

L. H. J.
Liber No. 54
Nov. 30

Whether, where the Authority to afford Relief is placed, there the Application for it is regular, where this is cognizable, there the Propriety of it is determinable? The Right of Petition is established for Purposes so important and secured and enforced by Sanctions so interesting, that the Representatives of a free people can never, on any Occasion, dispassionately wish to impair or discountenance it. They would rather be inclined to connive at Improperities in the Manner of exercising the Right, than scan it with a View to Censure.

M.^r William Steuart having been committed by Order of your House to the Common Public Jail, made his Application to me for Relief against the Oppression of an arbitrary Procedure claiming that Benefit of Protection, to which he, in common with his Fellow Subjects is entitled. A Copy of his Commitment was laid before me, by which it appeared, that, on the accumulative Charge “of having taken Notes of Hand as the Clerk of the Land Office, for the Payment of fees contrary to Law for imposing an Oath as a Justice of the Peace not appointed and required by Law and for an high Contempt of your House” he was committed “to be kept *safe and close* in the Publick Jail, until he should be thence discharged *by Order*” of your House. I required the Consideration and Advice of the Council upon all the Circumstances of the Case, and their Opinion was, that you had assumed an unwarrantable Jurisdiction, which, if admitted, would cancel all the Guards and Securities provided by a wise and free Polity for the Protection of the Subject, and that, having been illegally deprived of his personal Liberty, M.^r Steuart was entitled to the Relief, which an Exertion of the Prerogative might afford him. In Consequence of this Opinion, and the Reasons by which it was supported, I interposed by proroguing the General Assembly from the Friday till the Monday next following, after having passed all the Bills ready for my Assent, and flattered myself that a short Recess, as it had been on other Occasions, would rather be productive of sedate Reflection, than of the heavy Charge, that I had effectually dismissed a publick Offender from Confinement, obstructed publick Justice, and in Terms of very indefensible Exaggeration, occasioned a considerable Expence to the Province, and a total Stagnation of important Business for several Days. In Vindication as well of the Gentlemen of the Council as of myself, I shall succinctly rehearse the Reasons they advanced in Support of their Advice. They observed, That where the legislative and executive Authorities, the Will to ordain and the Power to enforce it, are lodged in the same Person or Persons, there a Tyranny is established; that under this free Constitution, these Authorities are therefore distributed into different Departments; That the executive being in the supreme Magistrate, neither House of Assembly can undertake the Administration of existing Laws, without a dangerous