written in pursuance of the design of force and rebellion, with which it is now sought to be connected, he would, like the Prisoners, have been charged with an overt act of high treason; but such a proceeding was never thought of. Mr. Paine was indicted for a misdemeanor, and the misdemeanor was argued to consist not in the falsehood that a nation has no right to choose or alter its government, but in seditiously exciting the nation, without cause, to exercise that right. A learned Lord (Lord Chief Baron Macdonald), now on this Bench, addressed the Jury as Attorney General upon this principle: his language was this:—The question is not, what the people have a right to do, for the people are, undoubtedly, the

foundation and origin of all government; but the charge is, for seditiously calling upon the people, without cause or reason, to exercise a right which would be sedition, supposing the right to be in them: for though the people might have a right to do the thing suggested, and though they are not excited to the doing it by force and rebellion, yet, as the suggestion goes to unsettle the State, the propagation of such doctrines is seditious. There is no other way, undoubtedly, of describing that charge. I am not here entering into the application of it to Mr. Paine, whose Counsel I was, and who has been tried already. To say that the people have a right to change their government, is indeed a truism; every body knows it, and they exercised the right, otherwise the King could not have had his establishment amongst us. If, therefore, I stir up individuals to oppose by force the general will, seated in the government, it may be treason; but to induce changes in a government, by exposing to a whole nation its errors and imperfections, can have no bearing upon such an offence: —the utmost which can be made of it is a misdemeanor, and that too depending wholly upon the judgment which the Jury may form of the intention of the writer.—The Courts, for a long time, indeed, assumed to themselves the province of deciding upon this intention, as a matter of law, conclusively inferring it from the act of publication: I say the Courts *assumed* it, though it was not the doctrine of Lord Mansfield, but handed down to him from the prece-

dents of Judges before his time: but even in that case, though the publication was the crime, not, as in this case, the intention, and though the quality of the thing charged, when not rebutted by evidence for the Defendant, had so long been considered to be a legal inference, yet the Legislature, to support the province of the Jury, and in tenderness for liberty, has lately altered the law upon this important subject. If, therefore, we were not assembled, as we are, to consider of the existence of high treason against the King's life, but only of a misdemeanor for seditiously disturbing his title and establishment, by the proceedings for a reform in Parliament, I should think the Crown, upon the very principle which, under the libel law, must now govern such a trial, quite as distant from its mark; because, in my opinion, there is no way by which His Majesty's title can more firmly be secured, or by which (above all, in our times) its permanency can be better established, than by promoting a more full and equal representation of the people, by peaceable means; and by what other means has it been sought, in this instance, to be promoted?

Gentlemen, when the members of this Convention were seized, did they attempt resistance?—Did they insist upon their privileges as subjects under the laws, or as a parliament enacting laws for others?—If they had said or done any thing to give colour to such an idea, there needed no spies to convict them; the Crown could have given ample indemnity for

evidence from amongst themselves: the Societies consisted of thousands and thousands of persons, some of whom, upon any calculation of human nature, might have been produced: the delegates, who attended the meetings, could not be supposed to have met, with a different intention from those who sent them; and, if the answer to that is, that the constituents are involved in the guilt of their representatives, we get back to the monstrous position *which I observed you before to shrink back from, with visible horror, when I stated it*; namely, the involving in the fate and consequence of this single trial every man, who corresponded with these Societies, or who, as a member of Societies in any part of the kingdom, consented to the meeting which was assembled, or which was in prospect:—but, I thank God, I have nothing to fear from such hydras, when I see before me such just and honourable men to hold the balance of justice.

Gentlemen, the dissolution of this parliament speaks as strong a language as its conduct when sitting. How was it dissolved? When the magistrates entered, Mr. Skirving was in the chair, which he refused to leave:—he considered and asserted his conduct to be legal, and therefore informed the magistrate he must exercise his authority, that the dispersion might appear to be involuntary, and that the subject, disturbed in his rights, might be entitled to his remedy.—The magistrate on this took Mr. Skirving by the shoulder, who immediately obeyed; the

chair was quitted in a moment, and this great parliament broke up. What was the effect of all this proceeding at the time, when whatever belonged to it must have been best understood?—Were any of the parties indicted for high treason?—Were they indicted even for a breach of the peace in holding the Convention?—None of these things.—The law of Scotland, arbitrary as it is, was to be disturbed to find a name for their offence, and the rules of trial to be violated to convict them:—they were denied their challenges to their Jurors, and other irregularities were introduced, so as to be the subject of complaint in the House of Commons.—Gentlemen, in what I am saying, I am not standing up to vindicate all that they published during these proceedings, more especially those which were written in consequence of the trials I have just alluded to; but allowance must be made for a state of heat and irritation:—they saw men whom they believed to be persecuted for what they believed to be innocent;—they saw them the victims of sentences which many would consider as equivalent to, if not worse than, judgment of treason: sentences which, at all events, had never existed before, and such as, I believe, never will again with impunity.—But since I am on the subject of *intention*, I shall conduct myself with the same moderation which I have been prescribing; I will cast no aspersions, but shall content myself with lamenting that these judgments were productive of consequences, which rarely follow from authority discreetly

exercised. How easy is it then to dispose of as much of the evidence as consumed half a day in the anathemas against the Scotch Judges! It appears that they came to various resolutions concerning them; some good, some bad, and all of them irregular. Amongst others they compare them to Jefferies, and wish that they, who imitate his example, may meet his fate.—What then?—Irreverend expressions against Judges are not acts of high treason!—If they had assembled round the Court of Justiciary, and hanged them in the execution of their offices, it would not have been treason within the statute.—I am no advocate for disrespect to Judges, and think that it is dangerous to the public order; but, putting aside the insult upon the Judges now in authority, the reprobation of Jefferies is no libel, but an awful and useful memento to wicked men. Lord Chief Justice Jefferies denied the privilege of English law to an innocent man. He refused it to Sir Thomas Armstrong, who in vain pleaded, in bar of his outlawry, that he was out of the realm when he was exacted—(an objection so clear, that it was lately taken for granted, in the case of Mr. Purefoy). The daughter of this unfortunate person, a lady of honour and quality, came publicly into Court to supplicate for her father; and what were the effects of her supplications, and of the law in the mouth of the Prisoner? "Sir Thomas Armstrong," said Jefferies, "you may amuse yourself as much as you please "with the idea of your innocence, but you are to be

"hanged next Friday;"—and, upon the natural exclamation of a daughter at this horrible outrage against her parent, he said, "Take that woman out "of Court;" which she answered by a prayer, that God Almighty's judgments might light upon him. Gentlemen, they did light upon him; and when, after his death, which speedily followed this transaction, the matter was brought before the House of Commons, under that glorious Revolution which is asserted throughout the proceedings before you, the judgment against Sir Thomas Armstrong was declared to be a murder under colour of justice! Sir Robert Sawyer, the Attorney General, was expelled the House of Commons for his misdemeanor in refusing the writ of error,—and the executors of Jefferies were commanded to make compensation to the widow and the daughter of the deceased. These are great monuments of justice;—and, although I by no means approve of harsh expressions against authority, which tend to weaken the holdings of society, yet let us not go beyond the mark in our restraints, nor suppose that men are dangerously disaffected to the government, because they feel a sort of pride and exultation in events, which constitute the dignity and glory of their country.

Gentlemen, this resentment against the proceedings of the Courts in Scotland, was not confined to those who were the objects of them; it was not confined even to the friends of a reform in Parliament—a benevolent public, in both parts of the island, joined

them in the complaint; and a gentleman of great moderation, and a most inveterate enemy to parliamentary reform, as thinking it not an improvement of the government, but nevertheless a lover of his country and its insulted justice, made the convictions of the delegates the subject of a public inquiry:—I speak of my friend Mr. William Adam, who brought these judgments of the Scotch Judges before the House of Commons—arraigned them as contrary to law, and proposed to reverse them by the authority of Parliament. Let it not then be matter of wonder, that these poor men, who were the immediate victims of this injustice, and who saw their brethren expelled from their country by an unprecedented and questionable judgment, should feel like men on the subject, and express themselves as they felt.

Gentlemen, amidst the various distresses and embarrassments which attend my present situation, it is a great consolation that I have marked from the beginning, your vigilant attention and your capacity to understand; it is, therefore, with the utmost confidence that I ask you a few plain questions, arising out of the whole of these Scotch proceedings.—In the first place, then, do you believe it to be possible, that, if these men had really projected the Convention as a traitorous usurpation of the authorities of Parliament, they would have invited the Friends of the People, in Frith Street, to assist them, when they knew that this Society was determined not to seek the reform of the constitution, but by means

that were constitutional, and from whom they could neither hope for support nor concealment of evil purposes?—I ask you next, if their objects had been traitorous, would they have given them, without disguise or colour, to the public and to the government, in every common newspaper? And yet it is so far from being a charge against them, that they concealed their objects by hypocrisy or guarded conduct, that I have been driven to admit the justice of the complaint against them, for unnecessary inflammation and exaggeration.—I ask you further, whether, if the proceedings, thus published and exaggerated, had appeared to Government, who knew every thing belonging to them, in the light they represent them to you *to-day*, they could possibly have slept over them with such complete indifference and silence? For it is notorious, that after this Convention had been held at Edinburgh; after, in short, every thing had been said, written, and transacted, on which I am now commenting, and after Mr. Paine's book had been for above a year in universal circulation,—ay, up to the very day when Mr. Grey gave notice, in the House of Commons, of the intention of the Friends of the People for a reform in Parliament, there was not even a single indictment on the file for a misdemeanor; but, from that moment, when it was seen that the cause was not beat down or abandoned, the proclamation made its appearance, and all the proceedings that followed had their birth. —I ask you, lastly, Gentlemen, whether it be in

human nature, that a few unprotected men, conscious in their own minds, that they had been engaged and detected in a detestable rebellion to cut off the King, to destroy the administration of justice, and to subvert the whole fabric of the government, should turn round upon their country, whose ruin they had projected, and whose most obvious justice attached on them, complaining, forsooth, that their delegates, taken by magistrates, in the very act of high treason, had been harshly and illegally interrupted in a meritorious proceeding? The history of mankind never furnished an instance, nor ever will, of such extravagant, preposterous, and unnatural conduct! No, no, Gentlemen; all their hot blood was owing to their firm persuasion, dictated by conscious innocence, that the conduct of their delegates had been legal, and might be vindicated against the magistrates who obstructed them:—in that they might be mistaken;—I am not arguing that point at present: if they are hereafter indicted for a misdemeanor, and I am Counsel in that cause, I will then tell you what I think of it:—sufficient for the day is the good or evil of it,—it is sufficient, for the present one, that the legality or illegality of the business has no relation to the crime that is imputed to the Prisoner.

The next matter that is alleged against the authors of the Scotch Convention, and the societies which supported it, is, their having sent addresses of friendship to the Convention of France. These ad-

dresses are considered to be a decisive proof of republican combination, verging closely in themselves upon an overt act of treason.—Gentlemen, if the dates of these addresses are attended to, which come no lower down than November 1792, we have only to lament, that they are but the acts of private subjects, and that they were not sanctioned by the State itself.—The French nation, about that period, under their new constitution, or under their new anarchy, call it which you will, were nevertheless most anxiously desirous of maintaining peace with this country—But the King was advised to withdraw his ambassador from France, upon the approaching catastrophe of its most unfortunate Prince;—an event which, however to be deplored, was no justifiable cause of offence to Great Britain. France desired nothing but the regeneration of her own government; and if she mistook the road to her prosperity, what was that to us?—But it was alleged against her in Parliament, that she had introduced spies amongst us, and held correspondence with disaffected persons, for the destruction of our constitution: this was the charge of our Minister, and it was, therefore, held to be just and necessary, for the safety of the country, to hold France at arm's length, and to avoid the very contagion of contact with her at the risk of war.—But, Gentlemen, this charge against France was thought by many, to be supported by no better proofs than those against the Prisoner.—In the public correspondence of the Ambassador from the French King, and upon his

death, as Minister from the Convention, with His Majesty's Secretary of State, documents which lie upon the table of the House of Commons, and which may be made evidence in the cause, the Executive Council repelled with indignation all the imputations, which to this very hour are held out as the vindications of quarrel. "If there be such persons in "England," says Monsieur Chauvelin—"has not "England laws to punish them?—France disavows "them—such men are not Frenchmen."—The same correspondence conveys the most solemn assurances of friendship down to the very end of the year 1792—a period subsequent to all the correspondence and addresses complained of.—Whether these assurances were faithful or otherwise,—whether it would have been prudent to have depended on them or otherwise,—whether the war was advisable or unadvisable,—are questions over which we have no jurisdiction;—I only desire to bring to your recollection, that a man may be a friend to the rights of humanity and to the imprescriptible rights of social man, which is now a term of derision and contempt, that he may feel to the very soul for a nation beset by the sword of despots, and yet be a lover of his own country and its constitution.

Gentlemen, the same celebrated person, of whom I have had occasion to speak so frequently, is the best and brightest illustration of this truth. Mr. Burke, indeed, went a great deal further than requires to be pressed into the present argument; for

he maintained the cause of justice and of truth, against all the perverted authority and rash violence of his country, and expressed the feelings of a Christian and a patriot in the very heat of the American war; boldly holding forth our victories as defeats, and our successes as calamities and disgraces. "It "is not instantly," said Mr. Burke, "that I can be "brought to rejoice, when I hear of the slaughter "and captivity of long lists of those names which "have been familiar to my ears from my infancy, "and to rejoice that they have fallen under the "sword of strangers, whose barbarous appellations I "scarcely know how to pronounce. The glory ac- "quired at the *White Plains* by Colonel *Raille*, has "no charms for me; and I fairly acknowledge, that "I have not yet learned to delight in finding *Fort* "*Kniphausen* in the heart of the British dominions." If this had been said or written by Mr. Yorke at Sheffield, or by any other member of these societies, heated with wine at the Globe Tavern, it would have been trumpeted forth as decisive evidence of a rebellious spirit, rejoicing in the downfall of his country; yet the great author whose writings I have borrowed from, approved himself to be the friend of this nation at that calamitous crisis, and had it pleased God to open the understandings of our rulers, his wisdom might have averted the storms that are now thickening around us. We must not, therefore, be too severe in our strictures upon the opinions and feelings of men as they regard such mighty public

questions.—The interests of a nation may often be one thing, and the interests of its government another; but the interests of those who hold government for the hour is at all times different from either. At the time many of the papers before you were circulated on the subject of the war with France, many of the best and wisest men in this kingdom began to be driven by our situation to these melancholy reflections; and thousands of persons, the most firmly attached to the principles of our constitution, and who never were members of any of these societies, considered, and still consider, Great Britain as the aggressor against France;—they considered, and still consider, that she had a right to choose a government for herself, and that it was contrary to the first principles of justice, and, if possible, still more repugnant to the genius of our own free constitution, to combine with despots for her destruction: and who knows but that the external pressure upon France may have been the cause of that unheard-of state of society which we complain of?—who knows, but that, driven as she has been to exertions beyond the ordinary vigour of a nation, it has not been the parent of that unnatural and giant strength which threatens the authors of it with perdition? These are melancholy considerations, but they may reasonably, and at all events, be lawfully entertained.—We owe obedience to Government in our *actions*, but surely our *opinions* are free.

Gentlemen, pursuing the order of time, we are

arrived at length at the proposition to hold *another Convention, which, with the supposed support of it by force, are the only overt acts of high treason charged upon this record.*—For, strange as it may appear, there is no charge whatever before you of any one of those acts or writings, the evidence of which consumed so many days in reading, and which has already nearly consumed my strength in only passing them in review before you.—If every line and letter of all the writings I have been commenting upon were admitted to be traitorous machinations, and if the Convention in Scotland was an open rebellion, it is conceded to be foreign to the present purpose, unless as such criminality in them might show the views and objects of the persons engaged in them:—on that principle only the Court has over and over again decided the evidence of them to be admissible; and on the same principle I have illustrated them in their order as they happened, that I might lead the Prisoner in your view up to the very point and moment when the treason is supposed to have burst forth into the overt act for which he is arraigned before you.

The transaction respecting this second Convention, which constitutes the principal, or more properly the only overt act in the Indictment, lies in the narrowest compass, and is clouded with no ambiguity. I admit freely every act which is imputed to the Prisoner, and listen not so much with fear as with curiosity and wonder, to the treason sought to be connected with it.

You will recollect that the first motion towards the holding of a second Convention, originated in a letter to the Prisoner from a country correspondent, in which the legality of the former was vindicated, and its dispersion lamented:—this letter was answered on the 27th of March 1794, and was read to you in the Crown's evidence in these words:

"CITIZEN, *March* 27, 1794.

"I am directed by the London Corresponding So-
"ciety to transmit the following Resolutions to the
"Society for Constitutional Information, and to re-
"quest the sentiments of that Society respecting the
"important measures which the present juncture of
"affairs seems to require.

"The London Corresponding Society conceives
"that the moment is arrived, when a full and ex-
"plicit declaration is necessary from all the friends
"of freedom—whether the late *illegal and unheard-*
"*of prosecutions and sentences* shall determine us to
"abandon our cause, or shall excite us to pursue a
"radical reform, with an ardour proportioned to the
"magnitude of the object, and with a zeal as *distin-*
"*guished* on *our* parts as the *treachery of others in*
"*the same glorious cause is notorious.* The Society
"for Constitutional Information is therefore required
"to determine whether or no they will be ready,
"when called upon, to act in conjunction with *this*
"*and other societies to obtain a fair representation*
"*of the* PEOPLE—*whether they concur with us in*
"*seeing the necessity of a speedy Convention, for the*

"*purpose of obtaining, in a constitutional and legal* "*method, a redress of those grievances under which* "*we at present labour, and which can only be effec-* "*tually removed by a full and fair representation of* "*the people of Great Britain.* The London Cor- "responding Society cannot but remind their "friends that the present crisis demands all the "prudence, unanimity, and vigour, that may or "can be exerted by MEN and *Britons*; nor do they "doubt but that manly firmness and consistency "will finally, and they believe shortly, terminate in "the full accomplishment of all their wishes.

"I am, Fellow-citizen,

"(In my humble measure,)

"A friend to the Rights of Man,

(Signed) "T. HARDY, Secretary."

They then resolve that there is no security for the continuance of any right but in equality of *laws*; not in equality of *property*, the ridiculous bugbear by which you are to be frightened into injustice;—on the contrary, throughout every part of the proceedings, and most emphatically in Mr. Yorke's speech, so much relied on, the beneficial subordinations of society, the security of property, and the prosperity of the landed and commercial interests, are held forth as the very objects to be attained by the reform in the representation which they sought for.

In examining this first moving towards a second Convention, the first thing to be considered is, what

reason there is, from the letter I have just read to you, or from any thing that appears to have led to it, to suppose that a *different sort* of Convention was projected from that which had been before assembled and dispersed. The letter says *another* British Convention; and it describes the same objects as the first—compare all the papers for the calling this second Convention with those for assembling the first, and you will find no difference, except that they mixed with them extraneous and libellous matter, arising obviously from the irritation produced by the sailing of the transports with their brethren condemned to exile. These papers have already been considered, and separated, as they ought to be, from the charge.

I will now lay before you all the remaining operations of this formidable conspiracy up to the Prisoner's imprisonment in the Tower. Mr. Hardy having received the letter just adverted to, regarding a second Convention, the Corresponding Society wrote the letter of the 27th of March, and which was found in his hand-writing, and is published in the first Report, page 11. This letter, enclosing the Resolutions they had come to upon the subject, was considered by the Constitutional Society on the next day, the 28th of March, the ordinary day for their meeting, when they sent an answer to the Corresponding Society, informing them that they had received their communication, that they heartily concurred with them in the objects they had

in view, and invited them to send a delegation of their members to confer with them on the subject.

Now, what were the objects they concurred in, and what was to be the subject of conference between the Societies by their Delegates? Look at the letter, which distinctly expresses its objects, and the means by which they sought to effect them: —had these poor men (too numerous to meet all together, and therefore renewing the cause of Parliamentary Reform by delegation from the Societies) any reason to suppose, that they were involving themselves in the pains of treason, and that they were compassing the King's death, when they were redeeming (as they thought) his authority from probable downfall and ruin? Had treason been imputed to the Delegates before?—Had the imagining the death of the King ever been suspected by any body?—Or when they were prosecuted for misdemeanors, was the prosecution considered as an indulgence conferred upon men whose lives had been forfeited?—And is it to be endured, then, in this free land, made free too by the virtue of our forefathers, who placed the King upon his throne to maintain this freedom, that forty or fifty thousand people, in the different parts of the kingdom, assembling in their little Societies to spread useful knowledge, and to diffuse the principles of liberty, which the more widely they are spread, the surer is the condition of our free government,

are in a moment, without warning, without any law or principle to warrant it, and without precedent or example, to be branded as traitors, and to be decimated as victims for punishment!—The Constitutional Society having answered the letter of the 27th of March, in the manner I stated to you;—Committees, from each of the two Societies, were appointed to confer together.—The Constitutional Society appointed Mr. Joyce, Mr. Kidd, Mr. Wardle, and Mr. Holcroft, all indicted; and Mr. Sharpe, the celebrated engraver, not indicted, but examined as a witness by the Crown:—five were appointed by the Corresponding Society to meet these gentlemen, viz. Mr. Baxter, Mr. Moore, Mr. Thelwall, and Mr. Hodgson, all indicted, and Mr. Lovatt, against whom the bill was thrown out. These gentlemen met at the house of Mr. Thelwall on the 11th of April, and there published the resolutions already commented on, in conformity with the general objects of the two Societies, expressed in the letter of the 27th of March, and agreed to continue to meet on Mondays and Thursdays for further conference on the subject. The first Monday was the 14th of April, of which we have heard so much, and no meeting was held on that day;—the first Thursday was the 17th of April, but there was no meeting;—the 21st of April was the second Monday, but there was still no meeting;—the 24th of April was the second Thurs-

day, when the five of the Corresponding Society attended, but nobody coming to meet them from the other, nothing of course was transacted;—on Monday, the 28th of April, three weeks after their first appointment, this bloody and impatient band of conspirators, seeing that a Convention Bill was in projection, and that Hessians were landing on our coasts, at last assembled themselves;—and now we come to the point of action.—Gentlemen, they met;—they shook hands with each other;—they talked over the news and the pleasures of the day;—they wished one another a good evening, and retired to their homes:—it is in vain to hide it, they certainly did all these things.—The same *alarming* scene was repeated on the three following days of meeting, and on Monday, May the 12th, would, but for the vigilance of Government, have probably again taken place:—but on that day Mr. Hardy was arrested, his papers seized, and the conspiracy which pervaded this devoted country was dragged into the face of day. To be serious, Gentlemen, you have LITERALLY the whole of it before you in the meetings, I have just stated; in which you find ten gentlemen, appointed by two peaceable Societies, conversing upon the subject of a constitutional reform in Parliament, publishing the result of their deliberations, without any other arms than one supper-knife; which, when I come to the subject of arms, I will,

in form, lay before you.—Yet for this, and for this alone, you are asked to devote the Prisoner before you, and his unfortunate associates, to the pains and penalties of death, and not to death alone, but to the eternal stigma and infamy of having conceived the detestable and horrible design of dissolving the government of their country, and of striking at the life of their Sovereign, who had never given offence to them, nor to any of his subjects.

Gentlemen, as a conspiracy of this formidable extension, which had no less for its object than the sudden annihilation of all the existing authorities of the country, and of every thing that supported them, could not be even gravely stated to have an existence, without contemplation of force to give it effect; it was absolutely necessary to impress upon the public mind, and to establish, by formal evidence, upon the present occasion, that such a force was actually in preparation.—This most important and indispensable part of the cause was attended with insurmountable difficulties, not only from its being unfounded in fact, but because it had been expressly negatived by the whole conduct of Government:—for although the motions of all these Societies had been watched for two years together; though their spies had regularly attended, and collected regular journals of their proceedings; yet when the first Report was finished, and the Habeas

Corpus Act suspended upon the foundation of the facts contained in it, there was not to be found, from one end of it to the other, even the insinuation of arms; I believe that this circumstance made a great impression upon all the thinking dispassionate part of the public, and that the materials of the first Report were thought to furnish but a slender argument to support such a total eclipse of liberty. No wonder, then, that the discovery of a pike in the interval between the two Reports, should have been highly estimated. I mean no reflections upon Government, and only state the matter, as a man of great wit very publicly reported it;—he said that the discoverer, when he first beheld the long-looked-for pike, was transported beyond himself with enthusiasm and delight, and that he hung over the rusty instrument with all the raptures of a fond mother, who embraces her first-born infant, "*and thanks her "God for all her travail past.*"

In consequence of this discovery, whoever might have the merit of it, and whatever the discoverer might have felt upon it, persons were sent by Government (and properly sent) into all corners of the kingdom to investigate the extent of the mischief; the fruit of this inquiry has been laid before you, and I pledge myself to sum up the evidence which you have had upon the subject, not by parts, or by general observations, but in the same manner as the Court itself must sum it up to you, when it lays the

whole body of the proof with fidelity before you.—Notwithstanding all the declamations upon French anarchy, I think I may safely assert, that it has been distinctly proved, by the evidence, that the Sheffield people were for universal representation in a British House of Commons. This appears to have been the general sentiment, with the exception of one witness, whose testimony makes the truth and *bona fides* of the sentiments far more striking; the witness I allude to (George Widdison), whose evidence I shall state in its place, seems to be a plain, blunt, honest man, and by the bye, which must never be forgotten of any of them, the Crown's witness.—I am not interested in the veracity of any of them, for (as I have frequently adverted to) the Crown must take them for better for worse;—it must support each witness, and the whole body of its evidence throughout.—If you do not believe the whole of what is proved by a witness, what confidence can you have in part of it, or what part can you select to confide in?—If you are deceived in part,—who shall measure the boundaries of the deception?—This man says he was at first for universal suffrage; Mr. Yorke had persuaded him, from all the books, that it was the best; but that he afterwards saw reason to think otherwise, and was not for going the length of the Duke of Richmond: but that all the other Sheffield people were for the Duke's plan; a fact confirmed by the cross-exami-

nation of every one of the witnesses.—You have, therefore, positively and distinctly, upon the universal authority of the evidence of the Crown, the people of Sheffield, who are charged as at the head of a republican conspiracy, proved to be associated on the very principles which, at different times, have distinguished the most eminent persons in this kingdom; and the charge made upon them, with regard to arms, is cleared up by the same universal testimony.

You recollect that, at a meeting held upon the Castle-hill, there were two parties in the country, and it is material to attend to what these two parties were.—In consequence of the King's proclamation, a great number of honourable, zealous persons, who had been led by a thousand artifices to believe, that there was a just cause of alarm in the country, took very extraordinary steps for support of the magistracy.—The publicans were directed not to entertain persons who were friendly to a reform of Parliament; and alarms of change and revolution pervaded the country, which became greater and greater, as our ears were hourly assailed with the successive calamities of France.—Others saw things in an opposite light, and considered that these calamities were made the pretext for extinguishing British liberty;—heart-burnings arose between the two parties; and some, I am afraid a great many, wickedly or ignorantly interposed in a quarrel which zeal had begun.—The Societies were disturbed in

their meetings, and even the private dwellings of many of their members were illegally violated.—It appears by the very evidence for the Crown, by which the cause must stand or fall, that many of the friends of reform were daily insulted,—their houses threatened to be pulled down, and their peaceable meetings beset by pretended magistrates, without the process of the law.—These proceedings naturally suggested the propriety of having arms for self-defence, the first and most unquestionable privilege of man, in or out of society, and expressly provided for by the very letter of English law.—It was ingeniously put by the learned Counsel, in the examination of a witness, that it was complained of amongst them, that very little was sufficient to obtain a warrant from some magistrates, and that therefore it was as well to be provided for those who might have warrants as for those who had none. Gentlemen, I am too much exhausted to pursue or argue such a difference, even if it existed upon the evidence, because if the Societies in question (however mistakenly) considered their meetings to be legal, and the warrants to disturb them to be beyond the authority of the magistrate to grant, they had a right, at the peril of the legal consequences, to stand upon their defence; and it is no transgression of the law, much less high treason against the King, to resist his officers when they pass the bounds of their authority.' So much for the general evidence of arms; and the first and last time that even

the name of the Prisoner is connected with the subject, is by a letter he received from a person of the name of Davison. I am anxious that this part of the case should be distinctly understood, and I will, therefore, bring back this letter to your attention. The letter is as follows:

"FELLOW-CITIZEN,

"The barefaced aristocracy of the present Ad-
"ministration has made it necessary that we should
"be prepared to act on the defensive, against any
"attack they may command their newly armed
"minions to make upon us. A plan has been hit
"upon, and, if encouraged sufficiently, will, no
"doubt, have the effect of furnishing a quantity
"of pikes to the patriots, great enough to make
"them formidable. The blades are made of steel,
"tempered and polished after an approved form.
"They may be fixed into any shafts (but fir ones
"are recommended) of the girt of the accompany-
"ing hoops at the top end, and about an inch more
"at the bottom.

"The blades and hoops (more than which cannot
"properly be sent to any great distance) will be
"charged one shilling. Money to be sent with the
"orders.

"As the institution is in its infancy, immediate
"encouragement is necessary.

"*Orders may be sent to the Secretary of the Shef-*
"*field Constitutional Society.* [*Struck out.*]

"RICHARD DAVISON.

"*Sheffield, April* 24, 1794."

Gentlemen, you must recollect (for, if it should escape you, it might make a great difference) that Davison directs the answer to this letter to be sent to Robert Moody at Sheffield, to prevent post-office suspicion; and that he also encloses in it a similar one, which Mr. Hardy was to forward to Norwich, in order that the Society at that place might provide pikes for themselves, in the same manner that Davison was recommending, through Hardy, to the people of London. Now what followed upon the Prisoner's receiving this letter?—It is in evidence, by this very Moody, to whom the answer was to be sent, and who was examined as a witness by the Crown, *that he never received any answer to the letter*; and, although there was an universal seizure of papers, no such letter, nor any other, appeared to have been written; and, what is more, the letter to Norwich, from Davison, enclosed in his letter to Hardy, was never forwarded, but was found in his custody when he was arrested, three weeks afterwards, folded up in the other, and unopened, as he received it.—Good God! what is become of the humane sanctuary of English justice —where is the sense and meaning of the term *proveably* in the statute of King Edward—if such evidence can be received against an English subject, on a trial for his life?—If a man writes a letter to me about pikes, or about any thing else, can I help it?—And is it evidence (except to acquit me of suspicion) when it appears that nothing is done upon

it?—Mr. Hardy never before corresponded with Davison—he never desired him to write to him.—How indeed could he desire him when his very existence was unknown to him?—He never returned an answer;—he never forwarded the enclosed to Norwich;—he never even communicated the letter itself to his own Society, although he was its Secretary, which showed he considered it as the unauthorized, officious correspondence of a private man;—he never acted upon it at all, nor appears to have regarded it as dangerous or important, since he neither destroyed nor concealed it. Gentlemen, I declare I hardly know in what language to express my astonishment, that the Crown can ask you to shed the blood of the man at the bar upon such foundations.—Yet this is the whole of the written evidence concerning arms: for the remainder of the plot rests, for its foundation, upon the parole evidence, the whole of which I shall pursue with precision, and not suffer a link of the chain to pass unexamined.

William Camage was the first witness: he swore that the Sheffield societies were frequently insulted, and threatened to be dispersed; so that the people in general thought it necessary to defend themselves against illegal attacks;—that the justices having officiously intruded themselves into their peaceable and legal meetings, they thought they had a right to be armed; but they did not claim this right under the law of nature, or by theories of government,

but as ENGLISH SUBJECTS, under the government of ENGLAND; for they say in their paper, which has been read by the Crown that would condemn them, that they were entitled by the BILL of RIGHTS to be armed. Gentlemen, they state their title truly.—The preamble of that statute enumerates the offences of King James the Second; amongst the chief of which was, his causing his subjects to be disarmed, and then our ancestors claim this violated right as their indefeasible inheritance. Let us therefore be cautious how we rush to the conclusion, that men are plotting treason against the King, because they are asserting a right, the violation of which has been adjudged against a King to be treason against the people; and let us not suppose that English subjects are a banditti, for preparing to defend their legal liberties with pikes, because pikes may have been accidentally employed in another country to destroy both liberty and law. Camage says he was spoken to by this Davison about three dozen of pikes—What then?—He is THE CROWN'S WITNESS, WHOM THEY OFFER TO YOU AS THE WITNESS OF TRUTH, and he started with horror at the idea of violence, and spoke with visible reverence for the King; saying, God forbid that he should touch him; but he, nevertheless, had a pike for himself. Indeed, the manliness with which he avowed it, gave an additional strength to his evidence.—"No doubt," says he, "I had a pike, but I would not have re-"mained an hour a member of the Society, if I had

"heard a syllable, that it was in the contemplation "of any body to employ pikes or any other arms "against the King or the Government. We meant "to petition Parliament, through the means of the "Convention of Edinburgh, thinking that the "House of Commons would listen to this expres- "sion of the general sentiments of the people; for "it had been thrown out, he said, in Parliament, "that the people did not desire it themselves."

Mr. Broomhead, whose evidence I have already commented upon, a sedate, plain, sensible man, spoke also of his affection to the government, and of the insults and threats which had been offered to the people of Sheffield: he says, "I heard of arms "on the Castle-hill, but it is fit this should be dis- "tinctly explained: a wicked hand-bill, to provoke "and terrify the multitude, had been thrown about "the town in the night, which caused agitation in "the minds of the people; and it was then spoken "of, as being the right of every individual, to have "arms for defence; but there was no idea ever "started of *resisting*, much less of *attacking*, the "government. I never heard of such a thing. I "fear God," said the witness, "and honour the "King; and would not have consented to send a "delegate to Edinburgh, but for peaceable and le- "gal purposes."

The next evidence, upon the subject of arms, is what is proved by Widdison, to which I beg your particular attention, because, if there be any re-

liance upon his testimony, it puts an end to every criminal imputation upon Davison, through whom, in the strange manner already observed upon, Hardy could alone be criminated.

This man, Widdison, who was both a turner and hair-dresser, and who dressed Davison's hair, and was his most intimate acquaintance, gives you an account of their most confidential conversations upon the subject of the pikes, when it is impossible that they could be imposing upon one another; and he declares, upon his solemn oath, that Davison, without even the knowledge or authority of the Sheffield Society, thinking that the same insults might be offered to the London Societies, wrote the letter to Hardy, *of his own head, as the witness expressed it*, and that he, Widdison, made the pike-shafts, to the number of a dozen and a half. Davison, he said, was his customer; he told him that people began to think themselves in danger, and he therefore made the handles of the pikes for sale, to the number of a dozen and a half, and one likewise for himself, without conceiving that he offended against any law. "I love the King," said Widdison, "as much as "any man, and all the people I associated with did "the same; I would not have staid with them if "they had not:—Mr. Yorke often told me pri-"vately, that he was for universal representation, "and so were we all—THE DUKE OF RICHMOND'S "PLAN WAS OUR ONLY OBJECT." This was the witness who was shown the Duke's letter, and spoke

to it as being circulated, and as the very creed of the Societies.—This evidence shows, beyond all doubt, the genuine sentiments of these people, because it consists of their most confidential communications with one another; and the only answer, therefore, that can possibly be given to it is, that the witnesses, who deliver it, are imposing upon the Court. But this (as I have wearied you with reiterating) the Crown cannot say; for, in that case, their whole proof falls to the ground together, since it is only from the same witnesses that the very existence of these pikes and their handles comes before us; and, if you suspect their evidence *in part*, for the reasons already given, it must be *in toto* rejected. My friend is so good as to furnish me with this further observation; that Widdison said he had often heard those who called themselves Aristocrats say, that if an invasion of the country should take place, they would begin with destroying their enemies at home, that they might be unanimous in the defence of their country.

John Hill was next called: he is a cutler, and was employed by Davison to make the blades for the pikes; he saw the letter which was sent to Hardy, and knew that it was sent, lest there should be the same call for defence in London against illegal attacks upon the Societies; for that at Sheffield they were daily insulted, and that the opposite party came to his own house, fired muskets under the door, and threatened to pull it down; he swears that they

were, to a man, faithful to the King, and that the reform proposed was in the Commons House of Parliament.

John Edwards was called, further to connect the Prisoner with this combination of force; but so far from establishing it, he swore, upon his cross-examination, that his only reason for going to Hardy's was, that he wanted a pike for his own defence, without connexion with Davison, or with Sheffield, and without concert or correspondence with any body. He had heard, he said, of the violences at Sheffield, and of the pikes that had been made there for defence; that Hardy, on his application, showed him the letter which, as has appeared, he never showed to any other person.—This is the whole sum and substance of the evidence which applies to the charge of pikes, after the closest investigation, under the sanction, and by the aid of Parliament itself; evidence which, so far from establishing the fact, would have been a satisfactory answer to almost any testimony by which such a fact could have been supported: for in this unparalleled proceeding, the Prisoner's Counsel is driven by his duty to dwell upon the detail of the Crown's proofs; because the whole body of it is the completest answer to the Indictment which even a free choice itself could have selected.—It is further worthy of your attention, that, as far as the evidence proceeds from these plain, natural sources, which the Crown was driven to, for the necessary foundation of the

proceedings before you, it has been simple,—uniform,—natural, and consistent; and that whenever a different complexion was to be given to it, it was only through the medium of spies and informers, and of men, independently of their infamous trade, of the most abandoned and profligate characters.

Before I advert to what has been sworn by this description of persons, I will give you a wholesome caution concerning them, and, having no eloquence of my own to enforce it, I will give it to you in the language of the same gentleman whose works are always seasonable; when moral or political lessons are to be rendered delightful. Look then at the picture of society, as Mr. Burke has drawn it, under the dominion of spies and informers: I say under their *dominion*, for a resort to spies may, on occasions, be justifiable, and their evidence, when confirmed, may deserve implicit credit: but I say under the *dominion* of spies and informers, because the case of the Crown must stand alone upon their evidence, and upon their evidence, not only unconfirmed, but in *direct contradiction to every witness, not an informer or a spy*, and in a case too where the truth, whatever it is, lies within the knowledge of forty or fifty thousand people. Mr. Burke says—I believe I can remember it without reference to the book,

"A mercenary informer knows no distinction. "Under such a system, the obnoxious people are "slaves, not only to the government, but they live "at the mercy of every individual; they are at once

"the slaves of the whole community, and of "every part of it; and the worst and most unmer- "ciful men are those on whose goodness they most "depend.

"In this situation men not only shrink from the "frowns of a stern magistrate, but are obliged to "fly from their very species. The seeds of destruc- "tion are sown in civil intercourse and in social "habitudes.—The blood of wholesome kindred is "infected.—The tables and beds are surrounded "with snares. All the means given by Providence "to make life safe and comfortable, are perverted "into instruments of terror and torment.—This "species of universal subserviency that makes the "very servant who waits behind your chair, the ar- "biter of your life and fortune, has such a ten- "dency to degrade and abase mankind, and to "deprive them of that assured and liberal state of "mind which alone can make us what we ought to "be, that I vow to God, I would sooner bring my- "self to put a man to immediate death for opinions "I disliked, and so to get rid of the man and his "opinions at once, than to fret him with a feverish "being, tainted with the jail distemper of a con- "tagious servitude, to keep him above ground, an "animated mass of putrefaction, corrupted himself, "and corrupting all about him."

Gentlemen, let me bring to your recollection the deportment of the first of this tribe, Mr. Alexander, —who could not in half an hour even tell where he

had lived, or why he had left his master.—Does any man believe that he had forgotten these most recent transactions of his life? Certainly not—but his history would have undone his credit, and must therefore be concealed. He had lived with a linen-draper, whose address we could scarcely get from him, and they had parted because they had words:—What were the words? We were not to be told that.—He then went to a Mr. Killerby's, who agreed with him at twenty-five guineas a year.—Why did he not stay there?—He was obliged, it seems, to give up this lucrative agreement, because he was obliged to attend here as a witness.—Gentlemen, Mr. Killerby lives only in Holborn, and was he obliged to give up a permanent engagement with a tradesman in Holborn, because he was obliged to be absent at the Old Bailey for five minutes in one single day? I asked him if he had told Mr. White, the Solicitor for the Treasury, who would not have been so cruel as to deprive a man of his bread, by keeping him upon attendance which might have been avoided by a particular notice.—The thing spoke for itself—he had never told Mr. White: but had he ever told Mr. Killerby? For how else could he know that his place was inconsistent with his engagement upon this Trial?—No, he had never told him!—How then did he collect that his place was inconsistent with his duty here?—This question never received any answer.—You saw how he dealt with it, and how he stood stammering, not daring

to lift up his countenance in any direction,—confused,—disconcerted,—and confounded.

Driven from the accusation upon the subject of pikes, and even from the very colour of accusation, and knowing that nothing was to be done without the proof of arms, we have got this miserable, solitary knife, held up to us as the engine which was to destroy the constitution of this country; and Mr. Groves, an Old Bailey Solicitor, employed as a spy upon the occasion, has been selected to give probability to this monstrous absurdity, by his *respectable* evidence. I understand that this same gentleman has carried his system of spying to such a pitch as to practise it since this unfortunate man has been standing a Prisoner before you, proffering himself, as a friend, to the committee preparing his defence, that he might discover to the Crown the materials by which he meant to defend his life. I state this only from report, and I hope in God I am mistaken; for human nature starts back appalled from such atrocity, and shrinks and trembles at the very statement of it. But as to the perjury of this miscreant, it will appear palpable beyond all question, and he shall answer for it in due season. He tells you he attended at Chalk Farm; and that there, forsooth, amongst about seven or eight thousand people, he saw two or three persons with knives!—He might, I should think, have seen many more, as hardly any man goes without a knife of some sort in his pocket! He asked, however, it seems, where

they got these knives, and was directed to Green, a hair-dresser, who deals besides in cutlery; and accordingly this notable Mr. Groves went (as he told us) to Green's, and asked to purchase a knife; when Green in answer to him said, "Speak low, for my "wife is a damn'd Aristocrat."—This answer was sworn to by the wretch, to give you the idea that Green, who had the knives to sell, was conscious that he kept them for an illegal and wicked purpose, and that they were not to be sold in public. The door, he says, being a-jar, the man desired him to speak low, from whence he would have you understand that it was because this aristocratic wife was within hearing.—This, Gentlemen, is the testimony of Groves, and Green himself is called as the next witness; and called by whom? Not by me—I know nothing of him, he is the Crown's own witness.—He is called to confirm Groves's evidence; but *not being a spy*, he declared solemnly upon his oath, and I can confirm his evidence by several respectable people, that the knives in question lie constantly, and lay then in his open shop-window, in what is called the show-glass, where cutlers, like other tradesmen, expose their ware to public view; and that the knives differ in nothing from others publicly sold in the Strand, and every other street in London;—that he bespoke them from a rider, who came round for orders in the usual way; that he sold only fourteen in all, and that they were made up in little packets, one of which Mr. Hardy had

who was to choose one for himself, but four more were found in his possession, because he was arrested before Green had an opportunity of sending for them.

Gentlemen, I think the pikes and knives are now completely disposed of; but something was said also about guns; let us, therefore, see what that amounts to.—It appears that Mr. Hardy was applied to by Samuel Williams, a gun-engraver, who was not even a member of any Society, and who asked him if he knew any body who wanted a gun—Hardy said he did not; and undoubtedly upon the Crown's own showing, it must be taken for granted that if at that time he had been acquainted with any plan of arming, he would have given a different answer, and would have jumped at the offer:—about a fortnight afterwards, however (Hardy in the interval having become acquainted with Franklow), Williams called to buy a pair of shoes, and then Hardy, recollecting his former application, referred him to Franklow, who had in the most public manner raised the forty men, who were called the Loyal Lambeth Association:—so that, in order to give this transaction any bearing upon the charge, it became necessary to consider Franklow's Association as an armed conspiracy against the Government;—though the forty people who composed it were collected by public advertisement;—though they were enrolled under public articles;—and though Franklow himself, as appears from the evidence, attended publicly at the

Globe Tavern in his uniform, whilst the cartouch-boxes and the other accoutrements of these secret conspirators lay openly upon his shop-board, exposed to the open view of all his customers and neighbours. This story, therefore, is not less contemptible than that which you must have all heard concerning Mr. Walker, whom I went to defend at Lancaster, where that respectable gentleman was brought to trial upon such a trumped-up charge, supported by the solitary evidence of one Dunn, a most infamous witness: but what was the end of that prosecution?—I recollect it to the honour of my friend, Mr. Law, who conducted it for the Crown, who, knowing that there were persons whose passions were agitated upon these subjects at that moment, and that many persons had enrolled themselves in societies to resist conspiracies against the government, behaved in a most manful and honourable manner, in a manner, indeed, which the public ought to know, and which I hope it never will forget: he would not even put me upon my challenges to such persons, but withdrew them from the pannel; and when he saw the complexion of the affair, from the contradiction of the infamous witness whose testimony supported it, he honourably gave up the cause.

Gentlemen, the evidence of Lynam does not require the same contradiction which fell upon Mr. Groves, because it destroys itself by its own intrinsic inconsistency;—I could not, indeed, if it were to

save my life, undertake to state it to you.—It lasted, I think, about six or seven hours, but I have marked under different parts of it, passages so grossly contradictory, matter so impossible, so inconsistent with any course of conduct, that it will be sufficient to bring these parts to your view, to destroy all the rest. But let us first examine in what manner this matter, such as it is, was recorded.—He professed to speak from notes, yet I observed him frequently looking up to the ceiling whilst he was speaking;—when I said to him, Are you now speaking from a note? Have you got any note of what you are now saying? he answered; Oh no, this is from recollection.—Good God Almighty! recollection mixing itself with notes in a case of high treason!—He did not even take down the words—nay, to do the man justice, he did not even affect to have taken the words, but only the substance, as he himself expressed it—O EXCELLENT EVIDENCE!—THE SUBSTANCE OF WORDS TAKEN DOWN BY A SPY, AND SUPPLIED, WHEN DEFECTIVE, BY HIS MEMORY. But I must not call him a spy; for it seems he took them *bond fide* as a Delegate, and yet *bond fide* as an informer;—what a happy combination of fidelity! faithful to serve, and faithful to betray!—correct to record for the business of the Society, and correct to dissolve and to punish it!—What after all do the notes amount to? I will advert to the parts I alluded to—they were, it seems, to go to Frith Street, to sign the Declaration of the

Friends of the Liberty of the Press, which lay there already signed by between twenty and thirty Members of the House of Commons, and many other respectable and opulent men, and then they were to begin civil confusion, and the King's head and Mr. Pitt's were to be placed on Temple Bar. Immediately after which we find them resolving unanimously to thank Mr. Wharton for his speech to support the glorious Revolution of 1688, which supports the very throne that was to be destroyed! which same speech they were to circulate in thousands for the use of the Societies throughout the kingdom. Such incoherent, impossible matter, proceeding from such a source, is unworthy of all further concern.

Thus driven out of every thing which relates to arms, and from every other matter which can possibly attach upon life, they have recourse to an expedient, which, I declare, fills my mind with horror and terror: it is this—The Corresponding Society had (you recollect), two years before, sent Delegates to Scotland, with specific instructions, peaceably to pursue a Parliamentary Reform;—when the Convention which they were sent to was dispersed, they sent no others—for they were arrested when only considering of the propriety of another Convention. It happened that Mr. Hardy was the Secretary during the period of these Scotch proceedings, and the letters consequently written by him, during that period, were all official letters from a large body,

circulated by him in point of form. When the proposition took place for calling a second Convention, Mr. Hardy continued to be Secretary, and, in that character, signed the circular letter read in the course of the evidence which appears to have found its way, in the course of circulation, into SCOTLAND. This single circumstance has been admitted as the foundation of receiving in evidence against the Prisoner, a long transaction imputed to one Watt, at Edinburgh, whose very existence was unknown to Hardy.—This Watt had been employed by Government as a spy, but at last caught a Tartar in his spyship; for, in endeavouring to urge innocent men to a project, which never entered into their imaginations, he was obliged to show himself ready to do what he recommended to others; and the tables being turned upon him, he was hanged by his employers. This man Watt read from a paper designs to be accomplished, but which he never intended to attempt, and the success of which he knew to be visionary.—To suppose that Great Britain could have been destroyed by such a rebel as Watt, would be, as Dr. Johnson says, to expect that a great city might be drowned by the overflowing of its kennels. But whatever might be the peril of Watt's conspiracy, what had Hardy to do with it? The people with Watt were five or six persons, wholly unknown to Hardy, and not members of any Society of which Mr. Hardy was a member; I vow to God, therefore, that I cannot express what I feel,

when I am obliged to state the evidence by which he is sought to be affected.—A letter, viz. the circular letter signed by Hardy for calling another Convention, is shown to George Ross, who says he received it from one Stock, who belonged to a Society which met in Nicholson Street, in Edinburgh, and that he sent it to Perth, Strathaven, and Paisley, and other places in Scotland; and the single unconnected evidence of this public letter, finding its way into Scotland, is made the foundation of letting in the whole evidence, which hanged Watt, against Hardy, who never knew him. Government hanged its own spy in Scotland upon that evidence, and it may be sufficient evidence for that purpose; I will not argue the case of a dead man, and, above all, of such a man; but I will say, that too much money was spent upon this performance, as I think it cost Government about fifty thousand pounds. M'Ewen says, that Watt read from a paper to a committee of six or seven people, of which he, the witness, was a member, that gentlemen, residing in the country, were not to leave their habitations, under pain of death; that an attack was to be made in the manner you remember, and that the Lord Justice Clerk, and the Judges, were to be cut off by these men in buckram; and then an Address was to be sent to the King, desiring him to dismiss his Ministers and to put an end to the war, or that he might expect bad consequences. WHAT IS ALL THIS TO MR. HARDY?

How is it possible to affect HIM with any part of this? Hear the sequel, and then judge for yourselves.—Mr. Watt said (*i. e.* the man who is hanged, said), after reading the paper, that he, Watt, wished to correspond with Mr. Hardy in a safe manner;—so that because a ruffian and a scoundrel, whom I never saw or heard of, chooses, at the distance of four hundred miles, to say, that he *wishes to correspond with me*, I am to be involved in the guilt of his actions! It is not proved, or insinuated, that Mr. Hardy ever saw, or heard of, or knew, that such men were in being as Watt or Downie:—nor is it proved, or asserted, that any letter was, in fact, written by either of them to Hardy, or to any other person.—No such letter has been found in his possession, nor a trace of any connexion between them and any member of any English Society:—the truth I believe is, that nothing was intended by Watt but to entrap others to obtain a reward for himself, *and he has been amply and justly rewarded.* Gentlemen, I desire to be understood to be making no attacks upon Government;—I have wished, throughout the whole cause, that good intentions may be imputed to it, but I really confess, that it requires some ingenuity for Government to account for the original existence of all this history, and its subsequent application to the present trial. They went down to Scotland, after the arrest of the Prisoners, in order, I suppose, that we might be taught the law of high treason by the Lord Jus-

tice Clerk of Edinburgh, and that there should be a sort of rehearsal to teach the people of England to administer English laws; for, after all this expense and preparation, no man was put upon his trial, nor even arraigned under the special commission in Scotland, but these two men; one for reading this paper, and the other for not dissenting from it when it was read; and, with regard to this last unfortunate person, the Crown thought it indecent, as it would indeed have been indecent and scandalous, to execute the law upon him; as a gentleman upon his Jury said, he would die rather than convict Downie without a recommendation of mercy, and he was only brought over to join in the verdict, under the idea that he would not be executed, and, accordingly, he has not suffered execution. If Downie, then, was an object of mercy, or rather of justice, though he was in the very room with Watt, and heard distinctly the proposition, upon what possible ground can they demand the life of the Prisoner at the bar, on account of a connexion with the very same individual, *though he never corresponded with him, nor saw him, nor heard of him, —to whose very being he was an utter stranger?*

Gentlemen, it is impossible for me to know what impression this observation makes upon you, or upon the Court; but I declare I am deeply impressed with the application of it. How is a man to defend himself against such implications of guilt? —Which of us all would be safe, standing at the

bar of God or man, if he were even to answer for all his *own* expressions, without taking upon him the crimes or rashnesses of *others?* This poor man has, indeed, none of his own to answer for: yet how can he stand safely in judgment before you, if, in a season of alarm and agitation, with the whole pressure of Government upon him, your minds are to be distracted with criminating materials brought from so many quarters, and of an extent which mocks all power of discrimination?—I am conscious that I have not adverted to the thousandth part of them;—yet I am sinking under fatigue and weakness—I am at this moment scarcely able to stand up whilst I am speaking to you, deprived, as I have been, for nights together, of every thing that deserves the name of rest, repose, or comfort. I therefore hasten, whilst yet I may be able, to remind you once again of the great principle into which all I have been saying resolves itself.

Gentlemen, my whole argument then amounts to no more than this, that before the crime of compassing THE KING'S DEATH can be found *by you, the Jury,* whose province it is to judge of its existence, it must be *believed by you* to have existed in point of fact.—Before you can adjudge A FACT, you *must believe it*—not suspect it, or imagine it, or fancy it,—BUT BELIEVE IT—and it is impossible to impress the human mind with such a reasonable and certain belief, as is necessary to be impressed, before a Christian man can adjudge his neighbour to

the smallest penalty, much less to the pains of death, without having such evidence as a reasonable mind will accept of, as the infallible test of truth. And what is that evidence?—Neither more nor less than that which the constitution has established in the Courts for the general administration of justice; namely, that the evidence convinces the Jury, beyond all reasonable doubt, that the criminal *intention*, constituting the crime, existed in the mind of the man upon trial, and was the main spring of his conduct. The rules of evidence, as they are settled by law, and adopted in its general administration, are not to be over-ruled or tampered with. They are founded in the charities of religion—in the philosophy of nature—in the truths of history, and in the experience of common life; and whoever ventures rashly to depart from them, let him remember that it will be meted to him in the same measure, and that both God and man will judge him accordingly. —These are arguments addressed to your reasons and consciences, not to be shaken in upright minds by any precedent, for no precedents can sanctify injustice;—if they could, every human right would long ago have been extinct upon the earth.—If the State Trials in bad times are to be searched for precedents, what murders may you not commit;—what law of humanity may you not trample upon;—what rule of justice may you not violate;—and what maxim of wise policy may you not abrogate and confound? If precedents in bad times are to be

implicitly followed, why should we have heard any evidence at all?—You might have convicted without any evidence, for many have been so convicted, and in this manner murdered, even by acts of Parliament. If precedents in bad times are to be followed, why should the Lords and Commons have investigated these charges, and the Crown have put them into this course of judicial trial?—since, without such a trial, and even after an acquittal upon one,—they might have attainted all the Prisoners by act of Parliament;—they did so in the case of Lord Strafford.—There are precedents, therefore, for all such things;—but such precedents as could not for a moment survive the times of madness and distraction, which gave them birth, but which, as soon as the spurs of the occasions were blunted, were repealed, and execrated even by Parliaments which (little as I may think of the present) ought not to be compared with it: Parliaments sitting in the darkness of former times,—in the night of freedom,—before the principles of government were developed, and before the constitution became fixed. The last of these precedents, and all the proceedings upon it, were ordered to be taken off the file and burnt, to the intent that the same might no longer be visible in after-ages; an order dictated, no doubt, by a pious tenderness for national honour, and meant as a charitable covering for the crimes of our fathers.—But it was a sin against posterity; it was a treason against society;—for, instead of commanding them to

be burnt, they should rather have directed them to be blazoned in large letters upon the walls of our Courts of Justice, that, like the characters decyphered by the prophet of God, to the Eastern tyrant, they might enlarge and blacken in your sights, to terrify you from acts of injustice.

In times, when the whole habitable earth is in a state of change and fluctuation,—when deserts are starting up into civilized empires around you,—and when men, no longer slaves to the prejudices of particular countries, much less to the abuses of particular governments, enlist themselves, like the citizens of an enlightened world, into whatever communities their civil liberties may be best protected; it never can be for the advantage of this country to prove, that the strict, unextended letter of her laws, is no security to its inhabitants.—On the contrary, when so dangerous a lure is every where holding out to emigration, it will be found to be the wisest policy of Great Britain to set up her happy constitution,—the strict letter of her guardian laws, and the proud condition of equal freedom, which her highest and her lowest subjects ought equally to enjoy;—it will be her wisest policy to set up these first of human blessings against those charms of change and novelty which the varying condition of the world is hourly displaying, and which may deeply affect the population and prosperity of our country.—In times, when the subordination to authority is said to be every where but too little felt, it will be found to be the

wisest policy of Great Britain, to instil into the governed an almost superstitious reverence for the strict security of the laws; which, from their equality of principle, beget no jealousies or discontent;—which, from their equal administration, can seldom work injustice; and which, from the reverence growing out of their mildness and antiquity, acquire a stability in the habits and affections of men, far beyond the force of civil obligation:—whereas severe penalties, and arbitrary constructions of laws intended for security, lay the foundations of alienation from every human government, and have been the cause of all the calamities that have come, and are coming upon the earth.

Gentlemen, what we read of in books makes but a faint impression upon us, compared to what we see passing under our eyes in the living world. I remember the people of another country, in like manner, contending for a renovation of their constitution, sometimes illegally and turbulently, but still devoted to an honest end;—I myself saw the people of Brabant so contending for the ancient constitution of the good Duke of Burgundy;—how was this people dealt by?—All, who were only contending for their own rights and privileges, were supposed to be of course disaffected to the Emperor:—they were handed over to courts constituted for the emergency, as this is, and the Emperor marched his army through the country till all was peace;—but such peace as there is in Vesuvius, or Ætna, the very mo-

ment before they vomit forth their lava, and roll their conflagrations over the devoted habitations of mankind:—when the French approached, the fatal effects were suddenly seen of a government of constraint and terror;—the well-affected were dispirited, and the disaffected inflamed into fury.—At that moment the Archduchess fled from Brussels, and the Duke of Saxe-Teschen was sent express to offer the *joyeuse entrée* so long petitioned for in vain: but the season of concession was past;—the storm blew from every quarter,—and the throne of Brabant departed for ever from the House of Burgundy.—Gentlemen, I venture to affirm, that, with other councils, this fatal prelude to the last revolution in that country, might have been averted:—if the Emperor had been advised to make the concessions of justice and affection to his people, they would have risen in a mass to maintain their prince's authority, interwoven with their own liberties; and the French, the giants of modern times, would, like the giants of antiquity, have been trampled in the mire of their own ambition. In the same manner a far more splendid and important crown passed away from His Majesty's illustrious brows:—THE IMPERIAL CROWN OF AMERICA.—The people of that country too, for a long season, contended as subjects, and often with irregularity and turbulence, for what they felt to be their rights: and, O Gentlemen! that the inspiring and immortal eloquence of that man, whose name I have so often mentioned, had then been heard with

effect!—what was his language to this country when she sought to lay burdens on America,—not to support the dignity of the Crown, or for the increase of national revenue, but to raise a fund for the purpose of corruption;—a fund for maintaining those tribes of hireling skipjacks, which Mr. Tooke so well contrasted with the hereditary nobility of England! —Though America would not bear this imposition, she would have borne any useful or constitutional burden to support the parent state.—"For that ser-"vice, for all service," said Mr. Burke, "whether "of revenue, trade, or empire, my trust is in her "interest in the British constitution. My hold of "the colonies is in the close affection which grows "from common names, from kindred blood, from "similar privileges, and equal protection. These "are ties which, though light as air, are as strong "as links of iron. Let the colonies always keep the "idea of their civil rights associated with your go-"vernments, they will cling and grapple to you, and "no force under heaven will be of power to tear "them from their allegiance. But let it be once "understood, that your government may be one "thing, and their privileges another; that these two "things may exist without any mutual relation; "the cement is gone; the cohesion is loosened; "and every thing hastens to decay and dissolution. "As long as you have the wisdom to keep the so-"vereign authority of this country as the sanctuary "of liberty, the sacred temple consecrated to our

" common faith, wherever the chosen race and sons " of England worship freedom, they will turn their " faces toward you. The more they multiply, the " more friends you will have; the more ardently they " love liberty, the more perfect will be their obedience. " Slavery they can have any where. It is a weed " that grows in every soil. They may have it from " Spain, they may have it from Prussia. But until " you become lost to all feeling of your true interest " and your natural dignity, freedom they can have " from none but you. This is the commodity of " price, of which you have the monopoly. This is " the true act of navigation, which binds to you the " commerce of the colonies, and through them se- " cures to you the wealth of the world. Is it not " the same virtue which does every thing for us here " in England? Do you imagine then, that it is " the land-tax act which raises your revenue? that " it is the annual vote in the Committee of Supply, " which gives you your army? or that it is the Mu- " tiny Bill which inspires it with bravery and disci- " pline? No! surely no! It is the love of the people; " it is their attachment to their government, from " the sense of the deep stake they have in such a " glorious institution, which gives you your army " and your navy, and infuses into both that liberal " obedience, without which your army would be a " base rabble, and your navy nothing but rotten " timber."

Gentlemen, to conclude—My fervent wish is, that

we may not conjure up a spirit to destroy ourselves, nor set the example here of what in another country we deplore.—Let us cherish the old and venerable laws of our forefathers.—Let our judicial administration be strict and pure; and let the Jury of the land preserve the life of a fellow-subject, who only asks it from them upon the same terms under which they hold their own lives, and all that is dear to them and their posterity for ever.—Let me repeat the wish with which I began my address to you, and which proceeds from the very bottom of my heart;—may it please God, who is the Author of all mercies to mankind, whose providence, I am persuaded, guides and superintends the transactions of the world, and whose guardian spirit has for ever hovered over this prosperous island, to direct and fortify your judgments. I am aware I have not acquitted myself to the unfortunate man, who has put his trust in me, in the manner I could have wished;—yet I am unable to proceed any further; exhausted in spirit and in strength, but confident in the expectation of justice.—There is one thing more, however, that (if I can) I must state to you, namely, that I will show, by as many witnesses, as it may be found necessary or convenient for you to hear upon the subject, that the views of the Societies were what I have alleged them to be:—that whatever irregularities or indiscretions they might have committed, their purposes were honest;—and that Mr. Hardy's, above all other men, can be established to have been so. I have,

indeed, an Honourable Gentleman (Mr. Francis *) in my eye, at this moment, to be called hereafter as a witness, who being desirous in his place, as a member of Parliament, to promote an inquiry into the seditious practices complained of, Mr. Hardy offered himself voluntarily to come forward, proffered a sight of all the papers, which were afterwards seized in his custody, and tendered every possible assistance to give satisfaction to the laws of his country, if found to be offended. I will show likewise his character to be religious, temperate, humane, and moderate, and his uniform conduct all that can belong to a good subject, and an honest man.—When you have heard this evidence, it will, beyond all doubt, confirm you in coming to the conclusion which, at such great length (for which I entreat your pardon), I have been endeavouring to support.

So strongly prepossessed were the multitude in favour of the innocence of the Prisoner, that when Mr. Erskine had finished his speech, an irresistible acclamation pervaded the Court, and to an immense distance around. The streets were seemingly filled with the whole of the inhabitants of London, and the passages were so thronged that it was impossible for the Judges to get to their carriages. Mr. Erskine went out and addressed the multitude, de-

* Now Sir Philip Francis, K. B.

siring them to confide in the justice of the country; reminding them that the only security of Englishmen was under the inestimable laws of England, and that any attempt to overawe or bias them, would not only be an affront to public justice, but would endanger the lives of the accused. He then besought them to retire, and in a few minutes there was scarcely a person to be seen near the Court. No spectacle could be more interesting and affecting. We cannot help being of opinion, that it is the wisest policy upon all occasions to cultivate and encourage this enthusiasm of Englishmen for the protection of the law: it binds them to the state and government of their country, and is a greater security against revolution than any restraints that the wisdom of man can impose.

The result of this memorable Trial is well known. After hearing the evidence for the Prisoner, which was summed up in a most able and eloquent speech, by Sir Vicary Gibbs; and after a reply of great force and ability by the present Lord Redesdale, then Solicitor General, and the Charge of Lord Chief Justice Eyre, who presided in this Special Commission, the Jury returned a verdict of NOT GUILTY.

END OF THE THIRD VOLUME.