

...ing him of his being chosen Recorder, we do not recollect; but, let it be admitted that it was as the Repliyers have stated it, will it follow, that because Mr. Key did not particularize his Reasons in his Answer by the Clerk, that therefore he had none? Or, that if he had any, the Court had no other Method of being inform'd of them, than by the Clerk's Report of his Answer? The Fact is, at a sufficient Time interven'd between the choice and Mr. Key's Answer by the Clerk, to give some of the Court an Opportunity of conferring with him on the Subject, and knowing his Reasons, the Principal of which was, the very firm State of his Health. This, with some other objections of a slighter Nature, "we had Reason to think wou'd in a little Time be remov'd." The Event apparently justify'd our Expectation, for the Gentleman recover'd a better State of Health, and then qualified as Recorder.

In the 12th Article of the Remonstrance it was alleg'd, "that by the Laws of this Corporation, the Mayor's Court for this City is directed to meet the last Tuesdays in January, April, July, and October." In our Answer, we denied that any such Law existed in the Corporation, so that the Point in Dispute between us was a mere Matter of Fact, whether there was such a Law or not; the Fact being against them, they endeavour'd to rattle away the Force of their Assertion, and to dilute a direct Falshood by some sophistical Arguments, to prove that the Rules of Court are Laws of the Corporation, and thus, by defending themselves on one Quarter, are left entirely expos'd on another, as will appear upon a slight Examination. They proceed in a long String of Questions, near of the same Import, as if what they want in Force could be supplied by a Multiplication of them, which unavoidably leads us into the like repetition in our Answers. "Can it, say they, be the Opinion of the Corporation Court—that there is no such Law of the Corporation?" It is, and will be so, till the Law is pointed out. "By what Authority is the Mayor's Court held at particular and stated Times?" Nor by the Authority of any Law of the Corporation, but of their Appointment. "Has not this Court for many Years past been held on the last Tuesdays of January, April, July, and October; has it not been the constant and invariable Practice from almost the first Existence of the Charter?" We admit and thence infer the Falshood of their Allegation in the Remonstrance "that private Business, or some other Motives has ALWAYS hitherto prevented your Worshipps from sitting more than ONCE in the Year." "Is not, say they, a long and uniform Practice, legally founded, equally obligatory with written Laws?" It is not a Firmment to their Cause, whether it is, or not, for the Practice has been uniform, there has been no violation of it by the Court, and so their Charge is to the Ground, but if the Court has always hitherto neglected to sit more than once in the Year, in what becomes of the long and uniform Practice (of sitting four Times a Year) that is equally obligatory with written Laws? "Can the Mayor and Aldermen alter the Sittings of their Court from the usual and stated Times?" Without doubt they can; for the Court, we conceive, is bound by Usage or Rules of Practice, any other than that the Suitors or others, who have interests before them, may not be affected by Alterations. Their Rules, whilst they remain, are to be observ'd by those for whose Government they were introduc'd, and therefore they ought not to be affected by any new Rule with a Retrospect; but, under this Caution, new Rules may be made, and old ones set aside, as often as the Court think it expedient. Common Sense shews, that the same Power which can make, may destroy. There can be no Act of the Corporate Legislature, but what can be abrogated by the same Authority, and the same Doctrine is applicable to Rules of Courts; they who make them may set them aside, and introduce others. The Repliyers labour to shew that the Practice of the Mayor's Court is a Law of the Corporation, but there is a material Difference in Point of Obligation between them, that, altho' the Court may alter and vary its own Rules, as Circumstances in their Opinion require, yet the Directions of a positive Law must adhere to, and cannot dispense with, to return to their Questions, "Are not, say they, the Court, at least antecedently to such Alteration, bound by the preceding Practice and Usage?" Notions on this Head are fully explain'd in our Answer to the preceding Question; but we will further observe, that if such have been the constant Practice and Usage, then the Complaint in the Remonstrance against the Court is groundless and

and unwarranted. Again, say they, "Is the Corporation bound by the Rules and the long and invariable Practice of the Mayor's Court, Aye or Not?"—Not to insist upon the Impropriety of a Question, which implies, that the Corporation, which is the Legislative Part of our Constitution, may be bound by Rules made by the Judicial Power, we answer, that if the Practice has been not only long but uninterrupted, it implies an express Contradiction to the Complaint in the Remonstrance, against the Court. Several other Questions of the same Import are put by the Repliyers, which it wou'd be tedious to enumerate. Instances enough have been given to shew, how inconsistent they are with themselves, in the Charge exhibited in the Remonstrance, and what they have alleg'd under this Head in the Reply, which will always be the Case, when Men are more solicitous to serve a present Turn, than to make Truth the invariable Standard of their Allegations. In the Remonstrance, the Court were charg'd with violating the Laws of the Corporation, in not sitting more than once in the Year, when they direct a Meeting four Times. On our Denial of the Existence of any such Laws of the Corporation, the Repliyers are put to the hard Shift of contradicting the Charge in the Remonstrance, "that your Worshipps always hitherto sat but once a Year," and strenuously contend for a constant and invariable Practice—a long and uniform Practice—a long and uninterrupted Practice in the Court to do—what? to sit four Times in the Year; and then labour, in order to support the Charge of our having violated the Laws of the Corporation, to prove that this Practice has not only the Force and Obligation of a Law, but declare it in their Judgments a LAW, and more emphatically still, LEGALLY A LAW of this Corporation. Altho' we cannot be of Opinion, that the Rules of the Mayor's Court, can with more Propriety be call'd Laws of the Corporation, than the Rules of the Provincial Court can be call'd Acts of Assembly, or that the Repliyers, with all their subtle Refinements, have furnish'd us with such like an Argument, to prove their Point, yet such is the unhappy State of the Controversy with Regard to them, that it is a Matter of Indifference to us, whether it be admitted or denied, for if the Usage amounts to a Law, the same Usage confutes the Charge in the Remonstrance, unless they can prove both Sides of a Contradiction to be true. But it seems, if we can once induce a Belief, that there is no Law or Obligation to hold a Court, we shall logically argue from no Law, that there can be no Violation. When we have Occasion for a happy Quibble, perhaps an Application to the Repliyers for Assistance, may be proper; but they seem not to be equally Masters of Logic, for surely there may be a Violation where there is no Law, in the strict and proper Sense of the Word, since an Obligation, whether from Law or Practice, equally implies that there may be a Violation.

To the Charge in the Remonstrance, "that the Court always hitherto neglected to sit but once in a Year," we answer'd in our Observations, "that we had continually sat on the Days to which we had adjourn'd, and proceeded to such Business, as we thought requisite." In the Reply, they give up the Charge and admit the Sitting, but think fit to call upon us to shew what Business had been done at these Meetings, and refer us to the Proceedings. It has not been the Practice of the Court, to enter into a Course of Business at several Times of their Sitting, in which, we presume, the Ease and Convenience of the Inhabitants, have been consulted by our Predecessors, as well as by the Members of the present Court, nor did we ever hear, that it has been complain'd of as a Grievance, however loud such Complaints may have been of late, in the Ears of a few People in a Corner. It is not however true, that nothing is to be found in the Proceedings, but a Meeting and Adjournment in the April, July, and October Courts, as will appear to any Person, who has the Curiosity to look into the Minutes. In some Instances, the Reason given for the Adjournment is, That no Business of Moment requir'd a longer Sitting; and it appears likewise, that the Court have enter'd upon Business at other Meetings, besides that of January, so that what the Repliyers alledge on this Head, is totally false. To these Considerations it may be added, in Justification of the Court's not going always into a Course of Business at the appointed Times of Meeting, that the Recorder, and likewise several of the Aldermen, have been at some of these Periods, engag'd in an Attendance upon public Affairs of a more important Nature. The Tenderness we profess'd for the People of this City, "in not

calling them so frequently from their Occupations, on which many of them must depend for their daily Bread, when no peculiar Circumstances have render'd it necessary or expedient," the Repliyers are welcome to call an idle and false Excuse, but we dare say it will gain Credit with those, whose Opinions we esteem; nor can we conceive that it wou'd be agreeable to the Inclinations of the Citizens, or that we shou'd consult their Interests, in pursuing a different Conduct. Altho' many Instances may have occur'd to these sagacious Observers, when there has been "an Abuse of Authority, that a Profession of Regard, much Friendship and Tenderness, have been thrown out to captivate and deceive the Citizens," yet we believe it to be more commonly the Language of the restless, turbulent Demagogue, who seeks to render himself Important in the Eyes of his weak deluded Voters, by infilling groundless Jealousies into their Minds, and at the very Instant that he is acting the Part of an Incendiary, by endeavouring to propagate Confusion, and to sacrifice all Order and Authority to his factious Views and ambitious Schemes of Power, insults their Understandings with loud and clamorous Pretences for the Promotion of Peace and good Government, and an unceasing Vigilance and Attention to the Public Good. We sincerely wish that the People may never be cajol'd (as the Repliyers express themselves) into a Belief of false and flattering Professions, however speciously mask'd, or from whatever Quarter they may come, and at the same Time, that they will not suffer themselves to be captivated and deceiv'd by the Harangues of any busy forward Declaimer into a Belief, that their Magistrates are engag'd in a Scheme to aggrandize themselves, which from the very limited Nature of their Jurisdiction, wou'd be most absurd, or to oppress the Inhabitants, when their private Interests are most intimately connected with the opulent and flourishing State of this City, not to mention the sacred Lie under which they act.

In the Remonstrance it was asserted, "that some Offenders are brought immediately to Trial, while others are indulg'd what Time they are pleas'd to require."—We denied the Charge in our Answer, and denied the whole World to produce a single Instance of such a scandalous Piece of Partiality, and what do these Men reply? Why, "that the Records can best speak, and the Inhabitants can vouch," whether it is true or false. Such a palpable Evasion as this is, cannot escape the Notice of the most inattentive Reader, for no Mortal can conceive from the general Complexion of their Performance, that these HEROES were so suddenly seiz'd with a Panic, as not to dare to publish Transcripts from the Records, or that they shou'd be so forward in venting general Charges, and so squeamish in giving particular Proofs, if it was in their Power to produce any. But we must beg leave to observe, that it is impossible the Records shou'd speak any Thing to the Repliyers Purpose, for the most that can appear from them is, that some Offenders are immediately brought to Trial, and the Trials of others postponed; but this wou'd by no Means support the Charge of Partiality in the Court, for it may be essential to the due Exercise of Justice, that such Cases shou'd happen. As for Instance,—Suppose an Offender shou'd desire an immediate Trial, alledging, that at a future Day his Witnesses wou'd be out of the Way, and that he wou'd be depriv'd of the Benefit of his Testimony, in Case it were postponed: Cou'd the Court justly refuse to comply with his Request?—Suppose again, that another Offender shou'd desire his Trial to be postponed, because either his Council or Witnesses were absent, wou'd it be an unreasonable Indulgence in the Court, upon the Fact's appearing to them, to postpone the Trial? Many Instances of the Kind must occur to Persons, acquainted with the Practice of the several Courts in the Province, who, we believe, have never been censur'd in such Cases for their Partiality. Since then it is clear that the Records cannot possibly speak to the Repliyer's Purpose, what Credit can be due to their general vague Assertion, "that the Inhabitants can vouch" whether it be true or false? If the Characters of Magistrates are to be affected by such Evidence as this, we think very few wou'd be found to undertake the Office; but it must be needless to insist any further upon this Point, it being very apparent, that a Charge has been rashly made, and that the Repliyers have too little Candor to retract it, tho' conscious of its Falshood, and that they cannot produce a Title of Proof in Support of it. But it seems their Caution arose from an Apprehension, that "pointing out particular In-

stances might expose them to a Provincial Prosecution, where some of the Gentlemen wou'd have the disagreeable Task of being their Judges." We will not at present dispute the Constitutional Right of these Men to insult the Magistrates of the City with the foulest Language their Imaginations can invent, but are of Opinion that Men of their Moderation should not desire to extend it farther, and that therefore it might have been well to have spar'd the Gentlemen hinted at, as Judges of the Supreme Court of the Province, still reserving to themselves an unlimited Licence of abusing them in the Capacity of Aldermen. It is a Fact, notorious to the whole Province, that when any of the Judges of the Provincial Court, or even their distant Relations, are interested in the Event of a Cause, they always retire from the Bench, and never presume to give their Judgments in any Case, where there can be the least Reason to suppose, that they are under the remotest Degree of Bias or Prepossession. But these decent Gentlemen, the Repliyers, are pleas'd to intimate, that two of the Judges would actually sit and determine, where they would be Parties, which implies not only a virulent Reflection upon them, but upon the rest of the Provincial Bench; for, as it wou'd be a gross Breach of the most evident Principles of Justice in the former to sit as Judges in the Circumstances mention'd, so wou'd the Connivance or Permission in the latter, of so palpable a Perversion of Right, be equally iniquitous. The Contempt, in which we hold the scurrilous Effusions of these Men, wou'd certainly have repress'd any Sallies of Warmth in Matters merely relative to ourselves, and the little Disputes of this Town, but when they presume to insult the whole Provincial Bench with their petulant Invectives, when a few obscure and insignificant People will dare to trample upon all Order and Authority, we cannot entirely overlook such a flagrant Piece of licentious Impudence, which we believe to be unexampled in any Part of his Majesty's Dominions.

In the 15th Article, say the Repliyers, the Gentlemen give us a Specimen of that Disregard to Truth, which they charge upon us," and in order to furnish some Colour for their Assertion, they have descended to the little disingenuous Artifice of suppressing a material Part of a Passage they have quoted from our Answer, which they wou'd impose upon the Reader as a fair Quotation of the entire Passage. In the Remonstrance it was alleg'd "that the Remonstrances of former Grand-Jurors have been barely read, and filed by the Court, and no further Notice taken of them." To this we answer'd, that "when ever a Remonstrance has been presented to the Court, it has been their constant and invariable Practice (without a single Instance of Deviation, to the best of our Recollection) to convene the Corporation, and to lay it before them." As the Passage stands in our Answer entire and unmitigated, the Imputation of prostituting Truth, as they decently term it, cou'd not have been alleg'd against us, even if some Instances of the Neglect charg'd against the Court, cou'd have been incontrovertibly prov'd, for we spoke to the best of our Recollection, and asserted nothing positively about it. But the Repliyers, sensible, that the Passage, honestly quoted, wou'd not have answer'd their Purpose, have had Recourse to the low illiberal Trick of leaving out in their Quotation the Words to the best of our Recollection; and then our Assertion stands without any Reserve or Qualification, that the Court never had, in any one Instance, omitted to convene the Corporation, and to lay the Remonstrances of the Grand-Jurors before them. The Point of an absolute unlimited Assereveration on our Part being thus establish'd by the Repliyers Management, they had nothing to do, but to prove that in some Instances the Court had deviated from this Practice, and then we stand convicted of Falshood, or, in their delicate Phraseology, of a most shameful Prostitution of Truth. It wou'd be an Insult upon the Reader's Understanding to make any Remarks upon this low Piece of dishonest Craft. A bare State of it must sufficiently expose the Baseness of the Artifice, excite the Indignation of every ingenuous Mind, and convince the considerate Reader, that Men who cou'd be guilty of such a gross Suppression of Truth, are little to be relied on as Witnesses, however much they may shine in the Capacity of Accusers. Before we proceed to a particular Consideration of the three Remonstrances, mention'd by the Repliyers in Proof of their Assertion, that "the Remonstrances of former Grand-Jurors have been barely read, and filed by the Clerk, and no further Notice taken of them," we wou'd just observe, that it has not