

# ***British Liberty endanger'd;***

Demonstrated by the following

## **NARRATIVE:**

Wherein is prov'd from

## **FACTS,**

That *J. B.* has hitherto been a Better Friend to the *English* Constitution, in Church and State, than his

## ***Persecutors.***

Humbly Dedicated to the Moft *Reverend* and *Worthy* Archbishop of CANTERBURY, late of YORK.

With a proper PREFACE.

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*By* JOHN BURTON, of YORK, *M.D.*

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*Libertas et Natale solum.*

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‘TIS a common Observation, that whoever engages in a Design of correcting Vice, and exposing Fraud, must suffer a great deal of *undeserv’d* Reproach, and incur the Resentments of numberless Persons without just Cause: But if from the fullness of an *untainted* Heart, and *strong affection* for his Country, he presumes to differ in his Sentiments from *the hot-headed Party-Zealots* in point of Government, and is bold enough to show his Dislike of the Measures publicly pursued and allow’d; the Manner in which such an one may be treated upon certain political Conjectures, is shocking to every thinking Man, of which I am a remarkable Instance; as may be fully seen in the following sheets, which, I hope every Reader will go thro’ *attentively* and *unprejudiced*, according to *Salust’s* Advice: “*Omnes homines; P.C.<sup>a</sup> qui de rebus dubiis consultant: ab odio, amicitia, ira vacuos esse decet.*” I shall only say this for myself, that I have strictly adhered to Truth, which strikes the more strongly by its native Force, and is more beautiful, the less it is adorn’d. Error and Ill-Design alone requires Art to obscure it, and make unintelligible, what is not fit to be reveal’d. I have follow’d Truth as close by the Heels as I could, not to have my Teeth kick’d out: But it is not Truth, but Opinion, that can travel the World without a Passport. I shall begin by showing my political Principles, and then shall prove that I always put them in Practice, as far as I could.

The Whigs of *old* were against all kind of Measures or Projects, which tended to exalt the Prerogative of the Crown over the Liberties of the People; and the favourite and fundamental Point, amongst ‘em, was the Liberty of Parliament; that is, the Freedom of Elections, and the Prohibition of *all Influence*, except that of *Reason* in the House of Commons. This they did, no doubt, with a View to preserve the Ballance of Power, which is of such absolute Necessity in a limited State, that *Cromwel* himself (before he had perfectly confirm’d his arbitrary Power) was forced to create a new House of L—ds, for a Counterpoise to the Commons. For in all free Governments like ours, the greater Evil to be avoided, is *tyranny*, properly so called; *i. e.* an unequal Share of Power: It matters not where it is lodg’d, whether in the Hand of ONE, of the FEW, or the MANY. These are the Tenets I have always embrac’d: My Actions have declar’d the Sentiments of my Heart, and bespeak me to be, what my Persecutors only pretended to be. In all Reigns, and under every Administration, I’m for being governed by the same Principles, and not carried away by every Wind of political Doctrine,—by Sounds and Names only, when the Things that were originally meant by ‘em are drop’d in so open and undisguis’d a Manner.

<sup>a</sup> patres conscripti – Senators.

As it is therefore the peculiar Happiness of the *British* Constitution, that the supreme Legislative Authority is lodg'd in 3 distinct Orders, *viz.* King, Lords, and Commons, so 'tis essential to the Preservation of this wise Establishment, that *one* of these Orders should not controul or influence the *other*; for was that Time ever to happen, wherein the *Equilibrium* should be destroyed; then will ours be turned into an *absolute Monarchy*; since it is demonstrable from the Case of *France*, and some other Countries, that it is not the *Form*, but the *Freedom* of Parliament, which is necessary to the *Preservation* of *Liberty*. I must add, that whilst the septennial Act remains in Force, there is more Occasion to guard against any Influence of this Kind. Therefore the longer Time here is betwixt Elections, the more we should be upon our Guard.

There is no Point, in which all unbiass'd Men of Probity and good Sense, are so generally agreed, as the *Independency* of *Parliament*; and whatever destroys this *Independency*, must *destroy our Constitution*. This therefore, we should guard against, whatever *the Enemies of our Constitution* (who, yet perhaps will have the Arrogance to pretend to call themselves *the Friends, of the Government*) may say, to amuse and impose upon the weak, ignorant, and trifling Part of Mankind. *Nomina honesta praetenduntur vitiis.*

It is a common Maxim, that a House divided against itself can't stand. But our House of Commons is an Exception to that general Rule; for I may safely say, that if ever the Members of that House are of one Opinion, or continue to act as if they were so; that from that Hour we may date the Completion of the Ruin of our Liberties. For it is very evident, that were they all of one Side for the Ministry, we should be in Danger of being Slaves; were they all against the Ministry; the Wheels of Government would be so dogg'd, that the necessary Motions could not be performed. Hence the Necessity of different Parties is apparent: But this may be farther illustrated by a remarkable Example in good Queen *Elizabeth's* Ministry, which was composed of Men of both Parties; for then she heard what both Sides had to offer upon every Occasion, and was thereby better enabled to form her Judgement. It also kept a proper Check upon the Ministers, who were continually jealous of one another, and deterred them from taking such Steps, which they might have been tempted to take, had they found themselves *absolute* in the *Royal Favour*, and had a Parliament at their Command.

The Wisdom of this is confirmed by the Experience of her Reign; for whilst she played *Cecil* against *Leicester*, and *Essex* against *Cecil*; every Thing went on prosperously, and she turned the Ballance between them as she pleased:

But when *Leicester* was dead, and she had suffered *Essex*

to be beheaded, there was no Body left great enough to make a stand against *Cecil's* Party, who grew absolute, and the Glory of her Reign continued to decline with her Years.

I have now shewn that the House of Commons ought to be independant, and the Necessity of having two Parties therein kept on Foot, as a Check upon one another; for supposing each Party to be equal; neither durst attempt to encroach upon, either the King's Prerogative, or the Liberties of the Subject; because the few, who might go over to the opposite Side, would always be able to turn the Scales. Another Advantage would arise from this near Equallity, that it would always be a Check upon *tyranical* or *rapacious* Ministers; for if They are *so bad* when there is an Opposition; what *would they be without one?*

Towards obtaining this Equality, it behoves every *British* Elector (where there are, what we may call the freest and most popular Elections; such as Counties, large Cities, and large Burroughs, &c) to elect, anti-ministerial Members; because, what with Court-Burroughs, &c. &c. &c. there will be always a very considerable Number of ministerial Members, exclusive of the Placemen, Pensioners, and those who are by any Means to be bribed: Hence appears the Necessity of opposing the Ministers sometimes at Elections, without the least Pique, or personal Prejudice against them; but only to preserve the due Equilibrium within Doors.

§ 1. With these Sentiments I set out into the World, and the first Opportunity I had of acting to put them in Practice, was in the Year 1734, when Sir *Rowland Wynne*, Bart, stood Candidate to represent the County of *York*: I was then at *Wakefield*, and as *Tempest Thornton*. Esq; was then so ill, that he was obliged to go to *Bath* (where he died) and as *Harpham Green* Esq; and Dr. *Hodgson* were also absent, 'till near the Time that the Election began. The Care therefore of the Electors, &c. in that Town was entirely left to me.

These Gentlemen, with many others, though near Neighbours of Sir *Rowland Wynne*, yet, thought him an improper Person to represent them in Parliament, both because he had receiv'd his Education at *Geneva*; and because he had declar'd his Mind openly in Favour of the Extension of the Excise Laws; particularly in Respect to Wine and Tobacco. These and many other Reasons induc'd several of Sir *Rowland's* Acquaintance to oppose him. I was very active and vigilant in the Trust repos'd in me: In short, a Majority was for Sir *Miles Stapylton*, against Sir *Rowland Wynne* and Mr. *Turner*, notwithstanding that Sir *Rowland* lives only three Miles on one Side of *Wakefield*, and Lord *Irwin*, his good Friend, about the same Distance on the other. The Election began on the *Wednesday*, and I staid 'till the *Saturday* Morning, and then went with the Remainder of the Freeholders on that Morning to *York*, where I did signal

Service by attending at one of the Booths, and preventing several from being poll'd in an unfair Manner, and contrary to the Agreement made betwixt the High Sheriff and the Candidates.

§ 2. The Election being over, and Sir *Miles Stapylton* being duly chosen, there were great Rejoicings; amongst his Friends every where; at *Wakefield* as well as at other places: The Populace there took a Person in a Chair to represent Sir *Miles*, and carried him thro' the Town, along the midst of the Streets, huzzaing and shewing their Joy. This to enrag'd some of Sir *Rowlands* Friends, that one Gentleman in particular, muster'd all the Men he could into his Court, and arm'd them; and when most of Sir *Miles's* Friends had pass'd his House, the People issued out of this Court, and assaulted several of the others, who were in the Rear; knocking down many, who, calling out for Aid, were immediately reliev'd by a Party turning back, who drove the Assailants into the Place whence they had issued forth.

Enrag'd at these Disappointments, Sir *Rowland's* Friends were determin'd to be reveng'd on the others; and accordingly sent Warrants, and took up several of those as Rioters, who had been Rejoicing; some gave Bail for their Appearance at the Sessions, others were committed to the House of Correction, where they remain'd till I return'd Home from the Election ac *York*; which was no sooner known, than many of those injur'd People, or their Friends came to me, desiring my Advice and Assistance. I took down the whole Transactions in Writing, and laid 'em before three or four proper Persons, who gave me Directions how to proceed in every Respect, and to send some Persons to bail those in Custody. This provok'd the other Party, because by their Method of proceeding, they were in Hopes hereafter of gaining their Point, especially among the lower Class of Freeholders. I stood up in the Defence of these injur'd People, and went to *Bradford* Sessions, where they were bound over to appear.

How honourable an Office is a Justice of Peace, when executed with Integrity; But if we shou'd be so unfortunate hereafter, to find Persons capable of perverting this glorious Institution to the vilest of Purposes; when instead of punishing, they shall endeavour to screen Villains from Justice, what a miserable Situation wou'd the *Britons* then be in? but I hope that will never be our Case.

§ 3. It is well known, that one of the greatest Priviledges we got by the *Magna Charta*, is to be tried by a Jury lawfully chosen; this, at one Blow was attempted to be broke thro'. I shall relate the whole Affair as near as I can. As I had made the Discovery of this Attempt, I told it to some of the Justices who were Sir *Miles Stapylton's* Friends, and were then at *Bradford* Sessions.

They order'd the under Sheriff, or his Deputy into Court; he appear'd, and being sworn, was asked, if he had summon'd, the Jury legally? which he answered in the Affirmative, and gave in a List of the Names of those he had summoned, according to the legal and customary Manner. But this List differing from that, by which the Court called over the Jury: These Justices asked the same under Sheriff, or his Deputy, how he happen'd to alter that List, after he had summon'd the People before? He seem'd very backward to declare it; but the Justices insisted upon his declaring the whole Truth, upon the Oath he had taken, and then he gave the following Account.

§ 4. About the proper Time of Summoning the juries to attend at the Sessions; Mr. *C—rr—r*'s domestic Servant brought a Letter, directed to the under Sheriff or his Deputy, the Contents of which were to this Purport.

“Sir, By my Master's Orders, I herewith send you a List of those Persons you are to put upon the Pannel as Jurymen, at the ensuing *Bradford* Sessions.” And then follow'd the List of the Names of the Persons, out of which, as I remember, there was but one Person of the Church of *England*, and I think he had some Place. The under Sheriff or his Deputy wrote back by the same Servant, That the Method of proceeding, mention'd in his Letter was illegal; and therefore he could not do as the Justice requir'd; and so dismiss'd the Justice's Servant with this Answer. The under Sheriff then thought to avoid any more Applications, it would be better to summon a Jury immediately according to Law; which he then did: Soon after which, a second Letter was brought to the under Sheriff or his Deputy, from the same Person, by Mr. *C—rr—r*'s Servant, in which it was insisted, that the Persons mention'd in the former Letter should be summon'd. To this the under Sheriff answer'd, that he had already sent out the Summons, in the proper and legal Way, and that he neither could, nor durst then alter it. Both these Letters sign'd by Mr. *C—rr—r*'s Clerk, with the List of the Names of the Persons, were read in the open Court by Mr. *Thomas Pulleyn*, Clerk of the Peace, in the Presence of the two accus'd Persons, and in their Hearing. Mr. *C—rr—r* said in his Defence or Answer, That he could not help his Clerk doing a wrong Thing: But was it probable his Clerk durst make use of his Master's Name without Orders? Or durst any of his Domestics have taken a Journey of above 20 Miles upon his Master's Horse, unknown to his Master; and repeat it a second Time? Mr. *C—rr—r* was then ask'd to produce his Clerk; but replied, that *he knew not where he was*: being ask'd a second Time, and in a stronger Manner, replied, *upon his Honour he knew not whither his Clerk was gone*. Upon which, I proved directly in Court, that Mr. *C—rr—r* sent his Clerk about an Hour before, to Dr. Richardson's at North Bierley, about two Miles from Bradford; and order'd him to let no Person know whither he was going; and not to stir from thence 'till he

(*Mr. C-rr-r*) *should send for him*. The Witness that I produc'd in Court, happen'd to overhear *Mr C-rr-r* give his Clerk these Orders; and it appear'd afterwards that the Clerk was then at *Bierley*, pursuant to his Master's Order.

*Mr. C-rr-r* being disappointed of his Design in both these Attempts, as abovemention'd, and the Time for opening the Sessions approaching, *Mr. C-rr-r*, and several other Justices, came to *Bradford* on the Evening before the Sessions began. *Mr. C-rr-r* and a Gentleman of his Neighbourhood, went that very Evening of their Arrival to the under Sheriff or his Deputy's Office and there *made the under Sheriff or his Deputy strike as many Names out of the List of those, who had been legally summon'd*, as they thought proper, and to *add as many out of the List* mentioned in the Letters as aforesaid, to make up the Number again.

Altho' the deceased Justice denied his having any Knowledge of the Letters sent by his Clerk; yet it is plain, he ordered his Clerk to write 'em and send that List; because *he in Person, together with his Neighbour, referred to that List, and made the under sheriff alter the Pannel according to it*.

These Things being made appear in Court, one of the Justices (I think it was *Sir John Lister Kaye, Bart.*) moved the Court, that an Information should, by Order of Sessions, be moved for in the *King's Bench* against the above two Persons; but was not carried into Execution, or at least I never heard what Punishment was inflicted upon them. I must also remark, that never were seen so many Justices at these common Sessions before; there being 22, out of which there were only four or five of *Sir Miles's* Friends, who used to attend in a general Way. But what made so many of the Justices of *Sir Rowland's* Party go so far out of their respective Districts, I must leave the Reader to judge. The Reason why *Mr. C-rr-r* sent his Clerk to *Dr. Richardson's*, was, because *William Horton, Esq;* had unguardedly mentioned something of what was to be done in Court the next Day, about this Attempt of *Mr. C-rr-r* and his Friend.

At the same Time the abovementioned illegal, Proceeding was proved in Court, there was a Discovery of some other of *Mr. C-rr-r's* male Practices which appeared from under *Mr. C-rr-r's* own Hand; for he wrote a Letter to another Justice's Clerk, and offered him (the Clerk) a Premium (as I remember) of two Guineas, if he the Clerk; would get a certain Paper out of his Master's Study, or Escrutoire. This Letter was produced by *Sir John Lister Kaye, Bart*, and read in the Court by the Clerk of the Peace.—Such a violation of the known Laws of the Land, must shock every thinking Person, insomuch that the utmost Expressions of Shame and Rage, are too Weak to say it in its proper Colours.

§ 5. The Indictments were preferred against the Persons bound over to appear at the Sessions, and were not found by the Grand Jury, so the People were all discharged.

The Assizes at *York* being at hand, I was apprehensive, that the Malice and Revenge of *Sir Rowland Wynne's* Party would not let them rest, for—*Intus & in cute novi*, and therefore did not doubt, but they would put those Friends of *Sir Miles Stapyltons*, to as much Expence and Trouble as they could, by preferring Indictments again at *York* Assizes. I therefore ordered all those, who were Witnesses against *Sir Rowland's* Friends, to be ready at an *Hour's* Warning, to go to *York* also, and had Horses ready for them: I at the same Time placed proper Spies, to watch the Motions of the Antagonists; and to bring Intelligence to me, whenever there might be Occasion.

During the Assize Week, 'till *Friday*, all was quiet; when about Four o'Clock in the Morning I was called out of Bed, and informed, that *Sir Rowland's* People were up, and preparing for a journey; I then immediately ordered the Summons to be sent to those, who were to go with me; and in about an *Hour's* Time, both Men and Horses were ready to set out for *York*. *Sir Rowland's* People finding *Sir Miles's* Friends were prepar'd for a Journey, and seemed as resolute as themselves, sent up to desire a Parley, which was immediately agreed to: they then proposed to refer all Differences to proper Referees, to be named by; each side. Lawyer *Witton*, a Neighbouring Justice of the Peace, was nominated by *Sir Rowland's* Friends, and I agreed to refer it solely to him; because *Sir Miles's* Friends were the Persons injured, and had nothing to fear, before whom it was tried. In short, some Money was paid towards defraying the Expences of *Sir Miles's* Friends, and then all Actions ceased.

Thus ended that Persecution, which must inevitably have ruined these People, or however greatly distressed them, if I had not stood up in their Defence, and got them their Charges and Expences.

§ 6. Not long after this I married, and went to live at *York*, at which Time, and long before, there had been heavy Complaints from several Places, of the Hardships and Practices of some acting Persons in the C—.

As I was in the Commission, I was determined to qualify myself to act as some other Gentlemen did, on the same Account thinking it our Duties to serve our Country, and prevent the like for the future, as far as if lay in our Powers. I can name one Division, wherein, alone a Tax of *4l. 8s.* Sterling *per annum* was raised by the — without an Act of Parliament; when at the same Time there was Money allowed to pay, what that other Money was demanded for.



When any of those People, who voted for Sir *Miles Stapylton*, or their Tenants appealed for relief, for being over-taxed; the common Answer was: *Oh! he or his Tenant voted for Sir Miles*, or he is such a Person's Tenant who voted against Sir *Rowland Wynne*;—so he must go to Sir Miles—and see if he'll relieve him we'll let him know that it is his Interest to oblige us, &c. &c. or Words to this Effect. Nay, to such a Degree of arbitrary Power were they come, that one of the Persons (who has been prosecuted and punished in the *Kings Bench* for other illegal Practices) even spoke Words to that Effect to a Tenant of *B-c-n M-rr-t's*, Esq; in the open Quarter Sessions. This was not all the Grievance, for two Persons even assumed a Power of acting to one Division, when not qualified by Law so to do; which made the Oppression still more grievous, and yet none durst prosecute them, for fear, of the Resentment of the ----- notwithstanding the Penalty is so great.

Is it not-evident from what I have already mentioned, that what, the Marquis of *Hallifax* says, in his Character of a Trimmer, is true here?

“Such Men, says he, if, they could, would prevail with the Sun to shine, only upon them and their Friends, and to leave all the rest of the World in the Dark. These *honest*, and *only* loyal Gentlemen, if they may be allowed to bear Witness for themselves, make a King their Engine, and degrade him into a Property at the very Time, that their Flattery would make him believe they paid Divine Worship to him.”

There are some People in the World always ready to promote *arbitrary Government*, provided the can enjoy a share of it; and *any Person of judgement may* easily, find them out, for as Sir Walter Raleigh says in his Preface to his History, that *as the Fruit tells the Name of the Tree, so do the outward Works of Men (so far as their Cogitations are acted) give us, whereof to guess at the Rest.*

§ 7. When I came to *York*, I daily saw the Misery, that the poorer Sort of People underwent, and that numbers frequently died; not only for want of Advice and Medicines, but also for want of common Necessaries; I therefore projected the building an Infirmary, for the City and County of *York*, and published Proposals in order to raise a Subscription for that Purpose. Not much was done towards forwarding, this good Work, for a Year and a Half, and tho' most People wished for an Hospital for Sick and lame Poor, yet none would undertake to begin a Subscription, till *George Fox*, Esq; a worthy Representative in Parliament for the City of *York*; published also Proposals, and advertised a Meeting, to which all well disposed Persons were invited. Pursuant to this Advertisement some Gentlemen met and opened a Subscription, but none of Sir *Rowland Wynne's*, or the Ministerial Party appear'd at this Meeting: To be brief, all

Things succeeded, notwithstanding the frequent Opposition of several Persons to hinder it: particularly a Clergyman then in a high Station in the Cathedral of *York*, who hearing that Lady *Elizabeth Hastings* intended to give 500*l.* towards erecting the Infirmary, wrote to her to prevent it. This Letter, Lady *Hastings* shewed to the late Mr. *Lamplugh*, a worthy Prebendary of *York* Cathedral, from whose Mouth I have heard it in several Companies.

§ 8. Before the Infirmary was begun, I set apart a certain Time every Day, to give my Advice to all who came to ask it: But they who were so bad, that they could not with Safety venture out, I went to visit at their own Houses. This, together with some other Acts of Humanity, gained me some Esteem, and when an Election for Members of Parliament approach'd; Numbers of the Freemen of *York* came and offered their Votes and Interest, to be at my Disposal, in Gratitude for the Services I had done them, not being able, they said, to make me any other Requit. Two worthy Gentlemen, and Neighbours of mine in the Country, Sir *John Lister Kaye*, Bart, and *Godfrey Wentworth*, Esq; offering their Service for the City of *York*, I promised them all the Assistance I could give and faithfully performed it. This made Mr. *Thompson* (who was a placeman) and his Party, my inveterate Enemies. Thus for exerting that Right, which is inherent in every *British* Elector, I was abused by my Persecutors, who use all those ill, who dare oppose their Measures and would have condemned me, without hearing, and have actually wounded me *without any real Offence*.

§ 9. At the Time of choosing Church-Wardens in *Easter* Week, I found out a Plot (contrived by a certain D. D.) just as it was begun to be put in Execution; for a Design, was laid to get Persons chosen to be Church-Wardens, who were proper only for their Purpose, that they might have the Sacrament Money to distribute; and which really, where their Party had succeeded, was given to *Them* chiefly, when there were more real Objects of the other. This whole Transaction was published in the *London Evening Post* soon after, and none durst attempt to answer it: And after every Parish had received proper Intelligence, every honest Person was so shocked that so vile an Use was likely to be made of that sacred Money, that they almost unanimously agreed to vote against the Persons nominated by the other Party.

§ 10. At the Time that the Candidates and their Friends were soliciting Votes against the Election, when Sir *John Lister Kaye* was chosen for *York*. There was a Committee of Mr *Thompson's* Friends, who sat at the *George* Inn, in *Coney Street*, at regular Times, whose chief Business it was to find, if any of the Electors were indebted to their Landlords for Rent; to their Wholesale Traders for Goods, or to any other Persons for Money lent and if any Voters were found out to be under these unfortunate Circumstances, and would not

vote for Mr. *Thompson* and Sir *William Milner*; then the Committee applied, either by themselves or their Friends, to the Creditors of those People, either to force them to vote against their *Consciencies*, or to ruin them and their Families as far as those Debts and Charges would contribute towards it. The same Method was taken, if any of the Freemen were liable to any other Prosecution. Of this Committee a certain Dr. was mostly Chairman, an active and almost a constant Attendant of this *worthy* Committee, as indeed he generally was, wherever any Mischief was on Foot.

At the contested Election for this County, the Freeholders of *Wh-ld-ke*, were solicited to vote for the Ministerial Candidate, but refused; being resolved to oblige their Landlord, who was then abroad. At this critical Season, a little Reverend Time-serving Pr—st threaten'd to demolish a great Part of their Church, which the Parishioners must rebuild, and would have cost six or 700 Pounds Sterling before it could be finished; at a certain Visitation soon after held, the Parishioners remonstrated very strongly against such a Proceeding, and asserted their Inability to raise the Money. Upon this, a certain Doctor of Laws (who is not a Priest) spoke to this Effect, viz. *That the Thing might be made Easy, in case the Freeholders would vote according to proper Directions.*

Many Instances of this Kind I can give; but the Facts are so well known, that I need not take up so much of the Reader's Time to mention them. Can any *Briton* read this, and not tremble at the Consequences of such Proceedings? Can these People call themselves Whigs, and Defenders of Liberty? Are such People proper to be trusted in any Shape, let their Pretence be what it will? View them thoroughly, and you'll always find that their own Interest is at the Bottom; and provided they get but their own Ends served, they don't care if all the Rest of their Neighbours were sent a begging. This they take to be the only Method for, obtaining their Ends, by keeping or making you poor, according to what Lord *Hastings* says, in the Tragedy of *Jane Shore*:

The *resty Knaves* arc overgrown with Ease,

As *Plenty* is ever the Nurse of Faction.

§ 11. Notwithstanding that these People so far succeeded, as to got Mr. *Thompson* to be chosen one of the Representatives for the City of *York*, Sir *William Milner* having declin'd; yet their Malice prompted them to print a List, called the BLACK LIST; consisting of the Names, Trades, and Places of Abode of *one Sort of Electors only*, which was industriously distributed about the Country, and elsewhere, to prevent any Person from laying out their Money at the Shops of those, whose Names were not in the List. This was

done with a Design to starve one Set of Voters into Compliance against another Election.

If these Steps do not tend to introduce Slavery, I don't know what Slavery is. Can these People be said to be well affected to his present Majesty, who do all in their Power to alienate the Affections of his Subjects by such tyrannical Proceedings?

§ 12. We see from what has been said, how these *Pretenders* to support *Liberty*, have endeavoured to starve the greatest Part of the Citizens already; but not content with *that*, they yet pursued their wicked Plan; for they not only endeavoured to prevent several Families in their own Interest from coming to *York*; but by insolent Behaviour, Persecution, and ill Usage of all Kinds, have done their utmost to drive or tire out, all those who either opposed them, or who, they thought did not wish them Success: By these Means several Families have left the Town, who used to spend many Thousand Pounds each Year in *York*. This is chiefly owing to a little Dr. and his Relation by Marriage.

In this Account I have referred my public Actions and *public Conduct*, to the Judgment of *the Public*; before which Tribunal my *Adversaries* will *never dare* to *trust* themselves. A wicked and corrupt Man will be *perpetually* uneasy and whincing upon the *slightest* Hint at his ill Deeds and Iniquities; while an honest Man, *conscious* of his own *Integrity*, knows the Event of a Scrutiny must be favourable to him. For Facts speak the plainest Truth, and it is the general Tenor of a Man's Life and Manners, his Conversion, and Actions *only*, that gain him the Character of a good or bad Man: Hence it is, that no one is credited, who speaks ill of *Probus*, or well of *Vafer*. But however as HORACE says:

--*Vitiis nemo sine nascitur, optimus ille, qui minimus urgetur.*—

Therefore from Facts, let us draw a short Summary, and see whether my Persecutors are, or I am, the greatest Enemy to our Constitution, or who it is that best serves the Cause of Liberty; taken from the Things above-mentioned.

Is he an Enemy who would promote every Thing which tends to the Happiness of his fellow Creatures from § 2?

He, who is against exalting the Prerogative of the Crown; and for Freedom of Elections, and Independency of Parliament; from § 2, 3, 4, 5, 6, 9, 10, 11?

He, who stands up for, and defends the helpless and oppressed; from § 2, 3, 4, 5?

He, who is for preserving the Magna Charta pure and intire; from § 3, 4?

He, who opposes the levying Money without an Act of Parliament; from § 6?

He, who would relieve distress'd Appellants; from § 6?

He: who relieves the Sick-Poor and needy; from § 7, 8?

He, who prevents the *Misapplication* of the Sacrament Money, from § 9, 10?

They, who oppose publick Good, and only consult their own private Benefit; from § 7. and who study how to ruin Those who dare to vote against their Party; from § 2, 3, 4, 5, 6, 11, 12?

They, who are against the Freedom of Elections, by promoting all undue Influence and Corruptions, both at Elections and amongst the elected; and for increasing the Prerogative of the Crown; from § 2, 3, 4, 5, 6, 9, 10, 11?

They, who would tyrannically oppress the Innocent, for being of the opposite Party; from § 2, 3, 4, 5?

They, who would break the *Magna Charta*, by packing of Juries; from § 3, 4?

They, who levy Money contrary to Law; from § 6?

They, who refuse to relieve any, but those of their own Party; from § 6?

They, who would prevent such good Works from § 7?

They, who give it only to those who will oblige 'em with their Votes; § 9?

or,

Consider these Things attentively, and then see who takes the most *probable* Methods to introduce Novelties in our Government. Is *he the Man*, who declares against any Innovation? *He*, who eternally argues in Defence of the *ancient Constitution*, of which the Prerogative is a Part, and directs his Labours to no other End, than to preserve it in its

Purity; or rather are not They the greater Enemies to our Country, who would seperate the Interest of King and People, and who break thro' the *Magna Charta*, and refuse to redress Grievances? from § 3, 4, 6.

From hence we see there are three Ways of promoting Jacobitism; the First, by open Argument and Perswasion. The Second, by male-treating their Neighbours, as beforementioned, which makes People (though otherways averse to-it) to join any Hand, rather than be under certain Slavery. The Third, by oppressing the People, with violent and partial Prosecutions and Persecutions; or by refusing to relieve 'em when aggriev'd. For Abuse will certainly *alienate* the Affections of weak Understandings, from the Persons to whom their Affections are most due, and where a Man in *Public Trust*, or in a *Public Affair*, injures his Fellow Creatures; the *Oppression* is greater, because it is acted under Colour of *Authority*, and *Oppression* is the heavier the more Hands it passes thro', and must certainly be the *more Heart-Burning*, when it comes from a *Fellow Subject* just lifted above 'em, than from one invested with Royal Power.

Hence also may be seen, that what neither Side would have believ'd, on the Faith of any Prediction, is come to pass,

--*quod Divûm promittere nemo  
Auderet, volvenda dies en! attulit ultro;*

For we find that They who call Themselves Whigs, *really* act upon enslaving Principles, as has herein been *fully shewn from Facts*.

Thus, Reader, I have set forth to you, the true Reasons of the Persecution I have undergone, and shall conclude this Introduction with two Passages taken out of *Cato's* Letters. "Lay Men can fight and *be Friends* again. The Officers of two opposite Armies, if they meet out of the *Way* of Battle, can be well bred and *humane* to each other, and well pleas'd together; tho' they are to destroy each other the next Day; But I know not how it happens, *Clerical Heat* does not easily cool; it *rarely* knows Moderation, or *any Bounds*; but pursues Men to their *Deaths*, and even *after* Death, it pursues when they are no longer subject to the Laws or Cognizance of Men."

The other Passage is, "That there *is* no Evil under the Sun, but what is to be *dreaded from Men* who may do what they *please* with *Impunity*: They seldom or *never* stop at certain Degrees of *Mischief* when they have Power to go farther; but hurry on from *Wickedness* to *Wickedness*, *as far*, and *as fast* as human Malice *can prompt* human Power."

To these I may add, that *Ubi semel recto de erratum est*,

*in præceps pervenitur--a rectis in vitia, a vitiis in prava, a pravis in præcipitia.* Vell. Paterculus.

I shall now proceed to relate the Manner of the Persecution.

*--Longa est Injuria, longæ*

*Ambages----*

Virg.

Great is the Injury and long the Tale.

On *Friday, November 22, 1745*, about Noon, an Express arriv'd at the *Guild-Hall* in the City of *York*, to acquaint the Lord Mayor, that the Van Guard of the *Highland Army* was arriv'd at *Kendal*; but that it was uncertain, whether they would take the *Yorkshire* or the *Lancashire* Rout: If the first, then they must have march'd thro' the Lordship of *Nuby*, in which Manor, my two Estates of *Birkwith* and *South-House* lie, where I had Rent to the amount of *120l. Sterling*, due to me from the *Michaelmass-Day* preceding.

As I went to the *Guild-Hall* frequently, with most of the Gentlemen in Town, to hear what Accounts were brought by the Expresses, which from Time to Time arriv'd, a Person being detach'd at the public Expence for that Purpose; I could not be very well pleas'd at the Danger of loosing all, or any Part of this Money, and Therefore I stated the Case, before the Gentlemen then present, and to the Recorder of *York* also, and desir'd their Advice, what should be done in such a Dilemma: The Recorder, replied, That it was so nice a Case, he could scarce tell how to direct me; for says he, *If you are perswaded to go, and should be taken Prisoner by any of the Highlanders, and suffer by it, you perhaps might throw the blame upon those who advis'd you to go.* To this I answer'd, *That I should never in any Case, find Fault with a Person for his Advice when given with a good Intent; but to avoid any Cavil on that Score, I would only ask him, what he would do, was he in my Situation?* He replied, *he would post away, and be there before 'em.* Well then, said I, *I'll start to Morrow Morning for that Purpose;* and so we parted.

As at this Time the City Gates were lock'd up at Ten o'Clock at Night, and not open'd again 'till a little before Sun-rise in the Morning; and as the Place I was to go to, was distant 48 computed Miles from *York*; the Roads bad, and Days short; I could not pretend to go it in one Day, unless I set out before the usual Time of opening the City Gates, and as that could not be done without an Order from the Lord Mayor, I publicly desir'd that Favour of him (who as well as

others, had heard the Reasons of my going) and my Request was granted; and the Lord Mayor then sent one of his domestic Officers, to the Officer who was to be upon Guard that Night, with Orders to permit me to go out of the Gates, at what Hour I pleas'd next Morning.

As I knew several Persons in *York* had Dealings in *Settle* and *Skipton*, I offer'd, if they had any Letters, or small Parcels, that my Man should carry 'em; but, by good Luck (as Things turn'd out afterwards) they had none to send.

Now let me appeal to the impartial Part of Mankind, Whether I had not a sufficient Reason for going? and, Whether any Person could have taken more prudent or cautious Steps than I did? Was I then about to carry either Bills, Money or Letters, to any in the Highland Army, as *D. S—n*, *P—l—n* and some others gave out; can any Man suppose me to be so great an Idiot, and so void of common Sense, as to tell it openly to the whole Town? If *my Party Enemies* had, in the least suspected me, why did they not stop me at the City Gates? The Improbability of my carrying any of these, was acknowledg'd, when I was examin'd at the Cock-Pit, on the 7<sup>th</sup> of *May* following.

I accordingly set out next Morning, being *Saturday* the 23<sup>d</sup>; but not so soon as I propos'd, on Account of the heavy Rain, which continu'd 'till near Seven o'Clock, and did not quite cease 'till after Sun-rise.

It would be needless to relate all the Particulars of my Journey, 'till I got to *Settle*, which was between nine and ten o'Clock in the same Evening, when and where an Express just went thro' the Town, for the West of *Yorkshire*, and brought the Account of the *Highlanders* having taken the Rout towards *Lancaster*. Upon this. I wrote to the Recorder and my Wife, by next Mornings Post, to acquaint 'em therewith; and that I propos'd to be at Home on *Tuesday* or *Wednesday* following, if I could get my Tenants and Workmen together.

This very Day, I went to *Hornby*, which is the nearest Market Town to my Estate, where I could have any tollerable Accommodation. But as ill Luck wou'd have it, here was I taken Prisoner as my Barber was shaving me at my Inn, by a Party of the *Highland Army*, who had conduced Lord *Elcho* and other Gentlemen, to *Hornby* Castle, to dine and see the Place. It cou'd not be Curiosity that led me hither, because the Express of the Night before, did assure me, that the *Highlander's* Rout was at least 12 Miles from that Place—And I cou'd prove, if requir'd, by the Oaths of Several honest Men, that I had not the least Intelligence of this Party.

I then return'd to *Settle* that Night, where my Tenants and



Workmen were waiting for me according to Order, at my Inn. The Workmen, who had been building and repairing the Houses and Out-Houses, were all paid; and Mr. *William Hall*, my Tenants, and I then settled Accounts, and I had the whole of the Ballance, to the Amount of about 60 Pounds, in either Bills or Money from Mr. *Hall*. These Bills I had Money for, from several Inhabitants of *York*, after my Return from *Settle*, which I left next Morning, and got to *York* that Night, about nine o'clock.

I have been a little more particular about my Tenants and Workmen; because some here, according to their usual Candour, gave it out, that I had no legal Business in that Country, But if this had been the Case, or my Enemies had suspected any ill Design; as my Return was publickly known, Why was I not seiz'd on the Road, or as soon as I arriv'd?

Upon my being seen (altho' a Prisoner) with the *Highlanders*, a Quaker, one *B-rb-k of Settle* (who abounded more with the evil Spirit and Malice, than Meekness and Truth) sent the News Express to *York*, which not a little surpriz'd every one; my Friends with Concern lest the *Highlanders* should hurt me; and my Enemies with Joy, in Hopes that now they should have a Pretence of doing me an Injury with Impunity.

This Piece of News made my Wife apprehensive, that an Order might be given to the Guards at *Micklegate Bar* to seize me as I should enter *the City*; and as she had often heard me declare that, *were these People to use me in the some illegal Manner they had used other People, that I would shoot the first Man who should attack me*; and as she also saw me charge my Pistols, before I went (according to my Custom when I go a Journey and knew my resolute Disposition; she was afraid, if these Men should attempt to stop and seize me, that I should be as good as my Word; and therefore, sent a Person. out of the Bar to desire, in Case of such an Attempt, that I would not offer to make any Resistance.

My Wife, before she sent this Person to meet me, was resolv'd to ask some Person's Advice, (whose Integrity and Judgment she could depend upon in such a Case) whether she should send or not; which was soon agreed to. This I prov'd upon Oath before the Lord Mayor of *York*, and some other Justices.

As I had one of my Men Servants with me, and the other was one upon Business, my Wife did not know who to employ; she at length thought to send one *Petty*, but he was not then to be found; therefore she sent one *Robinson*, who met me at the South End or *Dring-houses*, and told me what my Wife requested of me; I made him no other Return, than

to enquire how his Wife did, who (at the same Time was my Patient) he told me, that he should be glad if I would go that Night to see her. I begg'd to be excus'd as it was so late, and as I was so tir'd unless her Situation requir'd it, and that I desir'd he would come or send to my House, and I would prescribe for her, since he had told me, how her Disorder had alter'd after I had seen her; he then reply'd, that as it would be so much out of his way, he would be oblig'd to me, to call at any public House and give him Directions; I call'd, prescrib'd, and then went on to my own House. The Prescription, he that Night gave to his Servant to carry to the Apothecary, who kept it upon the Files as usual. The Patient after this Prescription recover'd—This was afterwards mention'd as an aggravating Circumstance, or rather as they would have it, a Proof that I must have been upon treasonable Business, for right or wrong, it must be a Plot, because there was a Papist concern'd, or because they knew not what to make of it.

At my return Home, my Wife and some Company she had with her, told me the Report and Hurry that was occasion'd by this Quaker: upon which, I sent immediately to acquaint the Recorder with my Arrival; who said he desir'd to see me that Night, if convenient; and notwithstanding I was so wearied, I went and over a Bottle of Wine, told him every Thing that had befall me, and farther, agreed to go with him the next Morning, to our then Archbishop, Dr. *Thomas Herting*: the Hour was appointed for that Purpose, but before that Time came as one of the Archbishop's Servants rode by the Recorder's House; the Recorder call'd to him, and ask'd if his Grace was at Home, but the Servant said that his Master was coming to dine in Town. Upon which the Recorder sent his Clerk to acquaint me with it; who told me the Archbishop would be at his Master's about Eleven o'Clock; at which Time I went thither, and there met with the Archbishop, the present Bishop of *Carlisle* (then Dean of *York*.) before whom I related what I had said to the Recorder the Evening before.

Whilst I was here Lord *Irwin* came in, call'd the Archbishop aside, talk'd a little while, and then retir'd, soon after which we all parted. This was on *Thursday* Forenoon, *November 28*.

As the Habeas Corpus Act was suspended, and as I had long been acquainted with the restless Malice of my Enemies; I therefore drew up a Set of Questions to ask each particular Person at each Inn in the respective Places where I had been, particularly at *Hornby* and *Lancaster*.

These Questions were all to be answered upon Oath before a Magistrate, and least I should have either omitted, or not asked the Question full enough, so as to satisfy any Person; I desired our Recorder to alter or add to them what he thought proper, the easier to come at the Truth; which being done,

the Letter was sealed up and sent away by the Post immediately.

This Method I thought the fairest and the least liable to Suspicion; a Method which they durst not take towards lying open their own Actions. For what but Truth and Innocence could have suggested this Scrutiny? But yet this would not satisfy a certain Priest, for he and others of the same Leaven, finding that they could not easily get me confined, left no Stone unturned to obtain their Wishes; and accordingly a Relation of the Priest wrote a Letter to his Friend, which arrived about Eleven o'Clock on *November 30*. The Purport of this Letter, was to tell him, that "the Rebels were got to *Rochdale* in *Lancashire*, and were coming to *York*," and put a Query thus, as a Postscript, *viz. Q. If this is not owing to your beloved or popular* (which of these two Epithets he used I am not certain) *Dr. B—ns Invitation<sup>b</sup>*? This Letter one P—st gave to another to run about with, and exclaim against me, whilst he whispered others, giving it out, wherever they went, that "the Rebels were coming to *York* upon *Dr. Burton's Invitation*, and that therefore I ought to be taken into Custody<sup>c</sup>".

These Men of Suspicion who were in the Secret, came to the *Guild-Hall*, where I was then walking with several Magistrates, &c. and then, and there, insisted upon my Commitment, altho' no Information or other Evidence was produced against me, for any one illegal Act whatever: But before they durst commit me, the R-c-rd-r sent for all the Party that could be met with in the Streets, Coffee-Houses, &c. to attend at the Hall, though 'tis very well known, they had no Business there, either as Evidences or Magistrates. One of the Priests made a great Blustering, and talked much, but it was *vox & praeterea nihil*; he was often in such a Hurry with Party Fury, that he could not utter his Words for *vox Faucibus haesit*, and he perfectly foamed at the Mouth, especially when I laughed at him, and told him, that I set him and all his Party at Defiance, unless false Witness were to appear, which I own, I was not altogether without Apprehension about.

About two o'Clock that Afternoon, I was committed to *York Castle*, and a Copy of the Commitment is as follows:

<sup>b</sup> These *Highlander's* were about 20 Persons who went to *Rochdale* in *Lancashire*, to pick up the Money due to the Government, and then join'd their respective Corps again.

<sup>c</sup> I must observe, that had they really thought the *Scotch Army* was coming to *York*, they would have been a little more cautious of taking me up, least the Persons who were the Occasion of it, if not also others, should suffer for it.

West Rid-  
ing of the  
County  
of York. } To the Keeper of his Majesty's Goal, the Castle of York.

*Whereas by the Examination of John Burton, of the City of York, Physician, taken before us, Two of his Majesty's Justices of the Peace for the said County and Riding, the 30th Day of November, 1745. It appears, that on Sunday last, he was at Hornby Castle in Company with some of the Rebels, and from thence was carry'd, as the said Examinant confesses by them, Prisoner to Lancaster, where he was permitted to go at large as such, upon his Parole of Honour, and continued there as such, 'till Tuesday Morning, at which Time he was dismiss'd, with a Pass for his Safety, sign'd, J. Murray. From all which above Premises, and other Circumstances, it appears to us, that the said John Burton is a suspicious Person to his Majesty's Government.*

*These are therefore to require and command you, that you receive and safely detain the said John Burton in yuor Custody upon the Premises abovesaid, untill he shall be duly discharg'd by Law. Given under our Hands and Seals this 30th of November, 1745.*

T. Place.  
J. Sterne.

If I had gone over on Purpose to see the *Highlanders*, and had no other Business, in that Country, it would not have been a Reason to confine me without Proof of some illegal Over-Act. For if going over on Purpose had been a Crime, why were not Thousands taken into Custody as well me, many of whom went 20 or 30 Miles farther than I did? The true Reason is, that they were so fortunate as not to have a *St-n* or a *P-ll-yn* to live near 'em; who stuck at nothing to tyrannize with the blackest Rancour, over those, whom they have not Sense or Argument to perswade, to be of their Party. This I shall make appear in the Sequel.

On *December* the 3d. D. *S-n* publish'd a Paragraph in one of the News Papers, which was re-printed in the *London Evening Post*, and as follows, *viz.* "On *Saturday* last Dr. *Burton* was committed to *York Castle*, by the Recorder and Dr. *Sterne*, as Justices for the West Riding of this County. It appearing from his own Confession, that he went to *Hornby*, knowing the *Rebels* were there, and upon a Supposition, that the Duke of *Perth* was there, wrote a Letter to him, which being open'd by Lord *Elcho*, he was sent for up by two *Highlanders* to the Castle, and, as he says, carry'd along with them as a *Prisoner* to *Lancaster* where he convers'd with Lord *George Murray*, and a Person call'd his *Royal Highness Prince Charles*. There was the greatest Satisfaction

express'd at his Commitment from the highest to the lowest Person in the City, that has been known here upon any Occasion.

In my Remarks upon this Paragraph, I shall consider it under three Articles.

First, to my being committed for Matters of High Treason, as mention'd on the Back of the Warrant of Detainer.

Secondly, As to confessing I had been with the Rebels.  
And

Thirdly, As to the great Rejoicings among all Degrees of People of all Parties.

First, That I was not committed for High Treason, I need bring no other Proof than the Commitment itself; wherein it is only said, "I was a suspicious Person to his Majesty's Government." D. *S-n* also wrote several Letters to his Acquaintance, wherein he said, I was committed for High Treason; I can mention some to whom they were wrote, and others to whom they were shewn. D. *S-n* also told a Gentleman who was at his House, *that had I a thousand Lives, he (S-n) had as much Treason there (pointing to the Table, whereon lay a Heap of Papers) as would take 'em all.*

There are two Ways to come at the Truth in Treasonable Practices; the one, is by *positive Proof* (which in Case of High Treason, is absolutely required) or by the Party accus'd own Confession. Now it is evident neither of these appeared against me, notwithstanding one of the most malicious and strict Scrutinies that *Party-Rage* could suggest.

*S-n* here brings a heavy Charge upon himself; for had he such Proofs of my being Guilty of High Treason (as he declared to Mr. *B-d*) why did he not produce them? and any one, who has Proof of another's being guilty of High Treason and conceals it, falls under the heavy Penalty of Mis-prision of Treason, so that he is under that Dilemma of being Guilty of spreading the greatest Falshood, or of Mis-prision of Treason.

I shall now proceed to the second Article, and shew how he has misrepresented Things, by asserting that *I confessed I had been with the Rebels.*

*S-n* would intimate to the World, that I had confessed I had been with the Rebels to join, aid, and assist them: I'll appeal to every Man's own Breast, whether he would not absolutely take it in that Light from *S-n's* manner of expressing himself.

I must observe to this upright Man, that in *every* Confession (for so he was pleased to call the Account I had given of what befel me as above) the Sense and Meaning of the Whole must be taken together. It is not our Business to pick out a Part or a Sentence, or a few Words, and apply them to what Purpose we please; for by that Method I could bring Words to prove, from the New Testament, that D. S—n ought to be hang'd here, and damn'd hereafter.

As D. S—n had undertook to tell a Part, as Truth, he should have told the *whole Truth, and nothing but the Truth*, He should have told the Legality of my *Call* into that Neighbourhood where I was taken Prisoner, *and* the Necessity of my going there. &c. &c. and then he would not have been to blame.

I come now to the Conclusion of this ever memorable Paragraph, where S—n says, That on the Occasion (meaning at my Commitment) *there was the greatest Rejoicings by all Degrees of People of all Parties ever known upon any Occasion.*

Here again S—n has misrepresented the Truth, as was evident to all the Inhabitants of the City of *York*, and Neighbourhood; nay, his own Printer, Journeyman, or Servant, whose Bread *depended* upon S—n, was so conscious to himself, that every Person, who were then acquainted with me, must know that Part of the Paragraph to be false; and therefore beg'd Leave to omit it but S—n order'd him to print it as *he had wrote it.*

How I became then so popular is properer for another Pen to shew, than mine; but that these Persecutors knew it, is evident; for when it would serve their Turn to distress me in any Shape, then my *Popularity* was always urged as an Argument against me; and as such, was made use of in the very last Opportunity they had of shewing their *tender* Regard for me; I mean when I went to *London*. This Argument was then push'd as a Reason for the *Necessity of having a Guard of Soldiers along with me to London*, and for putting me into *Irons*; tho' at *that very Time*, I had the Gout in *both Feet, both Knees, and in my right Hand*, unable to move without the Assistance of two Persons: But of this, more in its proper Place.

Had D. S—n said, that he and his Partizans were exceedingly rejoiced, I dare say, he would have been credited *once in his Life*, without bringing Vouchers to prove it.

His being Author of this Paragraph, as well as of that of the 17th of the same Month, that on the 7th of *January* following, ill became him, considering him in any Light or Capacity, and even in Point of Prudence and Policy too.

Here may be seen how artful he has been in mixing Falshood with Truth, thereby the more probably to deceive and mislead the People, which was the *very End* and Design of his Writing.

That I was committed into Custody was *fact*, but not for *High Treason*—That I was *with the Highlanders is Truth*; but he did not tell the World, that I was taken and detained a Prisoner, as I had related.— He said, there were great *Rejoicings* at my being committed; so there were, but only by *him* and *such like*, whose dangerous Schemes I always justly opposed, and who grudge that any Person should have leave to breathe the same Air, unless he first stoops his Neck to their Yoke, and blindly obeys their Commands.

But here it may be too Dangerous to be too particular (if he could) let us therefore sacrifice our private to the public Good, for let our Case be ever so hard, ever so oppressive, and tho' Truth dictate every Word, I allow we ought not to publish it; and let our Adversaries be notorious, even upon *Record*,—Let them be publicly *indicted, prosecuted, and found Guilty*; yet we ought not to exhibit such Monsters to Mankind, in their proper Colours: 'Tis but very right and fit, that every private Injury should give Place to public Utility. The Gospel breaths nothing but Peace and universal Benevolence: Let us therefore follow *truly pious Minister of the Gospel*: Let us *like him, study to be quiet and do our own Business*. Let us *put on Bowels of Mercy, Kindness, and Meekness, &c.* Let us not avenge ourselves, but *rather give Place unto Wrath*; or rather follow the Advice of our Saviour upon the Mount, that *whatsoever ye would, that Men should do unto you, do ye even unto them*. For the Sake of Virtue indeed, it may not be improper to make those *Smart* who *cannot Blush*, and it is not impossible, but some of his Acquaintance may be soon touch'd in the most *tender* Part; and such a Part every Man has, who has any Passions at all. *Achilles* was vulnerable tho' it was only in his Heel. But to return to the Narrative.

While a Priest was employing himself at *York*, a certain B-r—t sent a Person into *Craven* and *Lancashire*, to go to the respective Places where I had been, to take such Persons before a Magistrate to be examined upon Oath as they thought proper; some were carried before Major *D-w-s-n* near *Settle*; others before Mr *F-nw-ck*, the Lawyer, and Member of Parliament; and others before the Mayor of *Lancaster*, &c. all which Examinations were taken and carried to the B-t and others. But all these being in my Favour, some certain Persons sent again into that Country to a Magistrate, to desire he would do as they required in the Letter; but he replied, that he had *done all that was lawfull before*, and that *if they had any Thing farther to do, they might do it themselves, for he would not be concerned*.

This however did not discourage them, for such was the B-r-t's Thirst of Revenge, that in *February* following, he wrote again to M. *D-ws-n* to desire he would once more try to find Evidence against me; and about the same Time, one *S-w-y* went to *Lancaster* upon the sane Errand, to oblige the B-t. but returned *Re infecta*. I must also tell the Reader, that this Bart, had two Persons employed for some Time after my Return to *York* from *Lancaster*, to try to find Evidence against me, but all their Attempts were in vain.

Having now shewn what was done in the Country, I must return and shew the Attempts made at *York*. But first I must acquaint the Reader, I soon had an Answer upon Oath, sent to the Questions before mentioned, to have been shewn to the Recorder; which were so much in my Favour, as to make my Innocence sufficiently appear.

A few Days after my Confinement, I sent to give Notice, that I should be prepared with sufficient Bail, as no Fact was alledged against me, and that I desired a Time might be fixed on for my Bail to attend, but trifling Excuses were made to delay it a little longer; during which, a false Witness appeared, and accordingly on the 14th of *December*, Dr. *Sterne*, Dr. *Braithwaite*, Mr. *Stillington*, and Mr. *Oates*, came to the Castle, and were a considerable Time with one *James Nesbit*, then a Prisoner there; during which Time, an Information was lodged against me, for drinking *Success to Charles, and his Forces, and that I hoped to be his Physician, and for casting Reflections upon his present Majesty, and the rest of his Family*; and this *Nesbit* said, was done two Days before.

This is the Substance of what *Nesbit* declared before my Lord Chief Justice; when, and where he made a voluntary Confession of the whole villany upon Oath. But a certain Person took care to prevent me from knowing the Contents of this Information for Reasons, which will probably appear below.

Upon this Information's being taken the following Warrant of Detainer was signed, *viz.*

	<i>To the Keeper of his Majesty's</i>
<b>Castle of York,</b> }	<i>Gaol, or Castle of York, or</i>
<b>Dec. 14, 1745.</b> }	<i>his Deputy.</i>

*You are hereby required and commanded to keep the Body of John Burton, Physician. already in your Custody; in safe Custody, and not suffer him to be discharged; in order to answer a farther Charge made against him, upon the Oath of James Nesbit taken before us, this 14th Day of December, and this shall be your Authority for so doing. Given under our Hands and Seals, this 14th Day of December, 1745.*



Jaques Sterne.  
 Mar. Braithwaite  
 Rt. Oates.  
 Jos. Stillington.

I must not omit to acquaint the Reader, that there was some Difficulty to get Justices to go to the castle, to take this Information against me, as I am credibly informed, for Mr. *N-th-pe* and Mr. *N-rcl-ff* were applied to, but refused, doubting the Truth of Facts.

I must also remark, that in all Commitments or Warrants of Detainer, it is the common Practice, with every honest Magistrate, to specify the Accusation, so that the Prisoner, might, ifailable, be discharged, upon giving sufficient Security for his Appearance at a proper Time and Place; but here, there is no Accusation specify'd, on which, a Person could form any Judgement; and I must observe farther, that these Gentlemen can't plead Ignorance, because two of them were Doctors of Law, and had been sometime acting Justices of the Peace; the other two indeed were only common Justices of less Experience; I must also Remark, that, contrary to common Practice, they did not bind *Nesbit* over to prosecute me. The true Reason of which, I leave for others to guess.

This Information was no sooner lodged against me, than a certain Priest went to the Coffee-Houses and other public Places, to tell the World what a Piece of Work had been done.

These four Justices staid till between seven and eight o'Clock at Night, at which Time I had Company with me, and we had near finished our Supper, before the Justices went; and as soon as they were gone, *Nesbit* desired one of the Gentlemen in the Castle, to shew him to my Room, which he did; *Nesbit* came, knocked at the Door, and desired Admittance; which being granted, *Nesbit* told us, that the *J-st-c-s* were leveling at my Life, for they had been to get him to turn an Informer against me, and mention'd several Things which they had offer'd, and he had refus'd to swear to, which provok'd me, till; I in a great Passion bid him begone out of the Room he being a Person I had no manner of Acquaintance with. I then immediately sent to the Keeper of the Castle for a Copy of the Warrant of Detainer, as above.

The next Day, being *December* 15th, I told the Gentlemen there confin'd with me, what had been done, and it was unanimously agreed, that a Petition should be sent to desire the Justices to meet at the Castle the next Day, being the 16th, when the following Justices attended accordingly, *viz.* The Dean, the Recorder of *York*, Mr. *Nelthorpe*, Mr. *Tancred*, Mr. *Stillington*, Mr. *Oates*, Dr. *Braithwait*, Mr. *Dawson*, Dr. *Sterne*, and two others.

I then went into the Room, and desir'd, that those Persons might be examin'd who were by at the Time when *Nesbit* in his Information said, I spoke the foregoing Words, that I might clear myself of the Accusation by their Examinations or Informations, of the whole Affair; for that I had never seen Dr. *Sterne's* old Friend, *Nesbit*, in my Life, before the Time mention'd, and was not then in the Room 20 Minutes of an Hour, and *Nesbit* was on one Side of the Room, and I on the other, and all the Company, whom I prefer'd to be examin'd were by, and as there was a Table betwixt us, nothing could be said between *Nesbit* and me, that must have been heard by all or some of the Company; who unanimously declar'd, I never spoke any Thing, as mention'd in *Nesbit's* Information, as far as we could come at the Knowledge of what he had said. However, I desir'd that their (my Evidences) Depositions might be taken, least I should loose the Benefit of their Evidences at my Trial at the ensuing Assizes (which I was determin'd to push for) because two of the five of my Witnesses were going Abroad as soon as they could after their Discharge, and another was in a bad State of Health.

Dr. *Sterne* no sooner heard what I desir'd, but immediately said, "That I was very unreasonable in desiring any such Thing;" upon which I replied, that "I did not doubt but he would think it unreasonable, that any Man should be allow'd to defend himself if he (*Sterne*) did not like his Complexion, especially as his Friend and old Acquaintance, *Nesbit*, might be in some Danger from it."

The D—n was Chairman, and not being so good a Lawyer as the Recorder, ask'd Mr. *Place*, what, in that Case was to be done. The Recorder replied, "That it was no uncommon Thing, more especially for the Crown?" *Ay, ay*, says the Dean (in a great Hurry) *for the Crown*, and seem'd well pleas'd that the Recorder had made that answer.

I must remark, that it is a known Maxim, that every Man, as well as the Crown, ought to have the Benefit of his Evidence, and all lawful Means are justifiable to prevent the Loss of 'em, as well for the Subject, as the Crown; but yet this was then not to be granted to me, neither was *Nesbit* bound over at this Meeting to prosecute me.

I was not well assured whether I had a Right to demand these People's Depositions to be taken or not, yet I thought it reasonable; and therefore I made a formal Demand, and spoke to People who were in the Room, to bear Witness thereof. The Recorder finding a Warmth to encrease on both Sides, ask'd me, whether I thought any one of my Witnesses were in immediate Danger of Death or no? I answered, that *I hop'd not*; then, replied the Recorder, "If any of them be either very Sick now, or hereafter become so; let me know, and I'll come at any Hour to take their Examinations, or

Depositions, for it is but reasonable that you (meaning me) should have the Benefit of their Evidences." Upon this Promise, I dropt that Proposal: Saying, "that I was glad however, that my Enemies would be balk'd of their Design, because that what was alledged, was only a Misdemeanor, if true; and consequently, I might be admitted to Bail, and be at Liberty to follow my Profession." Upon which I observed Dr. *Sterne*, scratched his Head, and became very thoughtful.

*Nesbit* being afterwards in the Room, it was demanded that he should be bound over to prosecute me; upon which, *Nesbit* turned to Dr. *Sterne* and said, *I hope Sir, you'll do that for me.* This not only made me smile, but diverted also some others of the Hearers, who told it to several of their Acquaintance.

The Business being here finished, the Justices went into the Castle-Yard, some to their Coaches, and others walk'd homewards; while Dr. *Sterne* call'd Mr. *Stillington*, Mr. *Oates*, and Dr. *Braithwaite* aside in the Castle-Yard, and then they all seemed to be Whispering for a little Time; all the other Justices were gone out of the Castle-Yard, when these four last mentioned, returned into the Castle again, and called for the Keeper, asked for that Warrant of Detainer, which they had signed against me, which he soon produced; and then Dr. *Sterne*, wrote the following Endorsement, which they all of them signed.

To the Keeper of his Majesty's Goal, or Castle of *York*, or  
his lawful Deputy

*Let the Justices of the Peace for the County of York take Care, that Dr. Burton be not admitted to Bail: The Information of James Nesbit taken upon Oath before us, amounting (as we think) to High Treason.*

Jaques *Sterne*.  
Mar. *Braithwaite*.  
Jos. *Stillington*.  
Robt. *Oates*.

I must observe, that the manner of Dr. *Sterne*'s doing of this was something very remarkable. For if he thought it right to have made this Endorsement, why did not he do it before the rest of the Justices, for these four immediately return'd as soon as the other went out of the Gates: If Dr. *Sterne* and the others, thro' their great Wisdom and Penetration, had known the Accusation was High Treason, as here intimated, why did they not specify in what Respect it was High Treason? Would this Endorsement have been made, had I not said that the Crime alledg'd, was only a Misdemeanor, and of Courseailable?

D, S—n went to L—d Ir—n and others at the *George Inn* in *Coney-street, York*, and then sent for Mr *Griffith* the Keeper of *York Castle*, and endeavour'd to prevail upon him to lay me in Irons, which he absolutely refus'd. D. S—n then discharg'd Mr. *Griffith* not to suffer his Wife to see me upon any Account.<sup>d</sup> At the same Time also, another of my Witnesses, was order'd to be close confin'd in his Room, and to have a Centry set upon his Door, to prevent any Body from speaking to him, or from having any Communication with other Persons.<sup>e</sup>

On the *Tuesday* following the 17th of *December*, D S—n publish'd a Paragraph in the following Words, viz. “A Warrant of Detainer of Dr. *Burton*, sign'd by four Justices, was last *Saturday* lodg'd with the Keeper of *York Castle*; Matters of High Treason, as the Justices conceive, who committed him, having been sworn against him.”

Before I go any further, I must observe, that this Endorsement is without Date, and it ought rather to have been directed to the Justices than to the Goaler, and that both the Warrant of Detainer and Endorsement are in Dr. *Sterne* s own Hand Writing. I must also observe, that in the Warrant of Detainer, the Doctor should rather have given the Justices the Caution not to admit me to *bail*, than to have order'd the Goaler *not to suffer me to be discharg'd*, because had I been legally admitted to Bail, the Goaler durst not have detain'd me; notwithstanding this insulting Priest's Order.

The same Evening Capt. *Cadogan* of *Oglethorp's* Regiment came to my Room, and plac'd a Centry upon my Door, forbidding me the Use of Pen, Ink, and Paper, or of having any Communication with any Person, unless that he, or one of his Officers was with him or her: They at allow'd me to have one of my Men Servants with me, provided he would submit to the same -Restrictions with myself. Thus I remain'd till I was remov'd to *London*, in Custody of a Messenger in *March* following; during the Assizes, then held at *York*, a little before which, a Warrant of Detainer from the

<sup>d</sup> Whether was that Order, because she was one of my Evidences against *Nesbit's* Accusation, I having produc'd her for that Purpose to the Justices.

<sup>e</sup> Can any one suppose this was not for the same Reason; since he had been at full Liberty in the Castle Yard for several Months, and no one Witness whatever cou'd be procur'd against him, although several Advertisements were publish'd for that Purpose? nor was he so much as accus'd of any treasonable Practices. This Guard was kept over him 'till the Week before the Assizes, when it was taken off, to prevent his complaining to the Judge, of the ill Usage he had met with This Person was discharg'd at those assizes, nothing appearing against him.

Duke of *Newcastle* came down to prevent any Person, therein mention'd at that Time in York Castle, from being either tried or admitted to Bail, pursuant to the Power granted by the Act for suspending the *Habeas Corpus* Act.

During *Christmas* Hollydays, a Clergyman, who lives not far from a certain Baronets, came and proposed that I should apply to his Neighbour to obtain my Liberty; assuring me it would be granted, but I told him, "I scorned to submit to any Man for a Plaister, when he had broke my Head." I farther added, "that I would not accept of any Favour or Mercy at his Hands; for I had no Occasion for either, and was resolved to stand it out to the last, cost what it would: For I was a *Briton*, and as a *Briton* would behave, which I would convince them of; whenever put to the Test."

During my stay at *York* Castle, Captain *Cadogan* made various Attempts upon me, sometimes by trying to frighten me with Threats, and at others, by wheedling me into, what he called, a fair Confession and Discovery of every Person they would have me to speak about. I often told him of the Folly and Vanity of his making such Overtures to me, and assured him he was mistaken in his Man; and at the last I put him in mind of that Scene in *HAMLET*, where *Posen* and *Guildersterne* were sent by the Queen to pump her Son; upon which he thought proper to desist from any farther Attacks on that Score. Soon after this Time I was removed to *London*.

Amongst other Things, Capt. *Cadogan* used to talk about *Nesbit*, and I always declared, that though our Justices had refused to bind over *Nesbit* to prosecute me, yet I would move the Judge on the first Day he should sit to do Business, to oblige *Nesbit* to do it, and then I should not doubt of being acquitted, and of having a Copy of the Indictment given to me, and then I would Prosecute him for Perjury, and did not doubt but *Nesbit* would discover the Plot, rather than undergo such a Penalty, as would upon Conviction, be inflicted upon him. This the Captain told to others, and on the *Saturday* before the Judge came to *York*, he came again to ask me seriously, whether I persisted in my Resolution? which I answered in the Affirmative; the Captain then went to two of those who were present, when I was in the Room with *Nesbit*, and told them, he was sent to ask them a Question in the most solemn Manner, and desired their Answer; the Question was, whether I had said what *Nesbit* had charged me with, and they declared in the Negative. Lieutenant *Wansel* also came to the Castle upon the same Errand.

The Officer then went to the *George* Inn in *Coneystreet*, whither a certain B—t was just arrived out of the Country, where he was met by a little Busy Body, to whom the Officer made his Report; after which a Consultation was held, how

to prevent *Nesbit* from being punished, and no Method could be found out so certain as to write to *London*, to desire I might be removed thither, in Custody of a Messenger before the Assizes should begin; accordingly on the *Sunday Evening* following, Mr. *William Dick* left *London* about seven o'Clock having express Orders to make haste from Mr. *Ramsden*, Brother to Sir *John*, and under Secretary to the Duke of *Newcastle*, whose Orders were faithfully obey'd.

I can't help remarking, that they were convinced of my Innocence, or why need they be so afraid of my having a Trial, which I always apply'd for? I must also observe, that where positive Proof can't be had (which is the Case with regard to our Intentions) circumstantial Proof must be allowed. Let the Reader therefore duly consider what I have said in this Narrative, which I solemnly declare to be Truth, and then let him form his own Opinion, as to the Usage I have met with. I must farther acquaint the Reader, that where any of the Person's Examinations could be turned to any seeming Disadvantage of mine, they were sent to the Duke of *Newcastle's* Office; but such as tended to clear up, what seemed to be against me, were not sent up. This I made appear when I was examin'd at the Cock-Pit, *Whitehall*; when and where I told Mr *Stone*, where the Examinations were taken, before, and by whom, and in whose Custody they remained. This I did to let those above see, how very partial my Persecutors were.

The Messenger made haste, and got *York* on *Tuesday Morning* about nine o'Clock, came directly to the Castle, and acquainted me with his Errand; to which I reply'd, *That he was the welcomest Guest I had seen a long Time, for now I hoped to have some Justice done me soon.*

Altho' by this Messenger's Arrival so soon, I lost all Opportunity of gaining Satisfaction of *Nesbit*. I had my *Subpænas* and every Thing else ready for a Trial, and had also order'd, that the Judge should be moved as soon as ever he went to Court to do Business.

As I was so ill in the Gout, I could not travel any other Way than in a Coach, on account of my Feet, which I could bear in no other Posture, but extended horizontally. The Messenger proposed that I should set forwards next Day, which I very readily agreed to attempt.

One would have thought, that as I was going to *London*, these People would be satisfied; and that my Persecutors would have been quiet, especially, as thereby, the Danger of *Nesbit's* discovering the Plot, by being prosecuted at that Time, was over; which however, he has fully declared upon Oath before my Lord Chief Justice, as I have observed already. But such is the restless Spirit of the little Fellow, that

he went to *Bishopthorpe*, where *Cadogan* met him, as I suppose others did. Here Orders were given to the Captain (as he told me) to send a File of Musqueteers, consisting of 20 Men, to guard me up. The Captain came to my Room at the Castle, immediately from *Bishopthorpe*, told me his Errand, and wanted to speak with Mr. *Dick*, the Messenger, who was gone to his Inn.

Captain *Cadogan* then went to the *George* Inn in *Conestreet*, found Mr. *Dick* there, and told him, that he (*Cadogan*) was come to acquaint him (*Dick*) that he had ordered a File of Musqueteers to be ready to attend me up to *London*, and desired to know when he (*Dick*) intended to set forwards.

Mr. *Dick* instead of answering *Cadogan's* Question, asked him who he was? "the commanding Officer here," reply'd the Captain: *Very well*, says Mr. *Dick*, and *what have you to do with my Prisoner? when I want your Assistance I shall command it, but at present I will not have it.* — "You don't know, reply'd *Cadogan*, what a dangerous Man Dr. *Burton* is<sup>f</sup>, for if he do but hold up his Thumb, he'll have a thousand Men to rise to rescue him." — *I'm glad to hear*, says Mr. *Dick*, *that the Doctor is so well esteemed in his Neighbourhood, but if such a Number of Men were to rise, your 20 Men would be of very little Use, and therefore I'll not take them to distress any Gentleman without sufficient Cause.*

"Well, says *Cadogan*, since you are so obstinate as to refuse them, I have bought two Horses, and am going to send two Soldiers up with 'em to *London*<sup>g</sup>, and I'll order 'em to take their Arms and Accoutrements, and to take their Quarters at the same House you go to, and then they'll be ready to assist you." This Mr. *Dick* refused; upon which the Captain said, "Then you must lay Dr. *Burton* in Irons." This Proposal greatly provoked Mr. *Dick*, who replied, *Go Sir, and mind your own Business, I know mine. I now plainly see thro' your Design, and must tell you, it is barbarous and inhuman to offer to lay the Doctor in Irons, when you see he now has the Gout in both Knees, both Feet, and one Hand, and can't stir without two People to lift him. But I must tell you*, continued Mr. *Dick*, *that I fancy every Thing has been told the Duke of Newcastle, that could be produced against the Doctor, and he (the Duke) has not given any particular Charge, which in dangerous Cases is usual. My business only is to carry Dr. Burton up to be examined.* Upon this

<sup>f</sup> Here now, my Popularity was made use of, as an Argument to distress me.

<sup>g</sup> I think a properer Use might be made of our Soldiers than this.

*Cadogan* went away greatly chagrin'd.

Notwithstanding this Rebuff, these indefatigable Zealots could not be pacified, which made Mr. *Dick* resolve to act the prudent Part, and therefore he went up to the Judge<sup>h</sup>, told him what had passed, and desired his Directions, and shewed him at the same Time, the Duke of *Newcastle's* Warrant, which the Judge read, and then asked Mr. *Dick*, if he (*Dick*) apprehended any Danger of an Escape? to which Mr. *Dick* replied, *Not in the least*,— then said the Judge, “I think you ought not to distress the Doctor to please any of his Party Enemies, but to follow your own Opinion.” Accordingly, Mr. *Dick*, Mr. *How*, and I set forwards in a Coach and Six, on *Wednesday* the 12th of *March*, 1745-6. about two o'Clock in the Afternoon for *London*, where we arrived very safe on the *Monday* following.

I shall mention no more of the Deposition of *James Nesbit*, taken before my Lord Chief Justice, on the first of *November*, 1747. than may be necessary for my present Purpose; because I may make another Use of it in a proper Place. *In this he has sworn, that a certain Person, with others (naming who they were) threatened to throw him (Nesbit) into the Low Goal, and there he should be under 80 Pounds Weight of Iron, unless he (Nesbit) would sign the Paper, which contained the false Accusation abovementioned, and that those Persons promised, and engaged to procure for the Deponent, a Pension if he would swear to the Contents of the said Paper Writing. Nesbit farther saith, that he was not in any Sort present, or in the hearing of such Words, as have been mentioned to have been spoke by me: Nesbit also says, that this was the only Motive and Cause of his signing the said Paper Writing, which contained the false Accusation abovementioned.*

The Deposition was inclosed in a Letter directed to me at *York* while I was abroad, and was made out of a Consciousness of Guilt, in order to make my Innocence appear, freely and voluntarily, without any other Motive or Inducement than as here mentioned.

When Subornation of Perjury, Bribery, and Threats are all made Use of, to obtain such diabolical Purposes, who can be safe?

In this Year, *viz.* 1746, while I was at *London*, the Reverend *Jaques Sterne*, LL D. Archdeacon of *Cleveland*, Præcentor, Residentiary, and a Prebendary of *ST. PETER's* in *York*; Rector of *Driffield*, &c. and one of his Majesty's Justices of the Peace; wrote a Letter to the Lord Mayor of

<sup>h</sup> *Sir Thomas Abney.*



*York*, wherein he offered 200*l.* Sterling for his Freedom; &c. of that City; but the Corporation was so sensible of his *great* Merits, which so far exceeded any, or all of theirs, that they unanimously rejected the Proposal, and out of the whole Body, there was not one Man offered a single Word in his Behalf.

After I got to *London*, I was used in the same Manner, I suppose, as other People are in a Messenger's House, where I remained a considerable Time alone; but after having been just eight Weeks in the Messenger's Hands: By the frequent Application of some of my Friends, I was sent for to the Cockpit to be examined, where I was under Examination from eight o'Clock in the Evening, to near one in the Morning of the 7th of *May*, 1746. I was asked a great many Questions, but previous to my Answers, I desired they would not depend altogether upon what I said, for I would tell them who to apply to, for the Truth of what I had to offer: This was then acknowledged to be very fair and candid in me.

As I found by the Questions put to me, that they had only received a partial Account, I asked if they had got, such and such Examinations, which were taken, and I was answered in the Negative; I then shewed them the Partiality of my Persecutors; and finding, that they (my Enemies) had not given any Account of my Errand, I then said to the Gentlemen there present, if they would give me Leave, I would relate every Step I took previous to my Going, what happened during my journey, and at my Return back again. This being told, they had the Questions answered, which they had to ask me as to that Point: and all that I said relating to that, was wrote down. I then gave the true Characters of some certain People as well of the Clergy as Laity, and particularly as to their *former Principles* and present Behaviour in their respective Neighbourhoods. Upon my mentioning a Number of Facts, for the Truth of which I appealed to others, Mr. *Stone* said, he fancied that they (meaning the Persons I had named) did it with a Design to get Preferment, and to be in Favour with those above; but he said they took a wrong Method, *for his Majesty was not oblig'd to those, who made any of his Subjects disatisfy'd with the present Government, which, was the Consequence of such Proceedings.*<sup>i</sup>

My Examination being ended, Mr. *Stone*<sup>j</sup> said, he would

<sup>i</sup> *S—n* had a Letter of Reproof sent to him to check his proceedings by order of my L—d *C-r*, I believe. I have it from good Authority, that *D. S-n*, and his Brother Persecutors, had given more false Accusations and Misrepresentations of Facts than were given by all the Kingdom of *England* beside.

<sup>j</sup> First Secretary under the Duke of *Newcastle*, and Member of Parliament for *Hastings*.

remind the Duke of *Newcastle*, and desire him to determine my *Affair* as fast as he could. I waited some *Time* with *Patience*, and then some of my *Friends* apply'd to the Duke of *Newcastle*, to beg he would come to a speedy *Conclusion* of my *Business*. The Duke promis'd in a few *Days* I should know his *Determination*, but this not being done, my *Friends* apply'd again, and had the same *Answer*, receiving a *Sort* of *Excuse*, that the *Hurry* was such, as they could not get on with every *Thing*. I must inform the *Reader* that my *Friends* were desir'd not to ask any *Favour* or *Mercy*, but only *Justice* and to get me to be try'd; and in *Case* that was deny'd, then to desire I might either be admitted to *Bail* or discharg'd I took *Care* also in my *Letter* to his *Grace*, on the 23<sup>d</sup> of *August*, 1746. to let him know, that *it was not Mercy I had been, or was then pleading for, but that Justice only, which every Briton, had a Right to demand, viz. either a Trial or my Liberty.*

The *Parliament* breaking up in *August*, my, *Friends* all went into the *Country*, and I waited for some *Time*, but hearing nothing, I wrote to *Mr. Stone*, and then my *Prison* was enlarg'd, by being allow'd to go out, which happen'd on the 6<sup>th</sup> of *September*, 1746. But hearing nothing as to the obtaining my *Liberty*, in *October*, I wrote again to *Mr. Stone*, to desire he would let me know, when it would be convenient to wait upon him, to shew him the absolute *Necessity* of speedily obtaining my *Liberty* some *Way* or other.

This *Letter* *Mr. Stone* did not answer, but sent *Mr. Waite*, the *Law Examiner*, who was also one of the *Clerks* in *Lord Harrington's Office*, but now is *Secretary* to the *Lord Justice* in *Ireland*. This *Gentleman* I say came, and having told him my *Business*, I complain'd of the great *Hardships* I had labour'd under, and of the *Injustice* done me, in neither trying me nor setting me at *Liberty*, when I had been near a *Year* confin'd. *Mr. Waite* then told me, that, *truly I should have been discharg'd soon after my Examination at the Cockpit, had it not been for a Letter sent up from York, containing Words to this Purport, viz. "That I had a general Acquaintance with both the Gentlemen of the County and City of York, and knew 'em perfectly well, and could, if I would, give a full Account of 'em, and that if I was but sufficiently distress'd, no doubt but I should squeak at last."* This *Mr Waite* said, was the *Substance* of that *Letter*, and was the chief *Reason* of my being longer detain'd in *Custody*. I reply'd to him, *I thought it to be an additional Hardship, that because I was ignorant or innocent, I must therefore run the Hazard of being ruined at the will and Caprice of a wicked Person without Proof of any Kind, and that because the Habeas Corpus Act was suspended*, I farther said, *That there either was Nothing or Something against me; if the last, it was cruel not to give me an Opportunity to clear myself in a Year's Time.*

I told him also, that if I was not soon discharged, I should remain as easy as I could, till the *Habeas Corpus* Act took Place, which I hoped would be in two or three Weeks Time and then would *force them either to discharge me, admit me to bail, or try me*; but soon after this, the Suspension was prolonged till the 20th of *February* following, to my no small Grief and Concern.

Sometime after this, the Parliament met, and I was then in great Hopes, that I should either be discharged or tryed, the latter was what I should rather have preferred, had it not been for the Expence of it; because it would have given me an Opportunity of opening such a *Scene of Persecution, carried on by some in this County*, as has not been exhibited to the *Public* since the Revolution, as I shall farther make appear in the Sequel.

My Persecutors would not yet desist from attempting my Destruction; and therefore *three Persons* (who are *the most* remarkable for *their* Behaviour to THOSE who will not truckle to 'em) met at the *George* Inn in *Coney-street*, on or about the 12th of *August*, being the first Time the Judges met at *York*, to hold the special Assizes, to try the *Highlanders*, then in the Castle of *York*.

To this Inn, they sent for a Person who was my Servant, when I was taken Prisoner by the *Highlanders*, and the two Principal Persons examined him, which Examination the other took down in Writing. They required of him a full Account of what related to me, and my Behaviour, from my going from *York*, to my Return back again, after I had been taken Prisoner by Part of the *Scotch Army*, &c. This being finished, and perused by one of 'em he said, "here is nothing that will hurt Dr. *Burton*, and it will not answer our Purpose." Then he, turning towards the Servant, said, "Well, young Man, if you'll swear against Dr *Burton*, I'll procure you a good Place, and you shall not want Money,"— "Ay", says the other Person, and I'll join my Interest with that Gentleman's to get you a good Place, and I'll promise you, you shall be rewarded.—Upon this Proposal being made, the Servant reply'd, "That he would not perjure himself for all the Places in the Kingdom, nor for their whole Estates; for what he had told them relating to me, was all he knew of the Matter, and that he would not swear a Falsity against me or any Body else, if he knew it."

Upon this Answer being given, the Last Person said to the Servant "You are a Fool, Man, and don't study your own Interest; if you'll but oblige these Gentlemen here, by swearing against Dr *Burton*, they will provide handsomely for you as they have promised you, therefore you had better comply."

But the Servant returned the same Answer as before, and told them farther, "That it was his Resolution not to perjure himself on any 'Account." Upon which one them said to him. "Well go away, and confider better of it, and come to me again To-morrow." The Man then left them, but never return'd to them again.

I must remark, First, that as my Servant had been examined before several Magistrates, &c. upon Oath, it was a wrong Step to call him under Examination upon the same Account. Secondly, That, neither of the two who had examined him, had any legal Authority to act as Justices of the Peace, at the *George Inn in Coney-Street*. Thirdly, That, hence may be seen to what vile Purposes their Interest is prostituted, tho' unknown to the Higher Powers. The said Servant is ready to prove all this, whenever I shall call upon him.

A Person out of the Country had in some Measure shewn his Disposition to me in the *December* preceding, when he was at *W-th-by* with several others, who went to see *Wade's* Army encamped near there. These Gentlemen being at the Inn together, one of them said to this Person, "I fancy that you will be named for our High-Sheriff, I dare say, you may make Interest to be excused that Trouble," or Words to that Effect. Upon this, he replied, "No, by G—d, if I am named, I will stand this Year, on Purpose to have the Pleasure of hanging *Dr Burton*."

This Account was sent to me by a Clergyman, who was one of the Company then present.

It would be too particular to mention the vile Treatment I met with, in Regard to my Horses, by which I suffered at least 100 Pounds Damage; besides the Expences of one Kind or other, which amounted to about 700*l.* Sterling, exclusive of the Loss of near two Years Business.

Add to these Misfortunes, another most shocking Consideration. For I had been most unhappily bound for a very large Sum of Money, which I was obliged to pay for three several Persons.

On this Account, I therefore soon after my Confinement, wrote to the respective Creditors, to make such Proposals as I could perform: Two or three of these thought to be beforehand with the other Creditors, who were disposed to agree, and brought Actions against me, having first got Leave from Above so to do; which, as I was a State Prisoner, must be first obtain'd. As this was the Case, some of my Friends applied to some Persons, in order to have an Attorney, Solicitor, and Council to be allowed to appear for me in Court, and to see the Creditors Demands were Just. And if there was any

Objection to the People nominated, the Person or Persons applied to, were desir'd to appoint others, to appear for me, as I could not attend myself; but none were appointed that I could find.

On the other Hand, there was a Person who owed me a considerable Sum upon Ballance, which was wanted to discharge other Debts withal, and he refused to come to any Account; so that there was a Necessity to file a Bill in Chancery against him, to oblige him to deliver in his Accounts: For this Purpose, Council, &c, was necessary, but that was also refused me, although some of my Friends had made frequent Applications for that Purpose. At last indeed, in the thirteenth Month of my Confinement, I was allowed to make the necessary Oath before a Master in Chancery.

When I was under Examination at the Cockpit, I was asked some Questions about a Fact, for the Truth of which, I appealed to the Archbishop of *York*<sup>k</sup>. The Parliament having met some Time, and the Archbishop having been near six Weeks in Town, and I suspecting, that neither the Duke of *Newcastle*, nor any other Person for him, had either wrote or spoke to the Archbishop about, what I had appealed to him for, I therefore wrote a Letter to the Archbishop, who was then at *Kensington*, to desire to know, if a Visit would be agreeable, and when it might be convenient: His Grace was pleased to write back, that he should be glad to see me on the *Wednesday* Morning following, betwixt nine and ten o'Clock in the Forenoon, being the 24th of *December*, 1746.

I waited upon the Archbishop at the Time appointed, and after acquainting his Grace with my Errand, I desired to know, if he ever had been either wrote, or been spoken to, in any thing relating to me, about which I had appealed to him, when under Examination at the Cockpit? his Grace answered in the Negative. I then desired his Grace would be pleased to certify the Truth of it, to the Duke of *Newcastle*, which the Archbishop very readily agreed to, saying, "that he should be with the Duke of *Newcastle*, on the *Monday* following, and as far as he (the Archbishop) could recollect of that Affair, he would tell the Duke." His Grace performed his Promise, and soon after that, Mr. *Stone* told a Friend of mine in the House of Commons, that the Duke of *Newcastle* was very well satisfied.

I was indeed surprized that an Enquiry into this Affair had not been made before, as the Archbishop had been about six Weeks in Town and my Examination at the Cockpit was on the 7th of *May* preceding.

<sup>k</sup>Dr. *Thomas Herring*, now Archbishop of *Canterbury*.

I told the Archbishop, that I beg'd his Grace would not misunderstand the Intention of my Visit, for I did not want his Grace's *Intercession* with the Duke of *Newcastle*, that being what I had *no Occasion* for, and *scorned* to ask, after the ill Usage I had met with; for that I was determined to *stand* or fall by what I had done, according to the Laws of my Country, because I would not give my Persecutors even the *Shadow of a Pretence*, to say I had *any* Mercy shewn me, or was excused in any Shape, Justice being all I required. The Archbishop was pleased then to say, *That he believed he had heard or seen every Thing had been alledged against me, and was thoroughly convinced that I was innocent, and that he had often said so.*

I was near three Hours alone with his Grace, during which Time we talked upon various Subjects; particularly about Elections of Members to serve in Parliament, &c. and also about a Pamphlet, then just published, entitled, *ASCANUS*. He asked me particularly as to the Truth of the several Facts therein mentioned (because as I was confined at the same Messenger's House with Miss *Flora McDonald*, Captain *McLeod*, *Clanronald*, and others whose Crime was for assisting the young Gentleman in his Escape, and from whose Mouths I had the whole Escape (from first to last) and I can declare, that there has not yet been one true Account published of the Escape, and that Pamphlet, entitled, *THE CHEVALIER*, contains more Fiction and Untruths than the others.

My Conference with his Grace being finished, I took my Leave, and returned home again to Dinner, and remained there till the 9th of *February* following, being the Expiration of the Suspension of the *Habeas Corpus* Act, when I wrote the following Letter to Mr. *Stone*, viz.

*SIR,*

“Since the Necessity of my Affairs are such, as require my being discharged from hence, I hope that neither the *Duke of Newcastle*, nor *you* can take it ill, that as soon as the Suspension of the *Habeas Corpus* Act expires (which will be To-morrow) I shall take *such Methods* as the Law allows me, to obtain *that Liberty*, which I have been *long deprived* of, though *often promised* it.

I would not have you to think, that this will be done, *only* to make a popular Clamour, but on Account of the *Urgency* of my Affairs, which require my *speedy* Enlargement and, Return home<sup>1</sup>.

<sup>1</sup> I was under Contract to pay above 1400*l*, within a limited Time, which was near expiring. This Money I could not raise while in the Messenger's Hands.

I am sorry I have so much *Reason* to shew, that I have been *singled out* for Destitution, by *P\*\*\*\* P\*\*\*\*\**, if it may be said to be so, when I have been *\*\*\*\* the Liberty* of defending *my own Property* on the one hand, while *\*\*\*\*\** was given to others to *bring Actions against me*; and on the other Hand, to be *\*\*\*\* an Agent* to recover my own Right, when in Danger of loosing it both which, *you Sir, know to be true.*

This I am obliged to declare *publicly*, in *Justice* to myself, in *Justice* to my Family, and in *Duty to my Country*, whose *Liberties* have been *struck at* and *wounded* through my Sides by those below, that thereby the Eyes of all *those*, whose Situation it is, to guard the *Liberties and Properties* of their Fellow Subjects may be *opened*, and not for the future to give *such* an Opportunity to any Person to *trample* upon them, either *wantonly*, or through *Malice or Revenge*,

I may very justly be said, to be the strongest Instance against whom \* \* \* \* \*

N. B. *Here and in two or three other Places, the Copy of the Letter being wore was not legible.*

\*\*\*\*\* also in Reality for exerting that Right *without Doors*, that *indisputable Birth-Right inhaerent* in every *British Elector* ..... which would have *proved* so, had I been tried many Month's ago, but ..... as *resolute as Lilbourn* in Defence of my *native Right*, and the *Laws and Liberties of my Country*.—Sentiments which I have always espoused and hope to *live and die* with. If to be ..... date say they are not? Then have I been..... and have Reason to.....

Divest yourself, Sir, from all *Partiality* (if any you have) and consider the *Consequence*, not only to *me*, but to others hereafter, if *these Things* are not made *Public* and put a *Stop* to; for though I am now the *unhappy Sufferer*, yet who knows *where*, or *with whom* it will End?

When you have acquainted the Duke of *Newcastle*, please to let me know the Answer, and you'll oblige

*Sir,*

*Your very humble Servant,*

Feb. 19, 1746-7.

J. BURTON.

*Directed to Andrew Stone, Esq; Member of Parliament, at*

*the Duke of Newcastle's Office.*

I waited a few Days for some Answer to this, but none coming, my Solicitor was to give Notice according to Law, to the Attorney General, that three Days after that Time, he must appear to show Cause, why I should not be discharged, for on such a Day I should be ready with my Bail. My Solicitor was about to go, when a Gentleman desired, that the Offer should first be made as a Compliment to the Duke of *Newcastle*, to discharge me himself, rather than do it *per Force*: This I complied with, though much against my Inclination but I had such Obligations to that Gentleman, that I could refuse him nothing he could ask.

Pursuant to this Agreement, I was to write once more to the Duke of *Newcastle* and this *Gentleman* would carry it himself. To prevent Delays, or a fruitless Attendance, this Gentleman sent to the Duke of *Newcastle* to fix a Time when he might wait upon him, which done, and the Time being come, the Gentleman went, and was near an Hour with, the Duke, who promised he would discharge me very soon; I then sent the Names of my Bail to the Office, who were approved of.

On the 4th Day of March following, being *Ash-Wednesday*, my Solicitor came from the Att-rn- y G-n-r-l to acquaint me, that I was to make Affidavit, that I carried neither Bills, Money, nor Letters to any of the *Highland Army*, as I had declared in Writing to the Duke of *Newcastle*. This, tho' contrary to the Laws of this Land, I yet complied with, and that very Evening was sworn before judge *Dennison*, being the only Judge then sitting; and the Affidavit was that Night given to the Attorney General.

No Person can blame me for being a little amazed at a Proposal of this Kind, having never heard of any Attempt of the like Nature; always looking upon it, as a Maxim in our Law, that no Man ought, to be put upon to do any Thing, which might any way tend to accuse himself; and though this Method may by some, be said not directly to make a Man accuse himself; yet if he, either could not, or would not, take the Oath, the Refusal I fear might be construed as a Mark of Guilt, and as such be made Use of, by those, who were Enemies to the Constitution of England, if in their Power. After my Discharge, I was asked many Questions about this Affair, by several of the *British* Senators.

After various Excuses for Delays, I had Notice to have my Bail ready at seven o'clock in the Evening on March the 25th following, at the Cockpit: We all went at the Hour, but were detained till near twelve o'Clock before I could be discharged. The Bail Bond was for my Appearance at *York Assizes*, which was in *July* following.



At the Conclusion of the then Sessions of Parliament, the Act of Grace passed, which I perused, and likewise consulted proper Persons, to know which I was excepted against in any one Article, either by Name, or under any of the Exceptions. It being very clear, that I was not excepted against in any Shape, and as it would at that Time have been of singular Service to me to be excused from attending at the Assizes. I Wrote to Mr. *Stone*, telling him the Advantage it would be to me to be excused, and as there would be no Prosecution on Account of the Act of Grace, I desired if the Bail Bond was not delivered up to the proper Person, that it might not be done, or that I might be excused from attending. To this Letter I received two Lines in answer, that it would be necessary for me to attend.

Some Time after that I wrote to Mr. *Stone*, I also wrote to my Solicitor, to go to the proper Place, and enquire if the Bond had been given up? in his Answer, he said, *it was not given up*; but some Days afterwards, I had a second Letter from him, to let me know that such a Day (naming it) the Bail Bond was sent in from the Secretary's Office.

The Assizes being come to a Conclusion, and no Prosecution: attempted to be commenced, my Bail Bond was discharged in Court.

Having now given the Reader a full and fair Relation of all that happened to me, from the Commencement of my Confinement on the 30th of November, 1745, to the Assizes in *July* 1747. I shall therefore draw to a Conclusion.

I think I cannot promote the publick Good more effectually at the present Conjunction, than to put you my *Neighbours and Country-men*, upon your Guard against the *Artifice* which has been lately so immediately employed to maintain, and if it be possible, to create new *Divisions* amongst you. Never suffer yourselves to be turned again into Darkness, by the *Incantations* of those, who would not have parted for *Conjurers*, even in the Days of Superstition and *Ignorance*. Shew yourselves to be Men, and you will be *us'd like Men*, for Mankind are apt to impose on *those*, who will bear it, or make the *least* Concession,

For my Part, I can't seriously represent to myself a *greater public Pest and Nuisance*, than a Person who hath set all *Decency* and Shame at *Defiance*. *The wickedest* Man, whilst he retains the least Regard for the general Opinion, tho' he may be always suspected, and sometimes *convicted* of Crimes, still tacitly confesses their *Blackness*, by his Endeavours to conceal them, and he says with the Poet.

—*Pulchra Laverna,*  
*Da mihi fallere, da justo sanctoque videri,*

*Noctem peccatis & Fraudibus objice nubem.*

HOR.

He may indeed be an *Example*, but he can never be a *Missionary* of those Vices which he disavows: Whereas the *Wretch* who *glories* in his Crimes, and prides himself in the *Notority* of his Infamy, destroys or infects all that approach him. He is *exasperated* by the public Hatred, and thus grown *desperate* in the Society: His own Welfare must depend upon *corrupting others* to be like himself, or by *Force*, *subduing those* he cannot corrupt.

How terrible must *such a Creature be*, in every Branch of Society? whether we consider him in his *natural* or *civil* Capacity, in private or *public* Life, in a *less* or greater Sphere; the *Evils* and *Dangers* rise in Proportion, and he is *equally* the *Curse* of a Village, or the *Scourge* of a City. What I would most earnestly recommend to you, is to be upon your Guard, and don't let 'em divide and embroile *you*, that they or their Set may be the Gainers.

*Remember, O, my Friends the Laws, the Rights,  
The generous Plan of Power deliver'd down  
From Age to Age by our renown'd Fore-Fathers,  
(So dearly bought, the Price of so much Blood)  
O! let them never perish in your Hands,  
But piously transmit them to your Children.*

CATO.

As for D S-n, his *Character* and *Behaviour* is so well *known*, that I need not trouble the Reader with any Thing on that Head: but shall only endeavour to convince the D, that I am as ready as ever to give my Advice *Gratis*, to those who I think really *want* it, without any private Views to myself; which is more than he can say. Therefore as a Proof, I now advise him in *earnest*, to return unto *that* of his high Calling, *only* to feed the Flock committed to his Charge with wholesome Food, such as our Saviour and his Apostles recommend. I am sensible *how difficult* a Task it is to convince a Man of his Turn of Head; but yet, difficult as it is, I have such a Compassion for a Man of his Age, under his *Infatuation* (for I can call it by no other Name) that I am resolv'd to use my best Endeavours for *once*, to perswade him to take a Resolution *so much* for *his* Honour, and for the *Advantage* of the Church: *Cujusvis Hominis est errare, nullius, nisi Insipientis, in Errore perseverare*. I would advise him to exchange his Politicks, for Piety—To become a Champion for *Religion*, instead of being an Advocate for *Men in Power*, and employ more of his Time in that, which I, in *Charity* hope he *understands*, and then, he might stand *some* Chance of being *exalted* according to his *Merits*; I can't

recommend this better, than in the Words of the Apostolical Constitution, with some very little Variation, in order to render the Passage more applicable.

*Sit autem episcopus vel clericus turois lucri non quæsitior, præfertim de Gentilibus; malitque detrimentum capere quam inferre, non sit avarus, non maledicus; non falsus testis, non iracundus, non contentiosus, non negotiis litibusque secularibus implicatus, non pro alio Sponsor, ant in causis pecuniariis Advocatus; non ambitiosus, non duplicis sententiæ, non Bilinguis, calumniæ & Maledicentiæ, non cupidus auditor; non Hypocrita, salaciis variis utens. Quia bæc Omnia Deo sunt inimica, Demonalibus grata, constit. Apoft. Lib. 2. Cap. 6.*

Let a Bishop or Clergyman, not be fond of making his Court for *Gain*, especially to the *Gentiles*. Let him rather *receive* than *do* an Injury: Let him not be *covetous*: Let him not be given to *Evil speaking*, nor bear *false Witness*: Let him not be *Wrathful* nor *Contentious*: Let him not be engag'd in *Business* and *Difficulties of the World*: Let him not be an Advocate for *private Interest in public Causes*: Let him not be *ambitious* nor *double minded*, nor double Tongu'd: Let him use neither *Simulation* nor *Dissimulation* in his Conduct, nor *vain* and *falacious* Sophisms in his Discourse. For all *these Things* are hateful to *God*, and pleasing to the *Devil*.

***Invitus ea tanquam vulnera attingo, sed nisi tacta, tractaque sanari non posunt.***

That *these Rules* may be strictly observ'd by him, and some others of his Fraternity (whom I could name) is my *Heartly Prayers*, wishing that, *that Peace*, which passeth all Understanding, may make them *all* (whose Conduct shall deserve it) to *hang* together in Uni—ty and A—ccord, and let *all* the people say, *Amen*.

Raro antecedentem scelestum,  
Deseruit pede Pæna claudo.

HOR.

*F I N I S.*

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