

the same Effects through the Medium of the House of Commons. We treated our Representatives with Privileges by their own Defence and ours. We cannot hinder their Discretion, but we can prevent their carrying over their Aims to the Service of the Enemy. It will be said, that I begin with endeavouring to reduce the Argument concerning Privilege to a mere Question of Convenience; that I deny at one Moment what I would allow at another; and that to resist the Power of a prostituted House of Commons, may establish a Precedent injurious to all future Parliaments. To this I answer generally, that human Affairs are in no Instance governed by strict positive Right. If Change of Circumstances were to have no Weight in directing our Conduct and Opinions, the mutual Intercourse of Mankind would be nothing more than a Contention between positive and equitable Right. Society would be a State of War, and Law itself would be Injustice. On this general Ground, it is highly reasonable, that the Degree of our Submission to Privileges, which have never been defined by any positive Law, should be considered as a Question of Convenience, and proportioned to the Confidence we repose in the Integrity of our Representatives. As to the Injury we may do to any future and more respectable House of Commons, I own I am not now sanguine enough to expect a more plentiful Harvest of parliamentary Virtue in one Year than another. Our political Climate is severely altered; and without dwelling upon the Depravity of modern Times, I think no reasonable Man will expect that, as human Nature is constituted, the enormous Influence of the Crown should cease to prevail over the Virtue of Individuals. The Mischief lies too deep to be cured by any Remedy less than some great Convulsion, which may either carry back the Constitution to its original Principles, or utterly destroy it. I do not doubt that, in the first Session after the next Election, some popular Measures may be adopted. The present House of Commons have injured themselves by a too early and publick Profession of their Principles; and if a Strain of Prostitution, which had no Example, were within the Reach of Emulation, it might be imprudent to hazard the Experiment too soon. But after all, Sir, it is very immaterial whether a House of Commons shall preserve their Virtue for a Week, a Month, or a Year. The Influence, which makes a septennial Parliament dependent upon the Pleasure of the Crown, has a permanent Operation, and cannot fail of Success. My Promises, I know, will be denied in Argument, but every Man's Conscience tells him they are true. It remains then to be considered, whether it be for the Interest of the People that Privilege of Parliament (which, in respect to the Purposes for which it has hitherto been acquiesced under, is merely nominal) should be contracted within some certain Limits, or whether the Subject shall be left at the Mercy of a Power, arbitrary upon the Face of it, and notoriously under the Direction of the Crown.

I do not mean to decline the Question of Right. On the contrary, Sir, I join Issue with the Advocates for Privilege, and affirm, that, "excepting the Cases, wherein the House of Commons are a Court of Judicature [to which, from the Nature of their Office, a coercive Power must belong;], and excepting such Contempts as immediately interrupt their Proceedings, they have no legal Authority to imprison any Man for any supposed Violation of Privilege whatsoever." It is not pretended that Privilege, as now claimed, has ever been defined or confirmed by Statute; neither can it be said, with any Colour of Truth, to be a Part of the common Law of England, which had grown into Prescription, long before we knew any Thing of the Existence of a House of Commons. As for the Law of Parliament, it is only another Name for the Privilege in Question; and since the Power of creating new Privileges has been formally renounced by both Houses, since there is no Code in which we can study the Law of Parliament, we have but one Way left to make ourselves acquainted with it; that is, to compare the Nature of the Institution of a House of Commons with the Facts upon Record. To establish a Claim of Privilege in either House, and to distinguish original Right from an Ultraposition, it must appear that it is indispensably necessary for the Performance of the Duty they are employed in, and also that it has been uniformly allowed. From the first Part of this Description it follows clearly, that whatever Privilege does of Right belong to the present House of Commons, did equally belong to the first Assembly of their Predecessors, was as completely vested in them, and might have been exercised in the same Extent. From the second we must infer, that Privileges, which, for several Centuries, were not only never allowed, but never even claimed by the House of Commons, must be founded upon Ultraposition. The constitutional Duties of a House of Commons are not very complicated nor mysterious. They are to propose or assent to wholesome Laws for the Benefit of the Nation. They are to grant the necessary Aids to the King, petition for the Redress of Grievances, and prosecute Treason or high Crimes against the State. It unlimited Privilege be necessary to the Performance of these Duties, we have Reason to conclude, that for many Centuries after the Institution of the House of Commons, they were never performed. I am not bound to prove a Negative, but I appeal to the English History when I affirm, that with the Exceptions already stated (which yet I might safely relinquish) there is no Precedent, from the Year 1265 to the Death of Queen Elizabeth, of the House of Commons having imprisoned any Man (not a Member of their House) for Contempt or Breach of Privilege. In the most flagrant Cases, and when their acknowledged Privileges were most grossly violated, the poor Commons, as they then styled themselves, never took the Power of Punishment into their own Hands. They either sought Redress by Petition to the King, or, what is more remarkable, applied for Justice to the House of Lords; and, when Satisfaction was denied them or delayed, their only Remedy was to refuse proceeding upon the King's Business. So little Conception had our Ancestors of the monstrous Doctrines now maintained con-

cerning Privilege, that, in the Reign of Elizabeth, even Liberty of Speech, the vital Principle of a deliberative Assembly, was restrained by the Queen's Authority to a single Aye or No; and this Restriction, though imposed upon Three successive Parliaments, was never once disputed by the House of Commons.

I know there are many Precedents of arbitrary Commitments for Contempt; but besides that they are of too modern a Date to warrant a Presumption that such a Power was originally vested in the House of Commons, Fact alone does not constitute Right. If it does, general Warrants were lawful. An Ordinance of the Two Houses has a Force equal to Law; and the criminal Jurisdiction assumed by the Commons in 1621, in the Case of Edward Lloyd, is a good Precedent, to warrant the like Proceedings against any Man, who shall unadvisedly mention the Folly of a King, or the Ambition of a Prince. The Truth is, Sir, that the greatest and most exceptionable Part of the Privileges now contended for, were introduced and asserted by a House of Commons, which abolished both Monachy and Peerage, and whose Proceedings, although they ended in one glorious Act of substantial Justice, could no Way be reconciled to the Form of Constitution. Their Successors profited by the Example, and confirmed their Power by making a moderate or a popular Use of it. Thus it grew by Degrees, from a notorious Innovation at one Period, to be tacitly admitted as the Privilege of Parliament at another.

It however it could be proved, from Considerations of Necessity or Convenience, that an unlimited Power of Commitment ought to be intitled to the House of Commons, and that in Fact they have exercised it without Opposition, still, in Contemplation of Law, the Presumption is strongly against them. It is a leading Maxim of the Laws of England (and without it all Laws are nugatory) that there is no Right without a Remedy, nor any legal Power without a legal Course to carry it into Effect. Let the Power, now in Question, be tried by this Rule.—The Speaker issues his Warrant of Attachment. The Party attached either resists Force with Force, or appeals to a Magistrate, who declares the Warrant illegal, and discharges the Prisoner. Does the Law provide no legal Means for enforcing a legal Warrant? Is there no regular Proceeding pointed out in our Law Books, to assert and vindicate the Authority of so high a Court as the House of Commons? The Question is answered directly by the Fact. Their unlawful Commands are resisted, and they have no Remedy. The Imprisonment of their own Members is Revenge indeed, but it is no Assertion of the Privilege they contend for. Their whole Proceeding stops, and there they stand, ashamed to retreat, and unable to advance. Sir, these ignorant Men should be informed, that the Execution of the Laws of England is not left in this uncertain defenceless Condition. If the Process of the Courts of Westminster shall be resisted, they have a direct Course, sufficient to enforce Submission. The Court of King's Bench commands the Sheriff to raise the *Peace Comitatus*. The Courts of Chancery and Exchequer issue a *Writ of Rebellion*, which must also be supported, if necessary, by the Power of the County. To whom will our honest Representatives direct their Writ of Rebellion? The Guards, I doubt not, are willing enough to be employed; but they know nothing of the Doctrine of Writs, and may think it necessary to wait for a Letter from Lord Barrington.

It may now be objected to me, that my Arguments prove too much; for that certainly there may be Instances of Contempt and Insult to the House of Commons, which do not fall within my own Exceptions, yet, in regard to the Dignity of the House, ought not to pass unpunished. Be it so. The Courts of criminal Jurisdiction are open to Prosecutions, which the Attorney-General may commence by Information or Indictment. A Libel, tending to asperse or vilify the House of Commons, or any of their Members, may be as severely punished in the Court of King's Bench, as a Libel upon the King. Mr. de Grey thought so, when he drew up the Information upon my Letter to his Majesty, or he had no Meaning, in charging it to be a scandalous Libel upon the House of Commons. In my Opinion, they would consult their real Dignity much better, by appealing to the Laws when they are offended, than by violating the first Principle of natural Justice, which forbids us to be Judges, when we are Parties to the Cause.

I do not mean to pursue them through the Remainder of their Proceedings. In their first Resolutions, it is possible, they might have been deceived by ill considered Precedents. For the rest there is no Colour of Palliation or Excuse. They have advised the King to resume a Power of dispensing with the Laws by royal Proclamation; and Kings, we see, are ready enough to follow such Advice. By mere Violence, and without the Shadow of Right, they have expunged the Record of a judicial Proceeding. Nothing remained, but to attribute to their own Vote a Power of stopping the whole Distribution of criminal and civil Justice.

The publick Virtues of the chief Magistrate have long since ceased to be in Question. But it is said that he has private good Qualities, and I myself have been ready to acknowledge them. They are now brought to the Test. If he loves his People, he will dissolve a Parliament, which they never can confide in or respect. If he has any Regard for his own Honour, he will disdain to be any longer connected with such abandoned Prostitution. But if it were conceivable, that a King of this Country had lost all Sense of personal Honour, and all Concern for the Welfare of his Subjects, I confess, Sir, I should be contented to renounce the Form of the Constitution once more, if there were no other Way to obtain substantial Justice for the People.

JUNIUS.
WILLIAMSBURG, June 20.
 By a Gentleman from North Carolina we have a Confirmation of the Regulators dispersing, after the late Engagement, and of most of those who were in it

In the Years 1593—1597—and 1601.

having taken the Oaths to Government. He also that Col. Waddell, with his Detachment, had Governor Tryon, who, some Time the Week last, had begun his March for Salisbury, upon receiving Advice, that a large Body of Regulators, who had not been out before, were assembled in that Neighbourhood, and intended giving him Battle.

In the late Festival, Two Lads and an old Negro Woman, being at work on Saunders's Island, on James River, were, by the sudden Rise of the Water, confined there from Saturday until Tuesday at 10 o'Clock without Sustenance of any Kind. They made an Effort to cross to Westham in a Canoe, but were overtaken in shallow Water; upon which the Lads tied the Canoe to a Tree, and the old Woman sat on its Bottom hugging the Tree the whole Time. By the Motion of the Canoe, and constant rubbing of the old Woman's Fish against the Tree, the Bark was quite worn through. The Lads saved themselves, by climbing up a Sapling not thicker than a Man's Leg, where they remained the whole Time; and it every now and then by the Rapidity of the Current, bent so as to lay the almost under Water. The Reason they chose a Sapling was, the great Destruction they observed among the large Trees.

ANNAPOLIS, JULY 4.

A melancholy Accident happened here on Saturday Night last; Mr. Ralph Robinson, officiating Clerk in the Prerogative Office under Mr. Fallett, went in the Cool of the Evening, in Company with Two other Persons, to swim in a Pond of this Place, situate near the Ice-House, and was there unfortunately drowned. It appears that One of the Company (who was no good Swimmer) when in the Water called for Assistance, on which the Deceased immediately plunged in to his Relief, but his Humanity cost him his Life: For, after some Conflicts between him and the Person he came to relieve, the latter got safe on Shore, but the former sunk and was seen no more. It is to be lamented, that those who went with him to the Water, and saw him thus sinking, did not remain on the Spot, to inform a Number of Gentlemen, who had immediately assembled, with the Place where he disappeared; for, after a vain Effort to find the Body by Boats and Pongers for almost Two Hours in the Midst of the Pond, the Seine at last discovered him in a different Place, very near the Shore. All Experiments of bleeding, rubbing, and rubbing with Salt, were tried without Effect.

The Deceased was a Stranger to, and had resided but Four Years in, this Place. He was, by several Papers extant, of good Extraction, but his Family is not certainly known. He was, when in Life, for many good Qualities and affable Mien, generally esteemed by all who knew him, and his untimely Death is universally lamented.

To be let for a Term of Years by the Subscriber, in District of Prince Georges County, Maryland,

A Merchant Mill on Hunting-Creek, in good Repair, with Two Water-Wheels, One carries a Pair of French Burs, double geared, holding and bolting Materials in good Order, with several other Buildings at said Mill. Also, sandy Farm near the said Mill, with and without slaves, &c. would be leased: And in the Town of Cambridge, Dwelling-Houses with other Improvements suitable for Tradesmen, where such, if sober and industrious, would meet with good Encouragement.

As I purpose leaving the Province next Spring, I would dispose of a Sea Sloop, that will carry about 3000 Bushels of Grain, well-calculated for the *W. I.* India Trade, sails well, about Two Years old, and sheathed. Also, a small Bay Schooner, carries about 1100 Bushels; and some other smaller Crafts. As the Situation at the Mill is very convenient for a Store, having Water Carriage to the Mill Tail, and a much frequented publick Road leading by it, in a good Wheat and Corn Country, any Person inclining to farm the Mill, that would keep a Store of wet and dry Goods, I think would find his Advantage in purchasing one or other of said Vessels, for which any reasonable Time would be given for Payment, on paying Interest and giving Security, if required.

N. B. Land Carriage to Delaware Landings does not exceed 36 Miles from the Mill, and Water Carriage about 80 Miles to Baltimore-Town.

(2m) JAMES MURRAY.

Just imported, in the Polly, Capt. John Kelyte, from London, and to be sold by the Subscriber, in Church-Street, Annapolis, Wholesale and Retail, on the most reasonable Terms,

A Large and neat Assortment of European and India Goods, suitable to the different Seasons.

THOMAS GASSAWAY, junr.

A considerable Difference will be made to those who pay ready Cash.

Imported likewise in said Ship, and to be sold for Cash, Bills of Exchange, or short Credit, an unopened and well assorted Cargo of European and India Goods, amounting to about 1400l. Cash and Charges.

(1f) T. G. junr.

July 1, 1771.
 ALL Persons having any Claims against the Estate of Mordecai Jacob, late of Prince George's County, deceased, are desired to bring them in legally proved, as they may be adjusted, and all those indebted to the said Estate are desired to pay.

JEMIMA JACOB,
 BENJAMIN JACOB, & } Executors.
 MORDECAI JACOB.