

Upon the discovery of this conspiracy, several of the confederates were apprehended, tried, and executed. Among those that were apprehended, was one Capt. Mason, a person for whom Mr Blood had a particular affection and friendship. This person was to be removed from London, to one of the northern counties, in order to his trial at the assizes; and to that intent was sent down with eight of the duke's troop to guard him, being reckoned to be a person bold and courageous. Mr Blood having notice of this journey, resolves by the way to rescue his friend. The prisoner and his guard went away in the morning, and Mr Blood having made choice of three more of his acquaintance, set forward the same day at night without boots, upon small horses, and their pistols in their trousers to prevent suspicion. But opportunities are not so easily had, neither were all places convenient; so that the convoy and their prisoner were gone a good way beyond Newark before Mr Blood and his friends had any scent of the prisoner. At one place they set a centinel to watch his coming by; but whether it was out of fear, or that the person was tired with a tedious expectation, the centinel brought them no tidings either of the prisoner or his guard; insomuch, that Mr Blood and his companions began to think their friend so far before them upon the road, that it would be in vain to follow him.

And yet, not willing to give over an enterprize so generously undertaken, upon Mr Blood's encouragement they rode on, though despairing of success, until finding it grow toward evening, and meeting a convenient inn upon the road, in a small village not far from Doncaster, they resolved to lie there all night, and return for London the next morning. In that inn they had not sat long in a room next the street, condoling among themselves the ill success of a tedious journey, and the misfortune of their friend, before the convoy came thundering up to the door of the same inn with their prisoner; in regard that Captain Mason had made choice of that inn, as being best known to him, to give his guardians the refreshment of a dozen of drink. There Mr Blood, unseen, had a full view of his friend and the persons he had to deal with. He had bespoke a small supper, which was at the fire, so that he had but very little time for consultation, finding that Captain Mason's party did not intend to alight; so that he only gave general directions to his associates to follow his example in whatever they saw him do. In haste, therefore, they called for their horses, and threw down their money for the reckoning, telling the woman of the house, that, since they had met with such good company, they were resolved to go forward.

Captain Mason went off first upon a sorry beast, and with him the commander of the party and four more; the rest staid behind to make an end of their liquor: then away marched one more single, and in a very small time after the last two. By this time Mr Blood and one of his friends being horsed, followed the two that were hindmost, and soon overtook them. These four rode some little time together, Mr Blood on the right hand of the two soldiers, and his friend on the left. But upon a sudden, Mr Blood laid hold of the reins of the horse next him, while his friend, in observation of his directions, did the same on the other hand, and having presently by surprize dismounted the soldiers, pulled off the bridles, and sent the horses to pick their grass where they pleased. These two being thus made sure of, Mr Blood pursues his game, intending to have reached the single trooper. But he being got to the rest of his fellows, now reduced to six, and a barber of York that travelled in their company, Mr Blood made up, heads the whole party, and stops them. Of which some of the foremost looking upon him to be either drunk or mad, thought the rebuke of a switch to be a sufficient chastisement of such a rash presumption, which they exercised with more contempt than fury, until, by the rudeness of his compliments, he gave them to understand that he was not in jest, but in very good earnest. He was soon seconded by his friend that was with him in the first exploit. But there had been several rough blows dealt between the unequal number of six to two, before Mr Blood's two other

friends came in to assistance. Nay, I may safely say, seven to two. For the barber of York, whether out of his natural propensity to the sport, or that his pot-valiantness had made him so generous to help his fellow-travellers, would needs shew his valour at the beginning of the fray; but better he had been at the latter end of a feast; for though he shewed his prudence to take the stronger side, as guessed by the number, yet, because he would take no warning, which was often given him, not to put himself to the hazard of losing a ghittar finger, by meddling in a business that nothing concerned him, he lost his life, in regard they were forced to dispatch him in the first place, for giving them a needless trouble.

The barber being thus become a useless instrument, and the other of Mr Blood's friends being come up, the skirmish began to be very smart; the four assailants having singled out their champions as fairly and equally as they could. All this while Captain Mason being rode before upon his thirty shilling steed, wondering his guard came not with him, looked back, and observing a combustion, and that they were altogether by the ears, knew not what to think. He conjectured it at first to have been some intrigue upon him, as if the troopers had a design to tempt him to an escape, which might afterwards prove more to his prejudice; just like cats, that, with a regardless scorn, seem to give the distressed mouse all the liberty in the world to get away out of their paws, but soon recover their prey again at one jump. Thereupon, unwilling to undergo the hazard of such a tryal, he comes back, at what time Mr Blood cried out to him, Horse, horse, quickly! An alarm so amazing at first, that he could not believe it to be his friend's voice when he heard it; but as the thoughts of military men are soon summoned together, and never hold Spanish councils, the captain presently settled his resolution, mounts the next horse that wanted a rider, and puts in for a share of his own self-preservation. In this bloody conflict Mr Blood was three times unhorsed, occasioned by his forgetfulness, as having omitted to new girth his saddle, which the ostler had unloosened upon the wading his horse, at his first coming into the inn. Being then so often dismounted, and not knowing the reason, which the occasion would not give him leave to consider, he resolved to fight it out on foot. Of which two of the soldiers taking the advantage, singled him out, and drove him into a court-yard, where he made a stand with a full body, his sword in one hand and his pistol in the other. One of the soldiers taking that advantage of his open body, shot him near the shoulder blade of his pistol-arm, at what time he had near four other bullets in his body that he had received before. Which the soldier observing, flung his discharged pistol at him, with that good aim and violence, that he hit him a stunning blow just under the forehead, upon the upper part of the nose between the eyes, which for the present so amazed him that he gave himself over for a dead man. Yet resolving, like a true cock of the game, to give one sparring blow before he expired, such is the strange provocation and success of despair, with one vigorous stroke of his sword, he brought his adversary with a vengeance from his horse, and laid in a far worse condition than himself at his horse's feet.

At what time, full of anger and revenge, he was just going to make an end of his conquest by giving him the fatal stab; but in that very nick of time Captain Mason having, with the help of his friends, done his business, where they had fought, by the death of some, and the disabling others that opposed them, came in and bid him hold, and spare the life of one that had been the civilest person to him upon the road,—a fortunate piece of kindness in the one, and of gratitude in the other. Which Mr Blood easily condescending to, by the joint assistance of the captain, the other soldier was soon mastered, and the victory, after a sharp fight that lasted about two hours, was at length completed.

You may be sure the fight was well maintained on both sides, while two of the soldiers, besides the barber, were slain upon the place, three unhorsed, and the rest wound-

ed. And it was observable, that though the encounter happened in a village where a great number of people were spectators of the combat, yet none would adventure the rescue of either party, as not knowing which was in the wrong, or which in the right, and were therefore wary of being arbitrators in such a desperate contest, where they saw the reward of assistance to be nothing but present death. After the combat was over, Mr Blood and his friends divided themselves, and parted several ways.

And it was Mr Blood's misfortune to ride all that night, and lose his way, nothing but blood and gore all over from top to toe, before he could get to his friend's house, whither he designed, and have the assistance of a surgeon, which he there obtained. The rest got safe in some few days to their several sanctuaries.

However, such was the occasion of their departure, and the necessity of their parting without compliments, that several weeks were past before they united again, or knew what became of one another. Such a coherence there is between the departures of death itself, and those occasioned by the fear of death.

So soon as this remarkable skirmish was over, Mr Blood lay close for a while, there being no less than three hundred pounds set upon his head, for a reward to any person that should apprehend him. To which purpose, believing he could be no where so safe as under the disguise of a doctor, he returned again to his old sanctuary at Rumford, and there fell again to his former practice of physick.*

But whether his active spirit were impatient of this quiet, or that the temptations of opportunities engaged him to new enterprizes, he seemed now desirous to repair the damage of his lost estate, believing that they who either detained, or had disposed of his right, (and certain it is he assumed to himself both right and title) ought to make him satisfaction.

To this purpose, after several consultations and deliberations with himself, Mr Blood comes to town, and having mustered to his assistance about five or six persons more, in whose resolution and secrecy he could confide, it was resolved at length, that the person of the Duke of Ormond, then living at Clarendon-house, at the upper end of the street leading from St James's palace, should be seized, designing to make those advantages of his person which they had before concluded upon.

This enterprize being resolved, Mr Blood, with five more of his trusty gang, being well armed and mounted, having^{all} hit the duke's coach upon the sixth of December, in the year 1670, at night, and finding he was to pass from St James's through the long street to Clarendon-house with a very small attendance, they soon secured the flambeaux and lackies that carried them, and having stopped the coach, and made sure of the driver, they forced the duke out of his coach, and set him behind one of the company, who was not then to enquire what he was to do with a purchase of that value, having received his orders before to ride through thick and thin with him, till he got to the place appointed, where they would not be long absent from him to have made better and more secure provision for his farther and more private conveyance.

An attempt which might perhaps have succeeded, had it been made upon a person whose courage and valour were not so easy to be quelled; but those virtues meeting in the duke with a strength proportionable, the stout resistance which he made, and the struggling with his assaulters, gave them no small trouble, and the duke the leisure to have the news of the attempt carried to his house, which soon brought the porter at the gate to his assistance. The assailants made away for Fulham-ferry, where they got over, and conveyed themselves to their places of refuge where they lay concealed, though great rewards were proffered for their apprehension, and a thousand

* It is said by the historian Carte, that this adventurous ruffian mixed for a time with the insurgents in Scotland, and was present at the battle of Pentland Hills.

pound particularly set upon Mr Blood's head, which took no effect, till his next attempt discovered him.

Thus had Mr Blood attempted several ways to repair the losses which he supposed himself to have sustained, either from the neglect or permission of that authority which he thought was concerned to make him satisfaction. One project yet remained, which he was certain would either make or marr him. If he escaped, he thought himself made; if he failed in the attempt, he knew the enterprize would make such a noise in the world, that he was sure to be another Herostratus, and to live in story for the strangeness, if not the success, of his attempts, and to make himself whole by the spoils of the English crown, which, though it lay in a safe place, the Tower, he was resolved to fetch from its sanctuary.

Having therefore resolved upon the fact, the ways of accomplishing the design were duly consulted: and, because such enterprizes are not to be carried on without accomplices, he made choice of three or four more, who he knew would not flinch from him.

As for his own part, he put himself into the habit of a doctor of divinity, with a little band, a long false beard, a cap with ears, and all those other formalities of garb belonging to that degree, except the gown, rather choosing to make use of a cloak, as being most proper for his purpose.

Under this disguise he made it his business to get acquainted with the keeper of the regalia, an old man; he brought several persons to see the regalia, who were no unprofitable guests.

He treated and caressed the keeper at a rate not so much expensive as kind and obliging, by which means he had created such a familiarity and intimacy with the old man, that he took the doctor to be no wolf in sheep's clothing, but one of his greatest friends; insomuch that the old man having a son, and the doctor pretending to have a daughter,

* "The clearest account that we have any where of this surprising transaction is given us by Mr Carte¹ to this effect:—The Prince of Orange came this year into England, and being invited on December 6th to an entertainment in the city of London, his grace attended him thither. As he was returning homewards in a dark night, and going up St James's street, at the end of which, facing the palace, stood Clarendon-house, where he then lived, he was attacked by Blood and five of his accomplices. The duke always used to go attended by six footmen; but, as they were too heavy a load to ride upon a coach, he always had iron spikes behind it to keep them from getting up, and continued this practice to his dying day, even after this attempt of assassination. These footmen used to walk on both sides of the street over against the coach; but, by some contrivance or other, they were all stopped and out of the way, when the duke was taken out of the coach by Blood and his son, and mounted on horseback behind one of the horsemen in his company. The coachman drove on to Clarendon-house, and told the porter the duke had been seized by two men, who had carried him down Piccadilly. The porter immediately ran that way, and Mr James Clark chancing to be at that time in the court of the house, followed with all possible haste, having first alarmed the family, and ordered the servants to come after him as fast as they could. Blood, it seems, either to gratify the humour of his patron, who had set him upon this work, or to glut his own revenge by putting his grace to the same ignominious death which his accomplices in the treasonable design upon Dublin castle had suffered, had taken a strong fancy in his head to hang the duke at Tyburn. Nothing could have saved his grace's life but that extravagant imagination and passion of the villain, who, leaving the duke mounted and buckled to one of his comrades, rode on before, and (as is said) actually tied a rope to the gallows and then rode back to see what was become of his accomplices, whom he met riding off in a great hurry. The horseman to whom the duke was tied was a person of great strength; but, being embarrassed by his grace's struggling, could not advance as fast as he desired. He was, however, got a good way beyond Berkeley (now Devonshire) house, towards Knightsbridge, when the duke, having got his foot under the man's, unhorsed him, and they both fell down together in the mud, where they were struggling when the porter and Mr Clark came up. The villain then disengaged himself, and seeing the neighbourhood alarmed, and numbers of people running towards them, got on horseback; and having, with one of his comrades, fired their pistols at the duke, (but missed him, as taking their aim in the dark and in a hurry,) rode off as fast as they could to save themselves. The duke (now sixty years of age,) was quite spent with struggling, so that when Mr Clark and the porter came up, they knew him rather by feeling his star than by any sound he could utter; and they were forced to convey him home and lay him on a bed to recover his spirits. He received some wounds and bruises in the struggle, which confined him within doors for some days."

¹ Life of the Duke of Ormond, vol. ii. p. 421.

the two parents were upon concluding a match between the young people, which had proceeded so far that the doctor and keeper gave each other the appellation of brother.

The day before the fact was to be done, the doctor came and informed the old man, that he had some friends to go out of town the next morning, to whom he had promised a sight of the regalia that were in his custody, and desired he might have the kindness to gratify their curiosity, though perhaps the time might be not so seasonable, as being a little too early.

The next morning the doctor and two more, having prepared their conveniences of a wallet and a wooden mallet, went directly to the old man's house where the regalia lay, leaving one of their companions to hold their horses, that staid for them at the Iron Gate.

The old man no sooner saw his new brother the doctor and his friends, but he was ready to shew them the civility which the doctor had requested the day before, and accordingly opened the doors where the treasure lay.

It seems it is the custom of the keeper of the regalia, when he exposes them to publick view, to lock himself within a kind of grate, or door, with open bars, to the end those things of high value may be seen, but not soiled, by the touch of so many people as daily came to see those precious ornaments.

But the doctor and his companions were too quick for the old man, and followed him so close at the heels, that he had no sooner opened the door, but they were likewise in with him. Presently they seized the old man, for whom, though he struggled much to preserve his reputation and the charge he had, it was in vain to make a long resistance, for they had soon put him beyond making a noise, as having received several unkind knocks with the wooden mallet.

One of the company was for killing the old man outright, but his brother the doctor would not permit so great a piece of barbarism, as being under a disguise that would have rendered the fact doubly heinous, had he added murder to robbery under the notion of an ecclesiastical person.

Having thus got possession of their purchase, they made flat the bows of the crown, to make it more portable; and so, having conveyed it into their wallet, together with the scepter and dove, they began to set forward.

But, just in the nick of their departure, a son of the old man's, who had not been in England in ten years before, (so strange a providence attends the discovery of great crimes,) coming to the house to see his father, and making enquiry where he was, was told he was in the treasury, shewing the regalia to some friends.

Thereupon, out of a zealous impatience of filial duty to cast himself at his father's knees, he flew to the place, where he was soon surprised with a sight not more unexpected and amazing, than sad and dreadful to behold, his father weltering in his blood, and the royal treasury robbed.

It was no time then to make unnecessary lamentations, which would have given the criminals liberty to have escaped; and therefore, with a prompt and ready courage, knowing the persons again by their habits as they went out, he presently pursued them; put the centinels and other soldiers upon their duty by his outcries, so that although the doctor and his friends made all the resistance they could, as it behoved them, yet all the resistance they could make was in vain in such a place as that, for both the doctor and his accomplices were all taken, but he that held the horses, who fled upon the rumour; and the regalia were all recovered again, all bruised and battered, yet without the loss of one stone, unless it were one which was afterwards found by a poor cinder-woman, and restored to the keeper, or those appointed in his stead.

This fact, being made known among the people, and aggravated with the murder of the keeper, as it was then reported, made a great noise about the town, so that Mr

Blood had received several sentences before the particulars of the crime were fully examined.

But the people, not being the proper judges of the crime, Mr Blood, upon his apprehension, was carried before his majesty himself, by whom he was examined with a lenity and moderation not to be paralleled.

* "The best account of this affair is that of Edwards, given to Sir Gilbert Talbot, to this effect:—About three weeks before Blood made his attempt upon the crown, he came to the Tower in the habit of a clergyman, with a long cloak, cassock, and canonical girdle, and brought a woman with him, which he called his wife, though his wife was then sick in Lancashire. This pretended wife desired to see the crown, and, having seen it, pretended to have a qualm upon her stomach, and desired the keeper of the crown, old Mr Edwards, to send for some spirits, who immediately caused his wife to fetch some. When she had drank, Mrs Edwards invited her to repose herself upon a bed, which she accepted of, and soon recovered. At their departure they declared themselves very thankful for this respect. About three days after Blood came again to Mr Edwards, with a present of four pair of fine new gloves for his wife; and having thus begun the acquaintance, made frequent visits to improve it, professing that he should never sufficiently acknowledge their kindness. Having made some small respite of compliments, he returned again, and told Mrs Edwards that his wife could discourse of nothing but of the kindness of the good people in the Tower; that she had long studied, and at length bethought herself of a handsome way of requital. 'You have,' said he, 'a pretty gentlewoman to your daughter, and I have a young nephew, who has two or three hundred a year in land, and is at my disposal; if your daughter is free, and you approve of it, I will bring him hither to see her, and we will endeavour to make it a match.' This was easily assented to by old Mr Edwards, who invited the pretended parson to dine with him that day, and he as readily accepted the invitation, who, taking upon him to say grace, performed it with singular devotion and lifting up of eyes; and also concluded his long-winded blessing with a hearty prayer for the king, queen, and royal family. After dinner he went to see the rooms, and discovering a handsome case of pistols there, he expressed a great desire to buy them, to present to a young lord, who was his neighbour, probably to disarm the house against the time he intended to put his design in execution. At his departure, which was with a canonical benediction of the good company, he appointed a day and hour to bring his young nephew to his mistress, which was that very day that he made his bold attempt, the 9th of May, about seven in the morning.

"At that time the old man was got up, ready to receive his guests, and the daughter had put herself into her best dress, to receive her gallant, when, according to appointment, parson Blood, with three more, came to the jewel-house, all armed with rapier-blades in their canes, and every one a dagger and a pair of pocket-pistols. Two of his companions entered in with him, and the third staid at the door for a careful watch. The daughter thought it not modest for her to come down till she was called, but sent her maid to take a view of the company, and to bring her a description of the person of her gallant. The maid imagined that he who staid at the door was the intended bridegroom, because he was the youngest in the company; and returned to her young mistress with the character she had formed of his person. In the interim, Blood told Mr Edwards that they would not go up stairs till his wife came, and desired him to shew his friends the crown, to pass away the time till then. As soon as they were entered the room where the crown was kept, and the door, as usual, was shut behind them, they threw a cloak over the old man's head, and clapped a gag into his mouth, which was a great plug of wood, with a small hole to take breath, that was tied with a waxed leather, which went round his neck. At the same time they fastened an iron hook to his nose, that no sound might pass from him that way. Having thus secured him from crying out, they plainly told him that they were resolved to have the crown, globe, and sceptre; and if he would quietly submit to it, they would spare his life, otherwise he must expect no mercy. He thereupon forced himself to make all the noise he possibly could to be heard above, upon which they knocked him down with a wooden mallet, and told him if he would be quiet they would spare his life; but if not, upon the next attempt to discover them, they would kill him, and pointed three daggers at his breast. Still he strained himself to make greater noise, at which they gave him nine or ten more strokes upon the head with the mallet, and stabbed him in the belly. The poor man, almost fourscore years old, fell, and lay for some time entranced, when one of them kneeling on the ground to try if he breathed, and not perceiving any breath from him, said, 'He's dead, I'll warrant him.' Mr Edwards, recovering a little, heard his words, and conceiving it best for himself to be so thought, lay very quietly. Concluding him dead, they omitted to tie his hands behind him; and Parret, one of the companions, put the globe into his breeches; Blood kept the crown under his cloak; the third was designed to file the sceptre in two, because too long to carry conveniently, and then put it into a bag brought for the purpose. But before this could be done, young Mr Edwards, son of the old gentleman, just come from Flanders, chanced to arrive at that very instant that this was acting; and coming to the door, the person who stood sentinel for the rest, asked him with whom he would speak; he made answer he belonged to the house; but perceiving by his question that he himself was a stranger, told him that if he had any business with his father he would go and acquaint him with it, and went up stairs, where he was welcomed by his mother, wife, and sister. In the meantime the sentinel gave notice of the son's arrival, and they immediately hasted away with the crown and globe, but left the sceptre, not having time to file it. The old man, returning to himself, got suddenly up, pulled off the gag, and cried out, 'Treason, murder!' The daughter, hearing him, ran down, and seeing her father thus wounded, rushed out upon the Tower-hill, and cried 'Treason! the crown

It was in vain to deny a fact so easy to be proved upon him; and therefore he thought it more convenient, and more suitable with his condition, to appear with a resolution, which perhaps would much better have become a nobler act.

As the passages of his examination were known but to few, so they have been but to as few communicated.

But it is to be presumed that a man of his daring and adventurous courage was not wanting to himself in the justification, as far as lay in his power, of the offence which he had committed. No question but that he made a full declaration of the wrongs, injuries, and losses which he had sustained, (and men in such cases will pretend to be the most proper judges of their own causes,) and the disgraces and disappointments he had met with in Ireland.

However it were, his majesty was graciously pleased to make him a proposition, that could not choose but be welcome to a person under his circumstances, by asking him this single question, What if he should grant him his life? To which Mr Blood is said to have replied, That he should endeavour to deserve it.

is stolen!" This gave the first alarm; and Blood and Parret, making great haste, were observed to jog each other with their elbows as they went, which caused them to be suspected and pursued. By this time young Edwards and one Captain Beckman, upon the cry of their sister, were come down, and left their father likewise to run after the villains; but they were advanced beyond the main-guard; and the alarm being given to the warder at the draw-bridge, he put himself in a posture to stop them. Blood came up first, and discharged a pistol at him; the bullet missed him, but the powder, or fear, made him fall to the ground, whereby they got safe to the little ward-house gate, where one Sill, one of Cromwell's soldiers, stood sentinel, who, though he saw the other warder shot, made no resistance, by which means the villains got over that draw-bridge, and through the outward gate, upon the wharf, and made all possible haste towards their horses, which attended at St Catharine's-gate, called the Iron-gate, crying themselves as they ran, "Stop the rogues!" and the grave canonical habit made them thought innocent. Immediately after Captain Beckman got up to them, at which Blood discharged his second pistol at the captain's head; but he, stooping down, avoided the shot, and seized upon him with the crown under his cloak. Yet Blood had the impudence, though he saw himself a prisoner, to struggle a long while for the crown; and when it was wrested from him, he said, "It was a gallant attempt, though unsuccessful, for it was for a crown." A servant belonging to Captain Sherborne seized upon Parret before Blood was taken; and there was so much consternation amongst all men, and so much confusion in the pursuit, that it was a miracle that several innocent persons had not suffered; for young Edwards, overtaking one that was bloody in the scuffle, and supposing him to be one of his father's murderers, was going to run him through, had not Captain Beckman hindered him: and as this captain himself made vast haste in the pursuit, the guards were going to fire at him, thinking him to be one of the rogues; but one of them, who fortunately knew him, cried out, "He is a friend!" Blood and Parret being both seized, Hunt, another of them, and son-in-law to Blood, leaped to horse, with two more of the conspirators, and rode fast away; but a cart in the street chanced to turn short; Hunt run his head against a pole that stuck out, which made him fall astonished from his horse; but recovering his legs, and putting his feet in the stirrup, a cobbler running in, cried, "This is Tom Hunt, who was in the bloody business against the Duke of Ormond; let us secure him!" A constable being accidentally there, seized him upon this affirmation, and he was, with Blood and Parret, committed to safe custody in the Tower. Parret was a silk-dyer in the borough of Southwark; and in the rebellion had been lieutenant to General Harrison. In the struggle for the crown, the great pearl and fair diamond fell off, and were lost for a while, with some other smaller stones; but the pearl was brought by a poor sweeping-woman to one of the warders, and the diamond by a barber's apprentice, and both faithfully restored. Other small stones were picked up by several persons, and brought in. The fair ballas ruby, belonging to the sceptre, was found in Parret's pocket, so that nothing considerable was wanting; the crown only was bruised, and sent to be repaired."—*Biogr. Brit. II. 366.*

* The mystery of Blood's pardon may be perhaps cleared up by attending to his connection with the witty and profligate Duke of Buckingham, then in administration and favour. They were so intimate, that the gallant Earl of Ossory charged Buckingham with being the promoter of Blood's attempt upon his father, the Duke of Ormond, and vowed that if any similar design should take effect, he would pistol Buckingham were he behind the king's chair. It would be easy for a man of Buckingham's character, always engaged in daring and dangerous schemes, to persuade Charles that Blood's services might be useful: and we may observe, that the favour of this ruffian declined so soon as Buckingham was displaced and went into opposition, as is plain from Blood's shortly after appearing as a witness in the popish plot. He published a narrative, according to the fashion of the times, of which North observes,—"Nay, there was another sham-plot of one Netterville, which allied itself to Dangerfield, by the pretence of steering the popish plot upon the presbyterians. And here the good Colonel Blood, (that stole the Duke of Ormond, and, if a timely rescue had not come in, had hanged him at Tyburn, and after-

How or which way that could be is a secret, which it cannot be expected should be here discussed; but the consequences of the whole proceeding, which were his pardon, not only for himself and his followers, or rather assistants and accomplices, together with his re-admission into his majesty's favour, were assured signs that he had given that satisfaction, which, if they that received it were willing to accept, no person else had reason to misdoubt.

This is evident; that soon after Desborough, Kelsey, and others appeared publicly about the town, coming over from Holland, and surrendering themselves to his majesty, which, by whom ever procured, might be thought a good piece of service at that time, when the two nations of England and Holland being embroiled in open wars, the conduct and advice of such persons might have been of no small prejudice to us and advantage to the enemy.

However, it was publickly taken notice of, that Mr Blood was daily with the said persons at the same time, at Mr White's Coffee-House, behind the Royal Exchange, where they met in a room by themselves: so well and smoothly did Mr Blood, both then and since, behave himself among those that are called the Dissenting Party.

But as ingratitude is a vice that reigns among all sorts of religions, and all the varieties of opinions, it is not without good presumptions thought that those very people, that in some measure may be said to have owed their lives to his painful endeavours, have since been so unkind as to prove altogether off their duly merited acknowledgments.

What is to be said as to his late troubles, there is little but what is already in print, or the common town-talk.

He says, or else it is said for him, that he was desired by the woman that keeps the St John's-Head, or Heaven-Tavern, to come and speak with her at such a time.

That, upon his coming to her, she told him that two shabby fellows had been with her sometime before, to tell her that they had something of great consequence, in reference to the welfare of the publick, to reveal, but that they wanted a discreet person to manage it.

That thereupon Mr Blood made answer, that if there were any thing fit to be taken notice of, he would bring them to those that had sufficient authority to take notice of it, and thereupon promised to meet the persons.

That upon his second coming to speak with the discoverers, they refused to speak with him; for that, understanding he was the person with whom they were to discourse, they averred they would have nothing to do with him, for that he was the Duke of Buckingham's friend.

That thereupon the woman of the house, that Mr Blood might see she had not told him a lye, persuaded one of the persons to shew himself to Mr Blood.

Who, to that purpose, as he passed by, stepped into the room where Mr Blood was, and going in, told that he and his fellows had business of great concernment to discover, but could not then by reason of another appointment, and so concluded upon another day.

That Mrs Bradley upon this came to him to his house, and told him she believed the fellows were rogues and trapanes, and advised him to seize them, and carry them before a magistrate.

That Mr Blood, weighing the consequence of the woman's advice, and being informed by her of their lodgings, according to the directions of one Mr Curtis, went to

wards stole the crown, though he was not so happy to carry it off,) no player at small games, he, even he, the virtuous colonel, as this sham-plot says, was to have been destroyed by the papists. It seems these papists would let no eminent protestant be safe. But some amends were made the colonel, by the sale of the Narrative, licensed Tho. Blood. It had been strange if so much mischief had been stirring, and he not come in for a smack."—*North's Examen*, p. 311.

Dr Chamberlain, one of the justices of the peace for the county of Middlesex, and told him the story, who thereupon not only gave Mr Blood his warrant, but accompanied him till the execution of his warrant.

That two persons were by him apprehended, by the names of Philemon Codan and Samuel Ryther.

That, upon their apprehension and first examination severally, before Dr Chamberlain, they seemed to wonder what he meant when he told them he heard they knew of a plot, and wanted a magistrate to reveal it to.

That thereupon the justice of the peace told them all that Mr Blood had told him concerning their discourse with Mrs Bradley, and their appointment of meeting Mr Blood.

That to this one of them, viz. Codan, replied, that it was about the Duke of Buckingham, who, he said, owed them several hundreds of pounds upon an account of wages, and that they wanted some body that was able to cope with him; to whom one Curtis, standing by, replied in these words:

"How! did not I hear you say, at such a place, that you knew of a greater plot yet undiscovered than either Mr Oates or Mr Bedloe had hitherto made out?" To which the said Codan gave no satisfactory answer; and Ryther protested he knew nothing of a plot, or any thing like it.

That to all this the doctor urged, that it was not to be that any discreet person should be so overseen as to interpose between master and servant about wages, especially so great a person as the duke was, and therefore that could not be the reason of their meeting at Heaven.

That thereupon one of them, starting up in a violent passion before the justice of the peace, swore that he would be revenged upon the Duke of Buckingham; and that he would swear any thing that could tend to the doing him a prejudice, and that he himself would swear sodomy against him.

That upon this the justice of the peace, having told them that he neither did believe nor would hear any thing relating to the duke, asked them jointly, what was the reason they ran away at the sight of Mr Blood, at Mrs Bradley's? To which they replied, that they were mistrustful of him, because they had heard he was the duke's friend.

That thereupon Dr Chamberlain, taking them for impertinent fellows, dismissed them, with directions to consider what they had said, and to attend him at such a time at his house, where he would be ready to hear whatever they had to discover concerning any plot.

That accordingly they came with one Whitaker and Jenks, where Mr Blood likewise attended. At what time Dr Chamberlain asking them the meaning of their former shuffling stories, they replied, they had a farther design to carry on for the good of the public, but would come to no particulars; whereupon Dr Chamberlain dismissed them.

That soon after, Sir W. W. sent for Mr Blood to a tavern in Westminster, whither when he came, he found Ryther, Codan, Whitaker, and Jenks, in Sir William's company; and, what more surprised him, he found Ryther and Codan in a genteel equipage and alamode accoutrements, whom he looked upon before as very mean fellows.

That presently then Sir William told him he was very much troubled for the premunire he had brought himself into, for that Ryther and Codan were come to depose upon oath, that he had attempted several times to corrupt them with money and other rewards, to swear sodomy against the Duke of Buckingham.¹

¹ From this blind and inexplicable story, which is told in Mr Blood's own way, it is absolutely impossible to discover whether he was himself the manager of the accusation against Buckingham, or whether he was counterplotted by the trepanners whom he here mentions. At any rate, Buckingham seems to have resolved to quash

That, upon Mr Blood's making strange of it, Codan started up and confirmed the same.

That thereupon Mr Blood asked them how they could be so impudent as to invent such a thing against him whom they had never seen but once at Heaven, and another time with Dr Chamberlain?

That thereupon Mr Whitaker and Mr Jenks stood up, and bid Mr Blood be honest and just and confess. To whom Mr Blood replied, You that have been these two years last employed to asperse me, could you find no better invention than this?

That after this, Mr Blood directing his discourse to Sir William Waller, desired of him to know the meaning of the whole story, which was a thing so unknown to himself. Upon which Mr Whitaker and Mr Jenks jointly affirmed Codan and Ryther to be honest men, and pressed Sir William for justice.

That thereupon Sir William desired Mr Blood very civilly to put in bail; to which Mr Blood replied, that he would consider of it, and so for that time went about his occasions.

That the next morning he went to Sir William's house for a copy of his mittimus, which at length was granted him.

That the next day he was met by a constable, who told him he had a warrant against him from Sir William Waller, mistaking a mittimus for a warrant, and thereupon he went away with the constable to a tavern, where he continued under restraint of the constable several hours.

That while he was under custody, Sir William, apprehensive of some mistake, as is pretended, sent one of the witnesses to the constable to know how he had disposed of Mr Blood, and whether he had carried him to prison; who made answer, that he had not sufficient authority for so doing, and that Mr Blood might bring him into trouble for so doing, as not having been carried before a justice of peace, as he ought to have been first of all.

That thereupon the witness went back to Sir William, and not long after returned to the constable, and brought him a warrant to seize Mr Blood, and for want of bail to carry him to the Gatehouse.

That upon that warrant, Mr Blood gave in bail before Sir William Poultney to answer the accusation.

Upon which accusation, Mr Blood with the rest were found guilty.

The verdict being given in against them, his grace the Duke of Buckingham lays a great action of *scandulum magnatum* against Mr Blood, whereby he was forced for refuge to the King's Bench, where I will leave him until the next term, at which time I shall be farther capacitated to enlarge upon this subject; and whereas at this time I have acquainted you of things concerning this business only by report, I shall endeavour to become a more near inspector myself as to what may ensue upon the whole, that in all things I may approve myself,

Sir,

Yours ready to be commanded,

R. H.

the information at Blood's expense. It may be observed, that his grace was not above suspicion as to the abominations here mentioned. An epigram upon his loss of favour, in 1674, runs thus:

"When great men fall, great griefs arise
In one, two, three, four families;
When this man fell there was great sorrow
In Rome, Geneva, Sodom, and Gomorrah."

Postscript.

SIR,

I make no doubt but as the foregoing account of the most remarkable passages of the life of Mr Blood did in some measure satisfy your curiosity, so likewise, by what I promised in the conclusion, it left you in expectation of more; and indeed I resolved to have made what use I could both of my own friend's acquaintance with him, to have procured a true information of many other material, though minuter occurrences of so singular a life, which no man but the person himself was able to give with the true light of those circumstances that made them, as to him, observable, who seldom or never set about any thing which was not inspired by somewhat above the common principles of conduct: but the last term of human life has prevented the term wherein (as I told you) I hoped to have been capacitated to give you a larger account of that subject, and the death of that noted man confines now my relation to what preceded and was subsequent to his end.

I left him in the King's Bench, into which he had turned himself over by a habeas corpus from the Gatehouse; but his stay was not long there, for, having given security for his imprisonment, he returned to his own house in the Bowling-Alley, in Westminster, not far from the house of Sir William Waller. When he was thus retired unto the quiet recess of his own private habitation, he began with more than ordinary concern to reflect upon his condition, both as to his personal reputation and the interest of his family; the one he saw extremely blasted, not through any injustice of the court, but (as he still affirmed) the malice of enemies; and the other in a probable way of ruin, partly by disappointments from debtors, especially when he stood most in need of his own, and partly by that heavy and crushing action of ten thousand pounds, which his Grace the Duke of Buckingham thought fit to lay upon him, for his having laid a scandal on a peer of his grace's quality.

These dismal thoughts, assailing a man of his high spirit, (that, by the circumstances he was in then, found no probability of getting out of the mire by his former methods of contriving and daring, but perceiving himself in a manner manacled at this time, whereas, in all the other exigencies of his life, he had constantly trusted to his hands and action,) brought upon him a pensive passion of melancholy, the usual rock on which great and aspiring spirits at last split; and the sickly season of the year having fitted his body for the impressions of a discontented mind, he fell sick of a fatal, though no violent distemper.

His sickness lasted fourteen days, during which he was often visited by some of my acquaintance, and particularly by a minister that went to administer to him what spiritual assistance he found him capable of. This person acquainted me, that he found him apparently in a sedate temper of mind as to the concerns of his soul, nothing startled at the apprehensions of approaching death; that he told him he had set his thoughts in order, and was ready and willing to obey, when it pleased God to give him the last call; but that he desired not to spend much time in discourse, as being neither suitable to his condition nor humour: and indeed, for the remaining time of his sickness, (except in ordering his domestick affairs,) he seemed unwilling to be engaged in any conference, but continued in bed, like one who suffered more under the discipline of a discontented heart than the violence of any bodily distemper, which many times appeared by those unvoluntary sighs, that, in the intervals betwixt his frequent slumbers, he was observed to fetch. On Monday before his death he was taken speechless, and continued so, in a kind of lethargy, without much motion or action, unless a distressy heaving and fetching for breath, until Wednesday, the 24th of August, about three o'clock in the afternoon, at which time he expired.

It hath been given out by some, (according to the manner of this censorious age,) that he made use of some narcotick and stupifying medicines, either to hasten or facilitate his death; and they would ground their presumptions (for evidence have they none) upon his drowsiness and insensibility during the last days of his sickness. From what cause that torpor proceeded is the province of physicians to determine; but that every one who dies in that manner must have had recourse to art, I think none dare affirm; and therefore no man ought, on partial conjectures, to judge rashly of one who had the courage not to despair in the worst circumstances of life, and far less should be thought to do it on a death-bed of no painful sickness.

An arrow out of the same quiver, is another malicious report, that he died a papist; but it would be needless to produce the testimonies of persons beyond exception who were constantly with him in his sickness, to refute this aspersion, since the education, past life, and interest of Colonel Blood at this time may be sufficient to convince all candid and unprejudiced men that this surmise is but a calumny raised by those enemies of his, who would willingly have had him worse than they could make him.

On Friday after his death he was decently interred in the new chapel by Tothill-Fields, near the place where his wife lies buried, in hopes of a more joyful resurrection than his body soon after met with; for a rumour that came abroad, that some persons had seen Mr Blood alive, and that the report of his sickness, death, and ceremonial of his burial was but a farce and piece of pageantry to carry on some design, his body was on Thursday after disinterred, and the coroner, with his jury, appointed to sit upon and take cognizance of the same. The coroner accordingly, with his jury, who were all, or most of them, supposed to have known the colonel, met and viewed the body, but found his face so altered and swollen in those six days it had lodged in the earth, and so few lineaments and features of their old acquaintance, that they could not agree on their verdict; and though a captain that was present, and an intimate acquaintance of the deceased colonel, shewed them his thumb, which, by some accident he had received in his life-time, had grown to a prodigious bigness, and was taken notice of by all that kept him company, yet the jury, not thinking it so easy to discover Colonel Blood by his thumb as it was of old to know Hercules by his foot, demurred upon it, and, for what I can hear, have not as yet given in their verdict.

It is not very strange that lifeless flesh and blood, hastening to return to the dust from whence it was taken, and ready to dissolve into putrefaction, should in six or seven days be disfigured beyond kenning; but it is somewhat extraordinary that such a person as Mr Blood, who in all the changes of a restless life never wanted a competent subsistence for himself and family, should at last, after he had weathered the greatest storms of adversity, made many friends, recovered the favour of his prince, settled himself and family in a neat and splendid habitation, and had money abroad in the world,—that such a one, I say, should die, and have so inconsiderable a cash by him that it would be thought too small a *viaticum* for a forty miles journey; and yet this, through disappointments, was his case, which, without doubt, added no small weight to the other pressures of mind that first sunk, and at last broke that great heart which had often despised the danger of many astonishing and bold attempts in the course of a very singular and remarkable life of fifty-three years duration.

Characters of men, sir, are best drawn from their actions, and I should be bold to give a judgment of this person, after that you have a candid relation of the greatest achievements of his life; yet I think it may not be altogether presumptuous if I offer to assist your remarks upon the preceding narrative, by a rough, yet plain representation of the sense that judicious men, who were acquainted with the colonel better than myself, have had, and still have of his value.

He was a man, in their opinion, fitter to imbroil than compose a disconcerted society; to be a mate to some hunting Nimrod, rather than an assistant to a peaceful

magistrate. Not that he wanted a reach of understanding, and, with a prompt comprehension of things, a clear and distinguishing judgment; but his ambitious and restless spirit, suitably lodged in a strong and vigorous body, always directed his thoughts to such stirring and active counsels, as not only were inconsistent with temper and mildness, but required a necessary concurrence of undaunted resolution, with plodding sagacity, before they could be brought to effect. And indeed his heart and head clubbed so equally, and kept so true a pace together in all his undertakings, that if the great things he set about failed of the projected success, yet they were still brought so near an issue, that Providence seemed concerned by defeating them at the last nick, to make good that oracle of scripture, "That God brings to nought the counsels of the wise." And his designs were generally laid with so much artifice, and managed with that confidence of undertaking, that in all probability human and ordinary circumspection was not sufficient to way-lay him in many of his subtle and politick contrivances.

They cannot deny but that there was a great obliquity in his morals, since his most noted actions can allow of no other appellation than that of splendid crimes; but whether the injuries which he always pretended to have received disjointed the original rectitude of his nature and education, by bending him to revenge, or that powerful ambition, which seems to be the greatest excess that swayed him, set him upon unusual methods of conduct, it is still certain that he pursued none of those mean and sneaking actions that leaves an indelible character of ignominy upon those who would be thought gentlemen, when they tread in the steps of villains. He was indeed for forbidden game, but never on the king's highway, always in royal parks and forests; crowns, scepters, and government were his booty; and the surprising of castles and vice-roys his recreation. For compassing those great ends he had a wonderful art of insinuating into the affections of the leaders of all discontented parties, and maugre the differences of remonstrances of the various persuasions in religion of those he rallied with, he still won so much upon the minds of the cabals, that (unless it be of late) he was never suspected by his party, though it appeared at his last, that he either fell back, or had in his heart constantly adhered to the religion wherein he was educated. In sum, sir, when they have considered him on every side, in the heat of bustling and in the cool of his retreat, which seemed only to be his quarter of refreshment, wherein he plotted and laid new trains for action, they think that part of the burlesque epitaph that was made on Mr Prynn, may very fitly quadrate to this famed man:

That he went through thick and thin,
Was never out, nor never in.

And so I shall leave him to his Judge, and recommend myself to your good wishes, being,

Sir,
Yours.

A Treatise, wherein is demonstrated,

- I. *That the East India Trade is the most National of all Foreign Trades.*
- II. *That the Clamours, Aspersions, and Objections made against the present East India Company, are sinister, selfish, or groundless.*
- III. *That since the Discovery of the East-Indies, the Dominion of the Sea depends much upon the Wane or Increase of that Trade, and consequently the Security of the Liberty, Property, and Protestant Religion of this Kingdom.*
- IV. *That the Trade of the East Indies cannot be carried on to National Advantage, in any other Way than by a General Joynt Stock.*
- V. *That the East India Trade is more profitable and necessary to the Kingdom of England, than to any other Kingdom or Nation in Europe.*

By Philopateus. 1681.

BEFORE I enter upon the particular proof of the propositions in the frontispiece, I shall desire the reader's leave to mention some few general opinions of my own concerning trade, which I have long since entertained; and the older I grow in experience, the more I am confirmed in them.

1. That trading merchants, while they are in the busie and eager prosecution of their particular trades, although they be very wise and good men, are not always the best judges of trade, as it relates to the profit or power of a kingdom. The reason may be, because their eyes are so continually fixt, and their minds intent upon what makes for their peculiar gain or loss, that they have not leisure to expatiate or turn their thoughts to what is most advantageous to the kingdom in general. This I am told was the opinion anciently of M. T. Cicero, and also Boden, that learned French author, and lately of the Lord Chief Justice St John, who was a principal engineer in the first act of navigation. But whether it was their opinion or not, I am sure it's true by manifold experience; of which I could give pregnant instances in the age we live in, and former councils of trade since his majestie's happy restauration, but that I design brevity, and to avoid all personal reflections. The like may be said of all shop-keepers, artificers, clothiers, and other manufacturers, until they leave off their trades, and being rich, by the purchase of lands, become of the same common interest with most of their countrymen.

2. And upon the same reason I am of opinion, and have found by experience, that a mixt assembly of noblemen, gentlemen, and merchants, are the best constitution that can be established for the making rules, orders, and by-laws, for the carrying on any trade for the publick utility of the kingdom.

3. That all domestick or foreign trade, to any place or country, that doth not, in the result and consequences of it, increase the value of our English lands, (the good plight whereof is the main basis of our wealth, freedom, and safety) ought not only to be discouraged, but totally rejected.

4. That all monopolies, of what nature or kind soever, are destructive to trade, and consequently obstructive to the increase of the value of our lands; and that therefore, if

there be any thing in the East India Company's charter, or any charter of incorporated merchants, that hinders any of his majestie's subjects of England, Scotland, or Ireland, from coming into that trade, upon as good terms as others of his majestie's subjects did, or yet may, it would tend to the general good of the kingdom, that such barrs or hinderances were removed.

5. I am clearly of opinion, (be it said without offence) that if all strangers inhabiting in any of his majestie's kingdoms, (so they be not suffered to be of government) had as free liberty to enter into any of our incorporated foreign trades, as any of his majestie's native subjects, as is practised in the United Netherlands, it would greatly encrease the trade of England, and improve the value of land.

6. That those narrow clauses in the Turkey companies and other charters, which limit the traders to be freemen of London, and not to be shop-keepers, or other than such as they call legitimate merchants; as also the practice of allowing no man to be free of the Turkey Company under 25 $\frac{1}{2}$ if he be under 25 years of age, or 50 $\frac{1}{2}$ if above, are to the prejudice of the nation in general, though they may be for the advantage of the particular traders, for which I suppose they were calculated.

7. I am of opinion, the Dutch, nationally speaking, are the wisest people now extant, for the contriving and carrying on their trades for the publick advantage of their country. If any shall here object, that if it be so, I am mistaken in my former notion, that merchants are not always the best judges of trade, for the Dutch have most merchants in their councils; the Honourable Sir William Temple hath already answered for me, that their councils are made up of very few or no trading merchants, but of civilians, or sons of merchants, that have long since left off their active trades, and have only now stocks in their East and West India Companies, or in other banks and cantores, or other publick funds.

8. That though the dominion of the sea may be obtained by arms and fortunate battels at sea, it can never be retained, preserved, and maintained, but by the excess and predominancy of foreign trade.

9. That domestick and foreign trade do (as we vulgarly say of twins, but more truly of trade,) wax and wain together; and, if it were not an impropriety of speech, land might be coupled with them.

10. I am of opinion that silver and gold, coined or uncoined, though they are used for a measure of all other things, are no less a commodity than wine, oyl, tobacco, cloth, or stuffs; and may in many cases be exported as much to national advantage as any other commodity.

11. That no nation ever was or will be considerable in trade, that prohibits the exportation of bullion.

12. That though it may be best to be left free and indifferent, it is more for the publick advantage to export gold or silver coined than uncoined: By the former we gain the manufacture, and something of honour and magnificence it is to have his majestie's royal stamp pass current in all parts of the world.

13. I am confident, whatever nation hath the lowest interest, will certainly have their lands in highest esteem and price; and that no nation shall ever over-match the Dutch in trade, till they mate them in the rate of interest of money.

14. That the Dutch gain much more by bullion and foreign commodities exported from their provinces, of which the chief are wines, East India goods, English herrings, Greenland oyl and fins, than by all their own native productions and manufactures.

15. That it is as probable an attempt to wash a blackamore white, as to hope that ever we can cope with the Dutch in the white-herring fishing, salt-droaging from St Uvals to the East-Land, or the Russia or Greenland trade, till the interest of our money be as low as theirs.

16. I always bear that deference to the consent of nations and numbers, that whenever I see wise and great nations, having different interests, and various forms of government, yet conspire, as it were, in the same means, to accomplish the same ends of profit, power, and honour, I conclude, they are nearer the right way to those ends, than the wisest and best private men living, that hold contrary opinions, swayed by personal profit or loss, pique or prejudice.

17. I am of opinion, with submission to better judgments, that there is just as much need of companies of merchants in England as in Holland, and no more. Where companies are necessary the Dutch have them; and in such manner as is most necessary to the nature and commerce of the countreys, for which they are incorporated. And I never heard of any companies of merchants there, but those of the East and West Indies, and both in joynt stocks, protected and defended by the laws of the provinces, which are of the same force as acts of parliaments with us.

18. That there is a necessity of a joynt stock in all foreign trade, where the trade must be maintained by force and forts on the land; and where his majesty cannot conveniently maintain an amity and correspondence by ambassadors, and not elsewhere.

I shall now return to what was proposed to be proved in the title-page, viz.

I. That the East India Trade is the most National of all Foreign Trades.

Which I prove thus: viz.

1. What the Dutch, French, Danes, Portugals, and which, not long since, the Swedes, and now the D. of Brandenburg, have with so great charge and expence attempted, and hedged about with laws and encouragements, must certainly be a matter of the greatest national consequence.

2. This trade employs more great warlike English ships, that may carry from 50 to 70 guns a-piece, than all the trades of the world from England besides.

3. This trade alone furnisheth us with saltpetre, a commodity so necessary, that in the late king's time the nation suffered greatly by the want of it, as is too well known and remembered.

4. Above four fifth parts of the commodities imported by this trade are again exported into foreign parts; by which the navigation and trade of this kingdom is vastly encreased into Turkey, Italy, Spain, France, Holland, and other parts of Christendom; by the returns of which more than treble the bullion is imported that was first exported to India; and the wealth of this kingdom is as greatly encreased, as by the direct trade to and from the East Indies.

5. Most of the East India commodities are of so small bulk, that if the trade of the East Indies were not in English hands, the commodities, notwithstanding any laws to the contrary, would come in from Holland, (as the French silks now do) with this difference only; then we should pay as much for pepper, which we now sell for 8*d.* the pound, as we do for nutmegs, cloves, mace, cinnamon, which is from 6*s.* to 15*s.* per pound; though the two last are cheaper at the places of their growth than pepper is at Bantam; but enhaunsed to that price by the Dutch having the sole trade for them. By which I conclude this saves the kingdom in that respect only, 500,000*l.* per annum, that otherwise they would be outwitted of.

6. All riches and power in nations, as well as private families, consists in comparison. A gentleman in the country may be accounted rich, if he be much richer than other gentlemen, his neighbours, though but of moderate estate. So England may be said to be rich or strong, as our strength or riches bears a proportion with our

neighbour nations, French, Dutch, &c. and consequently whatever weakens or depopulates them, enricheth and strengtheneth England. And most certain it is, that no foreign trade doth so work upon the manufactures of our neighbour nations, as this trade of the East Indies; for the staple countrys for silks and fine linen, are Italy, France, Holland, Flanders, &c. insomuch, as it is reasonably computed, those countrys, by the importation of East India silks and calicoes, not only into England, but from England into their own countrys, are abated in those fine manufactures above a million of pounds sterling per annum.

7. And which is a consideration of great weight, and may be of immense advantage to the strength, populousness, and riches of this nation in a few years, England hath already the principal trade of woollen manufactures, and now a quicker vent and export for them than ever it had in the memory of any man living. But throughout Christendom, I have ever been of opinion that, generally speaking, there are more men and women employed in silk manufactures than in woollen: Of which likewise England hath obtained a considerable part, considering the short time since our silk broad weaving began, which was but since Mr Burlimach brought in silk-diers and throwsters, towards the end of the late King James, or beginning of King Charles the First's reign. And I am credibly informed the number of families already employed therein in England doth amount to above 40,000. Now what should hinder, but that, in a few years more, this nation may treble that number in such manufactures; since the East India Company have of late years found out a way of bringing raw silk of all sorts into this kingdom, cheaper than it can be afforded in Turkey, France, Spain, Italy, or any other place where it is made. Insomuch, as with East India silks, we serve Holland, Flanders, and some other markets from England.

8. This trade pays his majesty about 60,000*l.* per annum custom; and carries out of this kingdom yearly, about 60 or 70,000*l.* in lead, tin, cloth, stuffs, and other commodities of the production and manufacture of England; which is not so considerable with respect to the quantity, as in this, that what we send to the East Indies of our own manufactures would not be sent at all, if the English nation were deprived of this trade; because neither Dutch nor French would enure the East Indians to our English manufactures; of which we have clear instance in the Dutch trade to Japan, where they industriously avoid introducing our English cloth. Which country being exceeding large, rich, and populous, and lying in such a northern latitude, might vent as much of our English manufactures as Spain and Portugal, if we could gain a footing into that trade; in the endeavour whereof, the company have already lost above fifty thousand pounds sterling.

9. Though the company have lost so much in the attempt of the trade with Japan, they have lately got an entrance into the trade of Couchin-China and China; and have, for a few years past, settled factories in three ports thereof, viz. Tywan, Tonqueen, and Amoy, to their great charge and expence, without reaping any profit thereby to this time, but a certain and constant loss, which they did and do continue notwithstanding, out of a zeal they have to promote the consumption of our woollen manufactures, in a climate not altogether so hot as most parts of India are. Which probably may in some time turn to the publick advantage of this kingdom, when those raging and bloody wars are ended between the Chineses and Tartars.

II. That the Clamours, Aspersions, and Objections made against the present East-India Company, are sinister, selfish, or groundless.

Before I engage into the discourse of objections against the present East-India Company, I shall not stick to declare (though it be against the sense of most of the now

adventurers) that, in my judgment, I am for a new stock, provided we can come honestly by it, that is, without injustice to the new adventurers (who will be found to have deserved worthily of their country, when their actions and themselves shall come to be impartially considered) and without detriment to the kingdom in general. Which notwithstanding is a matter of great difficulty, it being in trade, as with trees, great care is to be taken in removing an old one, lest upon the removal it die, or at least suffer a shrewd stunt. Yet, if the wisdom of our nation, in that august assembly of parliament now convened, shall incline to any alteration of the present constitution, I think this time may be as opportune as any. 1st, Because our neighbours are not now at leisure (the French being very low in India, and the Dutch not altogether so rampant as formerly) to make their advantage of our unsettlement, during the transition from one stock to another. 2dly, Because the profits of the East India trade were never so much cried up as now they are: So that I hope the subscriptions may prove the larger to the ensuing stock. And yet I must desire to be excused, if I think those that complain most of the old will not be found the forwardest subscribers to a new stock. 3dly, Because when we tell gentlemen or others they may buy stock, and come into the company when they please, they presently reply, they know that, but then they must pay $\text{£}80\text{L}$ for 100L , and when we say the intrinsic value is worth so much, which is as true as 2 and 2 makes 4 , yet it is not so soon demonstrated to their apprehensions, notwithstanding it is no hard task to make out that the quick stock of the English East India Company is at this time more than the Dutch quick stock, proportionable to their respected first subscriptions; and yet their actions now are current at 440L or 450L per cent. In truth, I that have reason to inspect and know as much of it as any man, had rather buy in this stock, now it is at 300L for 100L , than come into any new stock at even money. Therefore, for general satisfaction, I could wish the experiment of a new subscription were tried. 4thly, If a new stock were now established, to please the generality of the kingdom, I should not despair but that such new stock would have a parliamentary sanction; which this only wants to be as strong in its foundation as it is in all other nations; and which being obtained, I am persuaded would, in less than an age, render his majesty as indubitably sovereign of the ocean, as he is now of Great Britain and Ireland, and the seas adjacent. 5thly, If an English company were settled upon such a foundation, there would be more encouragement to maintain and defend some trades by arms, which cannot otherwise be enjoyed or secured; which no company built upon an uncertain basis can be supposed to adventure the charge or hazard of, while they are not sure to enjoy their acquests in case of success.

But to return to my theme, and muster up all the objections I can remember to have heard against the present company.

Object. 1. The first that comes to my mind, is that of some of the Turkey merchants: They say, "The bringing in of so much silk, and so cheap, is a public nuisance, and destroys their trade, which depends wholly upon the exportation of woollen manufacture, whereas the East India Company sent out little manufacture and much bullion," &c.

Ans. 1. I answer, first, That it's strange doctrine to any sort of men skilled in the political part of trade, that the making of a material cheap, that is to be manufactured at home, or exported again into foreign countries, should be to the publick damage of any country.

2. That the Turkey merchants do ship out much cloth I deny not; but as true it is, that they have shipped out more yearly since the great increase of the East India trade, and since themselves have made this complaint, than they did in former years. So that, in fact, it doth not follow that the increase of the East India trade, and particularly of their importation of silk, doth hinder or diminish the exportation of cloth to Turkey, but rather the contrary.

3. The question is not now, which company sends out most woollen manufactures, but which is the most profitable trade to the nation? which I hope I have proved the East India trade to be; especially if the before-mentioned consideration be taken in, that what English commodities the East India Company exports would not be exported at all, if the English had no trade thither; because other nations that trade thither are under joynt-stocks and political councils, and consequently would send none of our manufactures. But as long as there is a market for our English cloth in Turkey, if the English did not send it thither, the Dutch would; because in Holland there is no Turkey company; but any man, native or foreigner, may send what commodities, and when they please, for Turkey, except they be staid for convoy by some act of state. And where all men have liberty to trade at discretion, they will naturally deal in those commodities they can get most by, be they foreign or domestick.

4. If bullion be exported, and that hinder not the exportation of our English manufactures, as in fact doth appear; and if for every 10s. value sent out, 30s. be brought in bullion at the long run, which is most evident in the course of the East India trade, who can doubt but the exportation of bullion in such a trade is a real and great advantage to the kingdom.

5. Besides their cloth, the Turkey merchants do send out a great deal of bullion themselves, as appears by their entries at the custom-house: In which they do well for themselves and their country, but not well in complaining of others at the same time for the same thing.

6. The truth of the case at bottom is but this, the importation of better and cheaper raw silk from India, may probably touch some Turkey merchants profit at present, though it doth benefit the kingdom, and not hinder the exportation of cloth. What then? Must one trade be interrupted because it works upon another? At that rate there would be nothing but confusion in a nation, *ad infinitum*. The Italian merchants may quarrel with the Portugal merchants, because they do now in a plentiful year import from Portugal 4000 pipes of oyl per annum, as formerly they did not use to import above 100 pipes annually. The shoemakers pull down the cobblers; those that make red herrings destroy those that dry sprats, because quantities of the latter pull down the price of the former. Of the same kind was the late project of the innkeepers to pull down the hackney coaches; and so might peradventure, with much more probability of truth, the Portugal merchants pretend that our plantation sugars spoil their trade, and hinder the exportation of our woollen manufactures to Portugal; of which in reality the first part only is true. Our plantation sugars have brought down their Lisbon sugars from 8*l.* 10*s.* per cent. to 2*l.* 10*s.* per cent. within my memory: And yet the exportation of woollen manufactures to Portugal is now greater than ever it was since England was a trading nation. Just as it is and will prove in the Turkey trade; the similitude holds, and will hold thorowout.

7. If those Turkey merchants think the East India trade so good, why do they not come into it themselves? The door is open always to them and all the king's subjects; buying and selling there is daily; and some noblemen, gentlemen, and others of quality and place, have lately bought stock, and the East India company have taken nothing for their freedom, the most they take is 5*l.* but if any East India merchants desire to trade for Turkey, they must answer several hard questions before they can be let in. 1. How old are you? 2. Are you a freeman of London? 3. Are you no shop-keeper, or a legitimate merchant? When you have answered all these questions to their content, if you are above 25 years of age, there's 50*l.* to pay before you can trade; which is a great deal of money to part with before one knows whether he shall get or lose by the bargain.

Obj. 2. They say there is not above eighty legitimate merchants in the East India Company.

Ans. 1. I answer, first, by legitimate merchants, I suppose they mean such as have served apprenticeships to merchants, in the number whereof I believe they reckon short above half.

2. That it matters not two straws to the kingdom whether they be legitimate in their sense, or illegitimate. In the whole they are now five hundred fifty and six, which is more by a great many than the Turkey merchants, and more by above half than they would be, if the trade were not managed in a joynt stock.

Object. 3. They say the company have half the known world in their charter, and that's too much for any company.

Ans. 1. I answer, first, this company have no more in their charter, than all the East India companies in Christendom have in their charters: And from thence infer, that either so much as is in the charter ought to be for publick utility; or else all Christendom, except those few gentlemen that complain, are mistaken in their politicks.

2. Though the charter run in the stile of "The merchants of London trading to the East Indies," yet, in truth, the company is a company of all, or so many of the king's subjects, as did desire to be concerned in that trade, or yet do; they buying the stock of any dead person, or other that is willing to sell.

Object. 4. But it is dear buying at 280*l.* per cent.

Ans. 1. It's less than the intrinsic value, if the stock were now to be broke up, if I can calculate aright.

2. If it be too dear, I know not but any man may be as justly compelled to sell his house or land at the buyer's price, or else be disseized of it, as his stock in the East India Company.

Object. 5. They say the charter hath exorbitant and illegal clauses in it.

Ans. 1. I believe no charter in Europe hath less of that kind.

2. It's absolutely necessary for the publick good, that whoever governs a trade so remote from England, and by such a multitude of hands as the company are forced to employ, should have some extraordinary power committed to them.

3. Whatever is in the charter, I never knew or heard of any arbitrary act that ever the company did; nor any ships or goods that ever they seized by virtue of their charter, though they have had cause often.

Object. 6. They say the company hath imposed and exacted great fines, mulcts, and forfeitures, to an immense value.

Ans. I never knew them take any fine or forfeiture, but what any man might do in the same case, without a charter: What they do take in any case, being either by submission of the party, by agreement with the master and owners in charterparty, or by arbitrations; and always in pursuance of legal obligations, sealed and delivered. The manner whereof is briefly this: They agree with all their factors and servants, and also with masters of ships, before they entertain them into their service, that they shall not carry or bring home prohibited goods; and if they do, they shall subduct out of their freight a certain rate for each piece or sort of prohibited commodities, which they do accordingly subduct out of the freight, which in effect is from themselves: For most of the owners of the ships employed by the company are East India adventurers; which I know by experience, being a part-owner myself of a considerable number of ships, employed by them. And yet, to do the company right, I must acknowledge that the ships employed by them (such deductions notwithstanding) make better voyages, and gain more money for their owners, than any ships whatsoever, that sail out of England: And the commanders and officers of such ships generally grow much richer in a short time than any others, of any trade or nation whatsoever.

And so indulgent are the company to common seamen, that they allow every man or boy that will, in their several ships, to bring five pieces free of stated damage, erroneously called mulct. And if any seaman happen to bring 10 or 15 pieces, the committees entrusted with that affair commonly stretch that order to the allowing the seaman 5 pieces to himself, 5 pieces for his wife, and 5 pieces for his child, if he have any; and if he have none, they usually ask the party whether he have not a father, mother, or other relation: So that they invent ways to favour him, above the companies rule aforesaid, of only 5 pieces to one person.

To encourage likewise the importation of gold from China, from whence small quantities do come every year, and very great quantities will come in a few years, the company do not only permit the entrance of it free of stated damage, but give the freight of it gratis.

The company do likewise allow to all their commanders, president, agents, factors, and servants, all kind of trade in India, from and to any port or place within the limits of their charter, except to and from Europe: Whereas on the contrary the Dutch, tho' they are a people known to be as tenacious and as obstinate defenders of their liberty as any people in Europe, do restrain all those that serve them in India, from all the most profitable trades from place to place, within the limits of their charter; and indulge no kind of private or permissive trade whatsoever to or from Europe.

Now let any indifferent man judge, besides that whatever the company doth in the case of stated damages, every private man may do that can freight a whole ship by himself and partners; whether it be not highly reasonable, that seeing the company are at above 100,000*l.* yearly charge in East India and England, that whoever participates of that trade should proportionably contribute to the expences that necessarily attend the preservation of it.

Object. 7. They say, besides raw silk, the company imports wrought silk, to the prejudice of the silk manufacture in England.

Answer 1. This objection lies as much and more against all other wrought silks, imported into England from Italy, Holland, or any part of the world.

2. The silks which the company commonly bring in are the main part of them taffeties, and other plain or striped silks and pelongs, such as are not usually made in England, but imported from France, Italy, and Holland; where lately, when pelongs were scarce, many were made and imitated at Harlem, and from thence imported into England. So this importation works upon our neighbours, preserves the ballance of our trade, and consequently encreaseth the capital of our nation.

3. And which is beyond all contradiction, as will appear by the entries at the custom-house, a great part of the wrought silks, imported by the East India Company, are again shipt out to France, Holland, and other foreign parts; which is a great and growing advantage to the king, and kingdom in general: To the king, because for all foreign goods re-exported, his majesty hath in consequence the half custom paid him by strangers, without taking a penny out of his subjects' purses: And to the kingdom, by preserving and meliorating the ballance of our trade, as aforesaid: Besides the gain of freight, portage, wharfage, warehouse-room, and all other petty charges: Amongst which may be reckoned the advantage accrewing by the expence of such foreigners, while they stay here, as the companies sales do necessarily draw over hither.

Object. 8. Some clothiers complain that the East India Company hinders the vent of cloth.

Answer. 1. This indeed is a fine practice, and deserves a thorow inspection. 1. Who they are that complained. 2. When and how they begun to complain. 3. Why they complain. 1. For the time when, it was in the year 1674 or 1675, as I remember: Then they had the confidence to tell the parliament the company would spoil the trade of cloth, and bring the price of wool to nothing. But, in fact, the company hath now

stood five or six years since that time, and much augmented their trade for India, but wool is advanced in price above 50 per cent., and such a trade there is and hath been for woollen manufactures, as England never saw in any former age. 2. Who they were that complained; not the poor Kentish clothiers, that have lost their trade; nor the Suffolk men, that have lost their manufacture of blue cloth; but the Worcestershire, Gloucestershire, and Somersetshire men, that do now make and vend above twenty times the quantity of cloth which they did before this company was erected. 3. How they began to complain; which, as I have been informed, was thus: Their first petition was drawn only against the Turkey company, for making but one cloth shipping in a year: But entertaining a certain council (since famous for other matters) he told them, for some reasons best known to himself, they should draw their petition against the East India company likewise, which accordingly they did: But whether they were Dutch or English that paid the best fees, that I could never discover. 4. Why they complained. That I believe few of them understood: It could not be because their trade sunk, for that was manifestly and wonderfully increased. It could not be because the East India Company, as a company, sent out less cloth than was sent for India in the open trade: For the entries at the custom-house will evidence, that the company, since their incorporation, have sent out, in some one year, above ten times as much cloth as was ever sent out, in the time of open trade. But why then did they complain? Really I cannot tell, but peradventure their council aforesaid, or some Turkey merchants, their customers, might inform them, that if the trade of India were open, there would be a new world for cloth, that would vent as much as the old world. And if they had any Dutch or French customers, no question they would not be backward to encourage so good a work.

Object. 9. They complain that the present stock is ingrossed into a few hands; some single adventurers having 16 or 17,000*l.* principal stock in their own names.

Ans. 1. If this be true, the complaint of it would sound better out of the mouth of an old leveller, than a merchant's, living under a free and royal monarchy. And yet to give the maddest of men their due, neither the late English levellers, nor their elder brethren, the tribunes of the people of Rome, nor yet the more ancient Lacedemonians, or other Greeks; none of them had ever that excess of indiscretion, as to pretend to stint, much less to level personal estates, which if they could be made even at noon, would be unequal before night.

2. If there were any thing in this objection, certainly the Dutch, being a republick, would have found a remedy for it before this time; whereas, on the contrary, they think whoever adventures most in their joynt stocks doth much oblige the commonwealth, though he be a stranger; insomuch as one Swasso, a Jew, now or late living in Amsterdam, I am informed, hath had at one time in their East India stock above the value of 300,000*l.* sterling.

3. The more any adventurer hath in the stock, the more he is engaged to study and promote the good of it, by all possible means within his power. An adventurer that hath the smallest interest may be as just and true to the stock as he that hath the greatest: But I can never believe that a small interest will awaken a man so often in the night, nor keep him so long from sleeping, in the meditation of any business, as a very great and principal concern may do.

4. Notwithstanding the largeness of any of the adventurers stock, there are yet five hundred fifty-six adventurers, which is a greater number than are to be found in any trade that hath not a joynt stock.

Object. 10. There are many other ports and places within the limits of the companies charter, where English commodities would vend, which the company do not trade unto.

Ans. 1. I believe there can never be any society that will more industriously ex-

patiate and enlarge the trade of this kingdom, in those parts of the world, than this hath done, by all peaceable means. I am sure 100,000*l.* will not excuse them for the losses they have sustained in such attempts. Many factories they have settled, and after a vast lose have been forced to with-draw them. Tywan, Tonqueen, Siam, and Amoy, before-mentioned, they settled within these six or seven years past; and lost, a year or two before, 50,000*l.* in their attempt of a settlement at Japan.

2. As there be many ports in England, but a foreigner that trades to and from London may, if he will, participate of all the English trade, without having particular factories in the out-ports: So in East India, a factory at Suratt will share in all the trades of the Red Sea, as well as Moca, and other parts within the correspondency of that presidency. The same may be said of Bantam, and many other places, as well as Suratt.

3. In very many places of India, where the company do prudently avoid settling the English factories, they do notwithstanding carry on a trade and correspondency by Bannians, Vakeels, and other natives; by which means they avoid the charge of presents to governours, and that ostentatious expensive way, which the companies factors are necessitated to appear in, in all places where they settle, according to the mode of that country, and for the honour of the English nation and the East India Company.

Object. 11. It is said, if the company were not in a joynt stock, many more ships might be employed in India, from one port to another, in trading voyages.

Answ. 1. The company want neither stock, nor skill, or will, to imploy as many ships as they can gain by; and have almost doubled the quantity of their stock and tunnage within these late years, and are like yearly to increase, to the nation's greater advantage, if they be not interrupted.

2. The company have now 25 ships and vessels trading in the East Indies, from port to port, besides 11 great ships sent out last year, hereafter particularly mentioned; which are abundantly enough to answer all the companies occasions of that kind; the rather, because the company do generously allow, not only to their president, agents, factors, and merchants, but to all the English nation living in any places within their charter, being the King of England's subjects (of which there are many hundred of families) free liberty of trade to and from all ports and places in India; and in any commodities whatsoever without exception. By which means many scores of small ships and vessels are imployed in those trades, and the trade fully supplied. By this means our native commodities are dispersed, and all India goods collected from the several less considerable ports of India do at length center in the principal ports, where the company have factories, forts, cities, and garrisons: And from thence do come for Europe in the companies returned ships. And if this be not directly after the Dutch mode, I am apt to think, in a few years more, if the company be not interrupted, it will be found to be a better. And I have been told their late ancient, learned, and experienced general of Batavia, Matsuker, did before his death write to the committees of the Dutch East India Company to this or the like purpose.

Object. 12. Since the East India Company was incorporated coinage hath abated in England.

Answ. This is a meer groundless chimæra, and will appear so if the old mint-master as well as the new ones be examined. The proportion of coinage (except when we coined the King of Spain's money for his wars in Flanders,) having generally in my observation borne a proportion to, and followed the price of corn in England, *viz.* when corn was dear, we had little coinage; in all cheap years of corn, the mint hath been greatly supplied.

I can remember no more objections against the East India company or trade, and therefore must proceed to the next particular, *viz.*

III. That, since the Discovery of the East Indies, the Dominion of the Sea depends much upon the Wain or Increase of that Trade ; and consequently the Security of the Liberty, Property, and Protestant Religion of this Kingdom.

The first part of this proposition is merely historical, and so well known to all that look beyond the present age we live in, that the proof of it will require little pains. While the Spaniards had Portugal, and with it the trade of India, they were able to invade England with a navy, by them called Invincible: And so it was, as to man's understanding, if the strength of it be barely considered ; but their skill was not good, nor their ships of a fabrick fit for our seas: Their cause was naught, and the providence of Almighty God blasted them. The Dutch, since the Portugals sunk in the East India trade, have grown so potent in and by the trade of the Indies, that they have, in three great and bloody wars, contended with us for the dominion of the sea, and yet secretly do not allow us the predominancy. Though they are not now at leisure to try the fourth war for it, yet, if, through the folly or madness of a few unthinking or self-interested men, we should deprive ourselves of the trade of the East Indies, (which God in mercy to England forbid) we should certainly save them the experiment of fighting with us the fourth time. They would carry the dominion of the sea clear, and hold it for ever, or until their common-wealth should be destroyed by land force, or intestine broils.

If any man shall say, Why then? Are the East India ships of such a mighty auxiliary force, that without their aid we cannot over-balance the Dutch in naval power? I answer, those ships, and the men in them, are of very great force, as will hereafter appear. But he that looks no further than into the bare force of the ships and men now employed by the company, doth not see the tenth part of the way into this great business: For if we should throw off the East India trade, the Dutch would soon treble their strength and power in India, and quickly subdue all other European nations in that trade, as they lately did the French, notwithstanding their great strength at home, and have since, I hear, quarrelled with the Danes; by means whereof they would become sole masters of all those rich and necessary commodities of the East, and make the European world pay five times more for them than now they do, as they have already done by cloves, mace, cinnamon, and nutmegs, which would so vastly encrease their riches, as to render them irresistible. All wars at sea, and in some sense land wars, since the artillery used is become so chargeable, being in effect but dropping of doits, that nation that can spend most and hold out longest will carry the victory at last with indifferent counsels. If it be said, Where shall they have men? I answer, if they have trade and money enough, they cannot want men. Seamen are inhabitants of the universe, and wherever they are bred, will resort to the best pay and most constant employment; especially in a country where they cannot be prest or compelled into any service against their wills.

But it must be further considered, that all other foreign trade in Europe doth greatly depend upon East India commodities; and if we lose the importation of them into Europe, we shall soon abate in all our other foreign trade and navigation, and the Dutch will more than proportionably increase theirs. The proportion of our decay and their increase, in such a case, would indeed be exactly the same; but that the excess of price which they would make the European world pay for East India commodities more than now they do, would cause a disproportionable and greater increase of their riches; the augmentation whereof would further enable them to overbalance us and all others in trade, as well as in naval strength.

If it shall be said, admit all that is writ upon this head to be probable, is not the consequence (*viz.* the security of the liberty, property, and protestant religion of this kingdom) far fetcht, and brought in as popular phrases, to gain and please a party, as the clothiers and artificers petition was formerly on the other side, I answer, I cannot hinder men from thinking their own way: But God Almighty, that knows my heart, knows that I scorn to use any such sacred terms to or for any such sinister or selfish respect, or to please any sort of men living. All that I have or shall write in this treatise, is what I do really and stedfastly believe, upon very long and serious meditation, and many years conference with almost all sorts of men, English and strangers: And if notwithstanding I do err in some things (as *humanum est*) it is for want of better understanding. But, to return to the matter, can any man that looks abroad into the world doubt of the truth of that observation, *viz.* That trade never thrives in any country that is not protestant, though not in all that are so, for reasons which I could offer, but that they are not necessary here. Is it not obvious to every man's understanding, that since Queen Elizabeth's time our customs are increased from 14,000*l.* per annum to above 700,000*l.* per annum? Is it not evident that the people of the United Netherlands, since their being protestant, are increased more in trade and wealth in 100 years, than the ancient and fortunate Romans did in 400 years after the foundation of their flourishing common-wealth? Have not the French, since they were but *partie par paile*, part protestants and part papists, increased more in trade and shipping in 100 years, than they did in 500 years before? I once discoursed a popish lord, soon after his majestie's happy restauration, who is since dead, who told me it was never well in England, nor would be, while we kept such a stir about promoting of trade. I confess I liked his lordship the worse for that expression, but I thought the better of his parts. A naval power never affrights us; seamen never did nor ever will destroy the liberty of their own country: They naturally hate slavery, because they see so much of the misery of it in other countrys. All tyrannies in the world are supported by land-armies: No absolute princes have great navies, or great trades: Very few of them, though they have large territories, can match that little town of Hamburgh in shipping. The kingdom of France is powerful and populous, and is arrived to the height of military vertue, by which they are become formidable to us, as well as to our neighbours. Who do we fear may destroy our liberty, property, and religion? (which three are one in substance) but the papists and the French, which likewise are two names for one thing; and so we should have found it, if God Almighty had not disappointed them. Now, under God's providence, what can best secure us from them but our naval strength, and what doth especially increase and support that but our East India trade, which I think I have sufficiently proved to the conviction of every impartial and unbiassed Englishman; and if so, the consequence in this proposition is most natural and irrefragable.

But if notwithstanding it shall be replied upon me, that in the former part of the discourse on this inference, I say, that trade thrives in protestant countries, therefore the protestant religion is the cause of our so great increase in trade and navigation, and not the trade of the East Indies, I answer, first, that the great increase of trade is not a constant and infallible consequence of the protestant religion, because it proves not so in all protestant countrys; but whatever nation increaseth in the East-India trade, never fails proportionably to increase in other foreign trade and navigation. Secondly, admit that our reformation to the protestant religion were one principal cause at first of our advance in trade and navigation, yet now it is manifest, that the increase of our trade and navigation is a great means, under God, to secure and preserve our protestant religion; foreign trade produceth riches, riches power, power preserves our trade and religion; they mutually work one upon and for the preservation of each other; as was well said by the late learned Lord Bacon, though in a different

case, in his history of Henry the VIIth, That that king's fortune worked upon his nature, and his nature upon his fortune.

IV. *That the Trade of the East Indies cannot be carried on to National Advantage by a Regulated Company, or in any other Way than by a Joynt Stock.*

Before I engage in this argument, it will be necessary to explain what's the constitution of a regulated trade, such as the Turkey Company, and other like companies of merchants of London are. 2dly, What a company united in a joynt stock is. To begin with the first, a regulated company is hard to define, and harder to resemble. It's the confinement of a trade to a certain number of the people, exclusive to above 99 parts of 100, with power in the major part to hinder the lesser from shipping out any goods, but when the greater number think fit; and to levy a tax upon the trade at the discretion of the greater number of votes. In brief, it is a heteroclite, unto which (out of England) there is nothing now in the world like, in any other kingdom or commonwealth whatsoever, that ever I could read or hear of; all those trades that are regulated and confined to certain persons in England, being open and free to all people, in all other kingdoms and states. Their courts are perfect democracies, where one that trades but for 100*l.* per annum hath as good a vote as another that trades for 20,000*l.* per annum. In those courts they appoint the time of shipping, choose their ambassador and two consuls; settle a tax, which they call levations, upon the trade. And although I have a profound veneration for all things then settled in church and state, and for those wise and worthy councillours that assisted Queen Elizabeth in those infant times of our reformation and trade, and am apt to think, when those constitutions were made, they were useful and proper to that time, yet I must acknowledge that, in my opinion, if all those trades that are regulated, that is, confined to certain persons only, were free and open to all the king's subjects, as they are in Holland and all other places, it would be infinitely more for the general good of the kingdom. Neither do I see any reason why the trades of Turkey, Hamburgh, East-land, Russia, and Greenland, which in England are limited or regulated, as they call it, should need such limitation, or regulation, more in England than they do in other parts of the world; or more than other trades to Italy, France, Spain, or any other part of the world. And if something might be alledged for a regulation, what can be said why it is not for the publick utility, that all the king's subjects might trade to any country if they please, whether they be noblemen, gentlemen, men of the gown, shop-keepers, or whatever they be; the more the better for the common good. To enforce which, much more might be said; but that's not my business now.

A company in joynt-stock are a corporation by charter, (and if it were by act of parliament, it would be much better for the kingdom in general, as hath been said,) into which stock all the king's subjects, of what condition soever, have, at the foundation of it, liberty to adventure what sum of money they please. The stock and trade is managed by a select council, or committee, consisting of a governor, deputy, and 24 committees, chosen annually by the generality; in which every adventurer doth not vote alike, but proportionably to his stock, viz. Every 250*l.* original stock hath one vote; 500*l.* paid in hath two votes, &c. After the first stock is settled, no man can come in but by purchase; which every Englishman hath an equal liberty to do, and for which he pays nothing if he be a freeman: If unfree, never above 5*l.* In England, the company hath, by reason of our late civil wars and confusions, been interrupted several times, and there have been new subscriptions; but in Holland, since the first settlement thereof, in anno 1602, there has been no interruption or breaking up of

the stock, or new subscription; and such continuance is certainly best for the publick.

Having described the nature of these two sorts of companies of merchants, I shall now descend to the proof of the proposition, viz. That a united stock is absolutely necessary to the carrying on the East India trade to national advantage.

Arg. 1. My first argument I shall draw from the practice and experience of all other nations. Certainly all the world are not weak in their intellects; whatever those gentlemen think that complain of the East India Company. If any shall tell me, this argument will not hold universally, for the Portugals have a trade for East India, and yet have no joynt stock, I answer, under those gentlemen's favour, I know there is a joynt stock for this trade in Portugal, or else there could have been no trade worth speaking of. But true it is, that joynt stock in Portugal is the king's exchequer, who reserves pepper, diamonds, silk, calicoes, and all other considerable India commodities to himself, and leaves only some few toys and trivial commodities to his subjects: and yet, for want of a more perfect national constitution, we have seen how the Portugal trade in India, notwithstanding the great roots it had drawn in a long uninterrupted course of time, dwindled to nothing, when it came to be confronted and outdone by the more national and better constituted joynt stock of England and Holland.

The French nation, peradventure, were never governed by wiser counsels for their own good than under the present king. They were some years past zealously set upon the East India trade; and I am assured spared for neither pains nor cost to arrive at the best method, but gave immense rewards to any that could give them any rational light or information to lay such a foundation of trade as might be proper for those eastern countrys. See what, how, and why they did resolve at last, by the printed translation of the French treatise relating to that settlement, which will save me the labour of enlarging upon this argument.

Arg. 2. The English East India Company have now (as every body knows) their money at 3 per cent. interest. Every Englishman that trades in an open or regulated trade, must value his own money at 6 per cent. at least, (or pay so much if he takes up money) because he can gain so much by it sleeping or playing; those that work, or run hazards, hope to do better. Now if the company, with their united stock and counsels, and money at 3 per cent. have much ado to hold up against the subtil Dutch, what shall poor private merchants of divided, various, and contrary interests do with their little separate stocks at 6 per cent. per annum?

Arg. 3. Suppose the trade of India might be carried on in an open or regulated way, if other nations did so, (which is never to be granted) yet in regard that all other European nations do at this time trade there in joynt-stocks, is it not as great madness to enter raw and private persons against such compacted and united constitutions of experienced councillors, as to fight a disordered undisciplined multitude against a well governed veteran army, supported with an inexhaustible treasure; or as it is to imagine, as some men fondly do, that we can maintain and defend our protestant religion against the church of Rome, without a national church in England?

Arg. 4. If the company should be destroyed, and the trade left open, the companies priviledges and immunities in East India would be lost, which have cost this company, as well as their predecessors, vast sums of money to maintain and retrieve, after they were almost ruined in the late three years open trade. If I am asked what those priviledges and immunities are? they are so many and so great, as is scarce credible to any not acquainted with the trade of India. For publick satisfaction, I shall mention some few of them, all would burden me to write, as well as the reader. We have the liberty of coining money for ourselves, and all other nations, which passeth current in all the King of Gulconda's countrys. We are custom-free in almost all

places, and in some, where the Dutch and all other nations pay a constant custom, particularly in all places of the Bay of Bengall, and up the great river of Ganges. At Fort St George and Bombay we have a right, and do impose a custom upon the natives, and all other nations.

In the empire of Persia we are custom free, and have yearly from the emperor 1000 tomans, which is above 3000*l.* per annum, in lieu of the half custom of his own people, and all other nations that trade thither. Of right it should be the full half customs of that port, which is more in value; and we should have an officer in his custom-house to receive our half part; but we rather content ourselves with the 1000 tomans aforesaid, than fight with him again for a right which we are uncertain how long we may enjoy, by reason of groundless clamours against the company at home.

At Bantam we are at the set rate of 4000 dollars per annum for all our customs, though we increase our trade never so much. In most places in India, we are in effect our own law-makers, and can arrest and imprison any natives that deal with us, or owe us money; and can inflict corporal punishments upon them, (without controul of any of the native or Moor governours) till they pay or do us right, if our people there see the cause for it.

All our black servants there, which are very numerous, and all others employed by us, or trading with us, are free and exempted from the jurisdiction of the natives and other governours.

We are in all places free in our persons and goods, and all imployed or privileged by us, from all inland customs and duties, in the towns and provinces we pass or bring our goods thorow; which are very great in those countrys, and paid by the natives.

Arg. 5. My fifth argument is drawn from the great losses, damages, and depredations that this nation sustained in that short time of three years open trade, which are sufficiently known, besides the loss of priviledges, increase of presents to governours, lowering our English commodities, and advancing the India commodities to such an odious excess, that at length the very private traders themselves were the forwardest petitioners for a return to a joynt-stock; of the truth of which there be many yet alive that can attest.

Arg. 6. This I draw from the nature of the eastern governments. There are above 100 kings and rajahs, which are Gentu princes, but governing with absolute power in their own dominions, and as many ports and places of trade; whereas in Turkey, there are but two or three principal places of trade and one prince, with whom his majesty, by his ambassador, may conveniently have his subjects there vindicated and righted, if there were no company, as the French king, the Venetians, and the Dutch do. Whereas in India there would be need of forty ambassadors, and all must have instruction and carry large presents. The companie's agents, &c. in India, do many times find cause to send embassies, instructions, and splendid trains of attendance and presents, before the committee in England know of it.

Arg. 7. This is drawn from the distance of the places. Letters do pass freely to and from Turkey in a short time; and, in case of injuries done the English, his majesty's men of war may soon go down from Tangier to revenge them. But India is at a far greater distance; no certain return of a letter to be had once in twelve months; and the princes and ports there are at a wider distance one from another, than it is from England to Turkey, and much more difficult to mentain a correspondence by letters in India from port to port, by reason of the set monsons, or trade-winds, that blow six months together one way.

Arg. 8. Wherever the English or any Europeans settle a factory in India, they must presently build them large houses, warehouses, &c. take many servants, and maintain the appearance and splendour of a petty court; and in many places where the company

have not fixt garrisons, they are forced to fortifie their houses, or else they will be despised and trampled upon by the natives. If it be said this may be done by a regulated company, I answer, first, How shall they raise a stock to buy those the company have already, with their lands, islands, towns, garrisons, guns, and ammunition; which I am sure (their priviledges being put in likewise) have cost the company above 300,000*l.*? Next, how shall they maintain and defend them?—by leviations upon goods? What, before there are any goods to tax? No, they shall raise a joynt stock, to make the first purchase; and, after, take only a tax upon goods to maintain them. These are absurd, incongruous, and impracticable notions; for, in a time of war and danger, men will forbear trading, as hath been ingeniously observed by the author of the printed letter; so that there will be no goods to tax, when there is most need of money. Whereas the governours, or committees, have always in their hands a real fund of above a million of money, and can borrow so much in India in a few days if they want it, their credit there being as current as ready gold, having never been so much as stained. I shall say no more upon this argument, in regard the printed letter aforesaid hath so copiously and convincingly cleared this point beyond all contradiction, that I have no room left to enlarge, but have reason to beg the author's pardon for what, in this, I have borrowed of him.

Arg. 9. The East-India Company of England, Holland, and all European nations that trade to India, have power, by their charters, to make war upon any nation in India, at their discretion; but not upon any European nation without his majesties consent. This power they must and ought to have for the well carrying on of their trades: this power the English company have sometimes, but not often, exercised; but if it were not known in India that they have such a power, they should be continually affronted and abused by the natives. Now, who shall this power be delegated unto in a regulated company?—to all English-men, or to a single ambassador, or to many ambassadors and consuls?

V. That the East-India Trade is more profitable and necessary to the Kingdom of England, than to any other Kingdom or Nation in Europe.

First, This is so as we are an island, and have our principal security, as well as the increase of our riches, from our trade and strength at sea.

Secondly, And which I take to be a main consideration, the trade of India is to England not only a great, but an unmixt advantage; whereas to all our neighbours, though the trade of the East-Indies be a great advantage, and accordingly courted and coveted by them, yet they cannot have it without some mixture of loss in other respects, because some of them have the growth and production of silk among themselves, as Italy and France. They have likewise the sole manufacture of plain silks, such as taffaties, sarcenets, &c., which are brought from India cheaper than they can make them at home. Whereas in England our silk manufacture consists not in those plain silks, but in flowered silks and fancies, changed still as often as the fashion alters. Holland, Flanders, (and France, in some measure,) have their principal manufactures in fine linnens, cambricks, lawn, and Hollands, which only callicoe works upon, to the putting them very much out of request in their own countrys, and all other parts of Christendom. Whereas the linnen we make in England is of the strong coarse sorts, generally used by the meaner people, which callicoe doth not prejudice to any sensible degree. Neither is the linnen manufacture in England a matter worth taking notice of, (whatever a few gentlemens opinions are;) but in Holland, Flanders, France, and some parts of Germany, it is their main concern, being the subsistence of the majority of their people, as the woollen manufacture is in England.

Thirdly, The Dutch have a standing contract with the King of Persia for all his silk, which may amount to 600 bales yearly. Now, in regard Bengall silk in the East-Indies can be brought to Europe cheaper than Persia silk, the Dutch, by bringing silk from Bengall, must of necessity in some kind prejudice that contract in the price of silk, though it be the Dutch companies own contract, as well as the Turkey merchants; whereas, we having no such contract in Persia, do not work upon ourselves, as they must of necessity; and yet they are wiser than to slight the trade of Bengall for that cause. This argument concerning the Dutch contract in Persia is so fully confirmed by the companies advices lately received from Persia, that the Dutch there did lately desire to be excused from receiving their quota of silk, which is 600 bales yearly, upon pretence of their want of money to pay for them, which, notwithstanding, was forced on them by Shecke Ally Cawne, the emperor's governour there. If it be here askt me, Why the English East-India Company, seeing Persia is within their charter, are not as wise as the Dutch to make a contract likewise with the King of Persia? I answer, the Dutch got the start of us in that long before this company was constituted, and we cannot possibly retrieve it yet, the Persians being a people most difficult to remove from any thing they have once determined. If it be here further retorted upon me, that, by my own confession, the importation of silk from India doth prejudice the English Turkey merchants in the price of their silk here, I grant it; but what is that to England in general? It's the interest of England that we should have silk here (being a material to be manufactured) cheaper than in any other part of Europe where it grows; and so we shall infallibly, if the company stand. But, at the same time, I do expressly deny that the making of silk cheap in England doth hinder the exportation of our woollen manufacture to Turkey; the contrary being as evident as the sun at noon-day to any man that has not the mist of private gain or loss hanging before his eyes, as before is demonstrated in those two pregnant, experienced, unanswerable instances, viz. That as the price of Portugal sugars hath abated, (in which formerly almost all our returns from that country were made,) we have increased exceedingly in the exportation of woollen manufactures to that country, and even in the trade of Turkey itself for many years; and to this very time, as the price of Turkey silk hath abated, the exportation of our woollen manufacture hath increased; and so it will still, though silk should come to half the price it bears now in England; upon the proof whereof, by time, I dare hazard all that little I have in the world. Besides, when all is done, and if the Turkey merchants might have their will, to the irreparable damage of their common country, what would they be the better, except by an act of parliament we could as well hinder the French, Dutch, and other neighbours from trading in East-India silk, as we can the English East-India Company? Is not this dealing our children's bread to strangers?—weakning ourselves and strengthening our enemies, whilst they laugh and stand amazed at our indiscretion?

For a conclusion, that the present and future ages may know in what condition the English East-India trade stood when the company was assaulted by the private designs of particular men, I shall add an account of the present posture of their affairs, viz. Last year the company sent out, (which are not yet returned,) for the coast of Cor-mandel and the Bay of Bengall, four three-deck ships, viz. The Eagle, burden 590 tuns, and 118 seamen, besides passengers; the Sampson, burden 600 tuns, 120 seamen; the Berkley Castle, burden 530 tuns, 106 seamen; the President, burden 550 tuns, 110 seamen.

For Suratt and the coast of India, three three-deck ships, viz. the Williamson, burden 550 tuns, 110 seamen; the Lancaster, burden 450 tuns, 100 seamen; the Johanna, burden 530 tuns, 106 seamen.

For Bantam, two ships, viz. the Society, burden 600 tuns, 100 seamen; the Nathaniel, burden 600 tuns, 100 seamen.

For the South Seas and China, two ships, viz. the *Faulcon*, burden 430 tuns, 64 seamen; the *Barnardiston*, burden 350 tuns, 69 seamen.

And in all of them the stock of 479946*l.* 15*s.* 6*d.*

This year the company are sending out for the coast of Cormandel and the Bay of Bengall, five three-deck ships, viz. the *Bengall*, burden 570 tuns, 114 seamen; the *Ann*, burden 460 tuns, 92 seamen; the *Golden Fleece*, burden 575 tuns, 115 seamen; the *Cæsar*, burden 520 tuns, 104 seamen; the *George*, burden 580 tuns, 116 seamen.

For Suratt and the coast of India, three ships, viz. the *Josia*, 600 tuns, 120 men; the *Massingbird*, 480 tuns, 88 men; and the *Success*, 460 tuns, 92 seamen.

For Bantam, three ships, viz. the *New London*, 600 tuns, 100 seamen; the *Scipio Africanus*, 363 tuns, 74 seamen; and the *Persia Merchant*, 360 tuns, and 74 men.

And for the South Seas and China, one other great ship, which is not yet resolved upon.

And in all of them the stock of above 600,000*l.* ster.

Note, that the ships are generally bigger than they are let for, and the company employ none but English-built ships; and that, besides what they sent out last year and are sending this, they have always a considerable stock left in the country, to make and provide goods before-hand. Besides, likewise, their islands, towns, garrisons, houses, buildings, ammunition, &c. The just number of their adventurers now is 556, and new ones daily coming in; the companies doors being never shut against any of his majesties subjects, as regulated companies are: and they have what money they will at 3 per cent. which will be the worst news of all in Holland.

If, notwithstanding all that hath been said, the company must be destroyed, God's will be done. To write what I have I thought my duty to my country, which having satisfied myself in the performance of, I am not careful for events, being always confident that whatever the parliament does they will do it justly, and so wisely as to make the best of a bad bargain. I am persuaded the Dutch, to have this feat done, would ease our lands a while, by giving us a million of pounds sterling, if they knew where to find chapmen; (which God grant they never may;) and I am sure, if they did pay two millions, they would have too good a bargain of it.

Sir William Petty's Quantulumcunque concerning Money, 1682. To the Lord Marquess of Halifax. 1695.

Sir William Petty, celebrated for his knowledge of political œconomy and political arithmetic, is thus ably characterized by Grainger:—"He gave early proofs of that comprehensive and inquisitive genius for which he was afterwards so eminent; and which seems to have been designed by nature for every branch of science to which he applied himself. At the age of fifteen he was master of such a compass of knowledge in the languages, arithmetic, geometry, astronomy, navigation, practical mathematicks, and mechanical trades, as few are capable of attaining in the longest life. He made his way in the world under great disadvantages in point of circumstances, having acquired a very moderate fortune with as much difficulty as he afterwards rose with ease to wealth and affluence. He was an excellent chymist and anatomist; and a perfect master of every other kind of knowledge that was requisite to the profession

of physic. He was a very able mathematician, had a fine hand at drawing, was skilful in the practical parts of mechanics, and a most exact surveyor. But what he particularly applied himself to, and understood beyond any man of his age, was the knowledge of the common arts of life and political arithmetic. His admirable essays in this art have even raised his reputation to a higher pitch than it rose to in his life-time, as experience has fully proved the justness of his calculations. This great man, who knew better than any of his contemporaries how to enrich the nation and himself, died the 16th of Dec. 1687, in the 65th year of his age."—GRANGER, N. 16.

SUPPOSE that 20s. of new milled money doth weigh 4 ounces Troy, according to custom or statute. Suppose that 20s. of old Eliz. and James's money, which ought also to weigh 4 ounces Troy, doth weigh 3 ounces Troy, and very variously between 3 and 4 ounces, viz. none under 3, and none full 4.

Suppose that much of the new milled regular money is carried into the East-Indies, but none of the old light and unequal money.

Questions.

Qu. 1. Whether the old unequal money ought to be new coined, and brought to an equality?

Ans. It ought: because money made of gold and silver is the best rule of commerce, and must therefore be equal, or else it is no rule, and consequently no money, and but bare metal, which was money before it was worn and abused into inequality.

Qu. 2. At whose charge?

Ans. At the state's charge, as now it is; because the owner was no cause of its inequality, but the state's neglect in preventing and punishing such abuses, which are remedied by new coinage.

Qu. 3. Of what weight and fineness ought the new shilling to be?

Ans. Of the same with the other present new money, and which the old was of when it was new; because all must be like, all according to the statute, and all fit to pay antient debts, according to what was really lent.

Qu. 4. Suppose 20s. of old money may make but 18s. of new, who shall bear the loss of the two shillings?

Ans. Not the states; because men would clip their own money, but the owner himself must bear the loss, because he might have refused light and defective money, or put it away in time, it being sufficient that he shall have new regular beautiful money for his old unequal money, at the state's charge, ounce for ounce weight.

Qu. 5. After this reformation of coin, will more silver be carried out of England, suppose into the East-Indies, than before, and to the damage of England?

Ans. Somewhat more; but none to the damage of England, *eo nomine*, but rather to its profit; because the merchant will be considered for the manufacture of the new money, besides the metal of it, as he only was when he carried out Spanish reals.

Qu. 6. Whereas the merchant carries scarlet and silver to the Indies, will he not now carry only the new coined silver?

Ans. The merchant will buy as much scarlet as he can for 100 new shillings, and then consider whether he shall get more silk in the Indies for that scarlet than for another 100 of the like shillings: and, according to this conjecture, he will carry scarlet or shillings in specie, or part one part the other, if he be in doubt.

Qu. 7. But will not England be impoverished by merchants carrying out the said 100 shillings?

Ans. No, if he bring home for them as much silk as will yield above 100 shillings (perhaps 200 shillings) in Spain, and then bring the same 200 into England. Or, if he

bring home as much pepper as an English-man will give him 200 of the like shillings for. So the merchant and England shall both gain by exporting the 100 shillings.

Qu. 8. But if the new shilling were but three-fourths of the weight as formerly, then the merchant would not meddle with them at all, and so secure this fear of impoverishment?

Answ. The merchant would export then, just as before, only he will give but three-fourths so much pepper, or other Indian goods, for the new retrenched shilling as he did for the old; and would accept in India three-fourths as much pepper as he formerly had for the old; and consequently there would be no difference, but among a few such fools as take money by its name, and not by its weight and fineness.

Qu. 9. If a shilling was by new coinage reduced to three-fourths of its present weight, should we not thereby have one-third more of money than now we have, and consequently be so much the richer?

Answ. You would indeed have one-third part more of the new christned shillings, but not an ounce more of silver nor money; nor could you get an ounce more of foreign commodities for all your new multiplied money than before, nor even for any domestick commodities, but perhaps a little at first from the few fools above mentioned. As for instance, suppose you buy a silver vessel from a goldsmith, weighing 20 ounces, at 6s. per ounce, making 6 pounds, or 24 ounces of coined silver; now suppose that the said 6 pounds were reduced from weighing 24 ounces to weigh but 18 ounces upon the new coinage, but be still called 6 pound even by the king's proclamation, can it be imagined that the goldsmith will give his vessel, weighing 20 ounces of wrought, for 18 ounces of unwrought silver, for the workmanship of money is of little value? Now the absurdity is the same in all other commodities, though not so demonstrable as in a commodity whose materials is the same with money.

Qu. 10. Cannot authority command that men should give as much commodity for the new retrencht money as for the old, which weighed one-third part more?

Answ. Then the effect of such authority would also be to take away one-third of all men's goods, which are commodities beyond seas, and give the same to foreigners, who would have them for three-fourths of the usual quantity of silver; and the same authority would take away from the creditor one-third of the money which was due before the proclamation.

Qu. 11. Whereas you suppose retrenching one-fourth in the new coinage; suppose it was but one-tenth, how would the matter be then?

Answ. Just the same; for *magis et minus non mutant speciem*: But it were better you supposed that one shilling were to be taken for 10 or 20, then the absurdity would be itself so visible as to need no such demonstration as is needful in such small matters as common sense cannot discern; for if the wealth of the nation could be decupled by a proclamation, it were strange that such proclamations have not long since been made by our governours.

Qu. 12. Will not some men, having occasions to buy commodities in foreign parts, carry out all money, and so not vent or export our own commodities at all?

Answ. If some English merchants should be so improvident, yet the foreign merchants would buy up such English commodities as they wanted, with money brought into England from their respective countries, or with such commodities as England likes better than money; for the vending of English commodities doth not depend upon any other thing but the use and need which foreigners have of them. But were it not a folly for an English-man not to carry lead into Turkey, but go thither with money, in his ballast, and so lose the freight of the lead, which he might sell there?—and that a ship should come from Turkey with money, in her ballast also, to fetch lead from England, which might have been carried at first by the English ship? No, the art of a merchant is to consider all those matters, so as no prince's proclamation con-

cerning the weight and denominations of coins signifies any thing to foreigners when they knew it, nor to his own subjects *pro futuro*, whate'er disturbances it may make amongst them *pro præterito*. We say again, it were better for a prince owing 20s. to say he will pay but 15s. than, disguising his own particular purpose, to say that all landlords shall henceforth take 15s. rent for 20s. due to them by their tenants leases; and that he who hath lent a 100*l.* on the Monday, (the proclamation of retrenchment coming out on Tuesday,) may be repaid on Wednesday with three-fourths, or 75*l.* of the very money he lent two days before.

Qu. 13. Why is not our old worn unequal money new coined and equalized?

Ans. There may be many weak reasons for it; but the only good one which I know is, that bad and unequal money may prevent hoarding; whereas weighty, fine, and beautiful money doth encourage it in some few timorous persons, but not in the body of trading men. Upon the account of beauty, our Britannia half-pence were almost all hoarded as medals, till they grew common; for if but 100 of those pieces had been coined, they would, for their work and rarity, have been worth above 5s. each, which for their matter are not worth that half-penny they pass for; for in them, *materiam superabat opus*.

Qu. 14. Why hath money been raised, or retrencht, or imbasd by many wise states, and so often?

Ans. When any state doth these things, they are like bankrupt merchants, who compound for their debts by paying 16s. 12s. or 10s. in the pound; or forcing their creditors to take off their goods at much above the market rates: and the same state might as well have paid but three-fourths of what they owed, as to retrench their money in general to three-fourths of the known weight and fineness. And these practices have been compassed by bankers and cashiers, for oblique considerations, from the favourites of such princes and states.

Qu. 15. It is then the honour of England that no such tricks have been practised, though in the greatest streights that ever that state hath been in?

Ans. It hath been their wisdom, and consequently their honour, to keep up a rule and measure of trade amongst themselves, and with all nations.

Qu. 16. But is there no case wherein money may be justly and honourably raised?

Ans. Yes, in order to regulation and equalizing of species of coins; as when two species of one weight and fineness are taken at different rates, then the one may be raised or the other depressed: But this must be rated by the estimation of the whole world as near as it can be known, and not by any private notion; and the like may be done between gold and silver.

Qu. 17. What do you think of the rising or falling of the price of lands, from this following instance, *viz.* A piece of land was sold 60 years ago for 1000*l.* that is, for a 1000 Jacobusses; and the same land is now sold for 1000*l.* or 1000 guineas, and the guinea is but $\frac{1}{2}$ the weight of the Jacobus: Is the land cheaper now than 60 years ago?

Ans. It looks like a demonstration that it is: Yet if gold be not money, but a commodity next like to money, and that silver be only money, then we must see whether 1000 Jacobusses would then purchase no more silver than 1000 guineas will now do: For if so, the land was heretofore and now sold for the same quantity of money, though not of gold; and is neither risen nor fallen by what hath been instanced.

Qu. 18. What is the difference between retrenching or raising of money, and imbasng the metal of the same, as by mixing copper with silver?

Ans. The first is the better of the two, if such mixture be of no use in other things: For if 20s. which contains 4 ounces of silver, should be reduced to 3 ounces of silver, it is better than to add one ounce of copper to the same, in order to make four seem-

ing ounces as before: For if you come to want the said 3 ounces of silver mixt with copper, you must lose the copper upon the test, and the charge of refining also, which will amount to above 4 per cent.

Qu. 19. What do you object against small silver money; as against single pence, two-pences, &c.?

Ans. That the coinage of small pieces would be very chargeable, and the pieces themselves apt to be lost, and more liable to wearing; for little of our old small money is now to be seen, and our groats are worn away to three half-pence in metal.

Qu. 20. What do you say of money made wholly of base metal, such as farthings, &c.?

Ans. That the want of materials ought to be made up by the fineness of coinage, to very near the intrinsick value; or what is gained by the want of either, to be part of the king's revenue.

Qu. 21. Which is best, copper or tin, for this purpose?

Ans. Copper: Because it is capable of the most imitable and durable coinage, though the copper be foreign, and tin a native commodity. For suppose copper and tin of the same value in England, yet if 100 weight of tin sent to Turkey will fetch home as much silk as will fetch above 100 of copper from Sweden, in such case the difference between native and foreign is nothing.

Qu. 22. This doctrine may extend to a free exportation of money and bullion, which is against our laws: Are our laws not good?

Ans. Perhaps they are against the laws of nature, and also impracticable: For we see that the countries which abound with money and all other commodities have followed no such laws: And contrarywise, that the countries which have forbid these exportations, under the highest penalties, are very destitute both of money and merchandise.

Qu. 23. Is not a country the poorer for having less money?

Ans. Not always: For as the most thriving men keep little or no money by them, but turn and wind it into various commodities to their great profit, so may the whole nation also, which is but many particular men united.

Qu. 24. May a nation, suppose England, have too much money?

Ans. Yes: As a particular merchant may have too much money, I mean coined money, by him.

Qu. 25. Is there any way to know how much money is sufficient for any nation?

Ans. I think it may pretty well be guessed at; *viz.* I think that so much money as will pay half a years rent for all the lands of England, and a quarters rent of the housing, and a weeks expence of all the people, and about a quarter of the value of all the exported commodities, is sufficient for that purpose. Now when the states will cause these things to be computed, and the quantity of their coins to be known, which the new coining of their old money will best do, then it may also be known whether we have too much or too little money.

Qu. 26. What remedy is there if we have too little money?

Ans. We must erect a bank, which, well computed, doth almost double the effect of our coined money: And we have in England materials for a bank which shall furnish stock enough to drive the trade of the whole commercial world.

Qu. 27. What if we have too much coin?

Ans. We may melt down the heaviest, and turn it into the splendour of plate, in vessels or utensils of gold and silver; or send it out as a commodity, where the same is wanting or desired; or let it out at interest, where interest is high.

Qu. 28. What is interest or use-money?

Ans. A reward for forbearing the use of your own money for a term of time agreed upon, whatsoever need your self may have of it in the mean while.

Qu. 29. What is exchange?

Answ. Local interest, or a reward given for having your money at such a place where you most need the use of it.

Qu. 30. What is the trade of a banker?

Answ. Buying and selling of interest and exchange: Who is honest only upon the penalty of losing a beneficial trade, founded upon a good opinion of the world, which is called credit.

Qu. 31. You were speaking of base money and farthings, which are generally below the intrinsic value, and therefore ought not to be permitted to increase *ad infinitum*. Is there any way to know how many were enough?

Answ. I think there is: *viz.* Allowing about 12*d.* in farthings to every family; so as if there be a million of families in England (as I think there be) then above 50,000*l.* in farthings would suffice for change; and if such farthings were but one-fifth below the intrinsic value, the nation would pay but 10,000*l.* for this convenience: But if this way of families be not limitation enough, you may help it by considering the smallest piece of silver money current in the nation; which how much lesser it is, by so much lesser may the number of farthings be: The use of farthings being but to make up payments in silver, and to adjust accompts; to which end of adjusting accompts let me add, that if your old defective farthings were cryed down to five a penny, you may keep all accompts in a way of decimal arithmetick, which hath been long desired for the ease and certainty of accompts.

Qu. 32. What do you think of our laws for limiting interest?

Answ. The same of limiting the exportation of money; and there may be as well laws for limiting exchange also: For interest always carrieth with it an ensurance *premium*, which is very casual, besides that of forbearance: For instance, in Ireland there was a time when land (the highest security) was sold for two years purchase; it was then naturally just to take 20, 30, or 40 per cent. interest, whereas there the law allows but 10. And since that time, land being risen to 12 years purchase, responsible men will not give above 8, and insolvent men will offer cent. per cent., notwithstanding the law. Again, suppose a man hath 100*l.* of land, worth 20 years purchase, and another 100*l.* in houses, worth 12 years purchase; and another 100*l.* in shipping, worth 2 years purchase; and another in horses, worth six months purchase; is it not manifest he must have a greater yearly *premium* for lending his house than his land, his ship than his house, and his horse than his ship? For if his horse be worth 100*l.* he cannot hire him out for less than 10*s.* per diem, whereas the land will not yield a groat for the same time; and these hires are the same with interest.

To the King and both Houses of Parliament, in Parliament assembled.

THE proposal contained in this paper is (with submission) conceived of general advantage to the kingdom, and thereby sufficiently recommended to obtain admission to present itself before you, whose providence and justice secure the proposer of a readiness to embrace and promote whatever may improve the welfare of the publick: 'Tis his part to make the proposal appear of advantage to your common interest, wherein the welfare of the publick consists.

The Proposal.

That an act of parliament may pass for building and fitting out with expedition, a fleet of 500 busses, of about 70 tons burthen a piece, to be employed in fishing of herrings, cod, and ling, in his majesty's seas; and the profits to be disposed for the increasing of the said fishing vessels to the number of 2000 or thereabouts, as it will be thought necessary; and after the paying of publick debts, and the defraying of all necessary charges, the property of the said fleet to be settled in the crown.

The Advantages.

A fleet of 2000 busses will employ yearly at sea, at 15 men to a busse, 30,000 men, besides at least 30,000 more at land, in the service of the fleet: It will save the kingdom 300,000*l.* per annum, paid yearly to the Dutch for fish taken by them in his majesty's seas, and sold to the English,—besides as much more in taxes to the poor. The first year the said 2000 busses sails, may (with God's blessing) defray the whole charge of building, tackle, victualling, fitting out, officers and seamens wages for that year, with an overplus of 1,835,033*l.* 6*s.* 8*d.* and will every year after, *communibus annis*, as long as the fleet lasts, yield his majesty the clear profit of at least 2,644,033*l.* 6*s.* 8*d.* which is demonstrated as followeth:

Fish usually taken in busses of 70 tons, <i>communibus annis</i> , is at least	Herrings 100 last, worth <i>de claro</i> ,	1000	} 2250 00 00
	at least	- - -	
	Cod 15,000 worth <i>de claro</i> at least	0450	
	Ling 1000 worth <i>de claro</i> at least	0800	

The charge of a busse 70 tons the 1st year (ready to be de- monstrated) will not exceed	Building and fitting for sail	0403 10 00	} 1332 09 08
	Victualling and furnish- ing with lasting and wasting commodities	0695 18 08	
	Officers and seamens wages	0233 10 00	
	Remains profit <i>de claro</i> each busse,	0917 10 04	

Which for 2000 busses for the first year will be clear profit, 1835033 06 08

Profit of each busse after the first year, as above 2250 00 00

Charge of fitting, victualling, salaries, and wages 0928 19 08

Profit *de claro* of each busse 1321 00 04

Which from 2000 busses will amount to per annum 2647033 06 08

This fleet will be a nursery of seamen no less necessary than useful for asserting his majesty's dominion of the seas, and the rights of his crown, in regulating trade against the encroachments of strangers.

The profits of this fleet will lessen the necessity of taxes for support of the government, and will improve the value of land, and the wealth of the nation, by saving 300,000 pounds now yearly exported by the Hollanders, for fish bought of them, and by the importation of coin from abroad by vent of fish, taken and sold by his majesty's subjects; the monopoly of fish taken by the Hollanders in his majesty's seas being one main support of that government.

As to men and materials for the fleet, there will be sufficient of both, unless money be wanting to carry on the design.

I. The interest of the king doth concern every particular person; his undertaking of it is for every man's advantage; whatsoever he gets thereby saves the nation so much in their purses: For if the king gains as much by this as will maintain his crown and dignity, his majesty may in time come to have the less need of parliamentary taxes; he may also alleviate his customs as low as any nation whatsoever, which will bring the trade of Holland, &c. into this kingdom, invite all ingenious manufactures into the nation, as well as rich men into this kingdom, and the rest of his majesty's dominions, and also will preserve the peace of this nation from being disturbed and violated, more than private persons or corporative bodies will or can do in their undertaking of it, who cannot protect the fishing fleet from the attempts and injury of strangers, and may be apt, upon evil instigations and discontents, to strengthen either domestick or foreign enemies, with their power both of shipping and mariners.

II. That money is wanting is the considerable objection, and the same that lay in Columbus his way; and had it not been removed by supplies of men, money, and ships adventured by Spain, upon far less probable grounds of advantage than here are proposed, it had lost to that crown, as it did to this and to the French, the first discovery of the mines in the Indies; but this is addressed to his majesty, and his parliament, for raising six hundred thousand pounds, whereof one hundred thousand pounds to be employed for docks, and for store-houses and wharfs, adjoining one to the other, that the goods may be conveyed from the wharfs to the store-houses, without the charge of carting, (which said sum will be demonstrated an ample fund,) to carry on and complete this design worthy their encouragement, and reserved by providence (after the weak essays of former times) to be perfected under the auspicious government of the best of princes, and wisest of parliaments, who cannot neither want either power or will to complete what appears so clearly and eminently advantageous for the publick good, and the interest of the kingdom, and in order thereto to raise the fund proposed, and to secure the employment of it to the use it is designed for.

III. The proposers are ready, when commanded, to demonstrate at large the facility of bringing the design to effect, the probability and greatness of its advantages when effected, and the necessity of it in order to any considerable improvement of the wealth, strength, and honour of the nation: And, as to the objection, they doubt not but to clear all can be made against it, except that of the want of six hundred thousand pounds to carry on the work; yet they conceive they have already removed this objection, by having demonstrated the return of this fund with so great an increase into the publick coffers, and presented that demonstration to them, who have power to give and lay out the money proposed, but cannot lay it out to better advantage, for improving their and their posterity's safety, honour, and wealth, than by bringing to perfection this design; which is not the project of a private brain, but an enterprise of publick good, approved by Queen Elizabeth, and, upon solemn and mature deliberation, embraced and encouraged by King James, Charles I., and his now majesty, and their several privy councils, and furthered by several grants unto the great seal of England, in the respective reigns of the princes last mentioned; and by this present parliament, by a vote of the honourable house of commons, 17th February, 1670, That a bill should be brought in for encouragement of the fishery.

S. WATSON.

S. WATSON.

Licensed March the 26th. Ro. L'Estrange.

The Case of His Majesty's Sugar Plantations.

BEFORE England had any sugar plantations of its own, Portugal had about four hundred thousand pounds per annum for sugar from England, to the great enriching of Portugal, and impoverishing of England.

The Portuguese having set high customs upon their sugars, and letting none trade at Brazil but themselves, gave the English encouragement to adventure upon planting it, who have so increased, that they not only supply England with all the sugar it wants, whereby 400,000*l.* paid Portugal formerly for sugar is saved; but great quantities of sugars have been transported to foreign markets, to the vast increase of the wealth of the kingdom, and by consequence the value of the lands of England.

In the trade to the English sugar plantations, about 400 sail of English ships, and 8000 seamen, are annually employed.

All the ships that go from England are loaden with manufactures and provisions for the supply of the plantations, with cloaths, tools, and utensils, and victual, which all pay custom to the king outward, and on which many families in England do subsist.

The planters have, at their cost, brought above 100,000 negroes from Africa, whereby so many new subjects are added to the crown.

The French king, taking notice of the great wealth and strength the sugar plantations bring to the kingdom of England, and also of the difficulties the English plantations are under, by reason of the acts of trade and navigation, which enjoining all the sugars of the English plantations to be brought home to England, and there to be landed, and pay the king a custom before it can be transported to any foreign markets, which is a great charge, hath thought it feasible, and with great application hath set himself to become master of that trade; and the Dutch hath done the same, and granting more ease to their planters, in producing and disposing of their sugars, than the English have, the French are so far increased, that their sugar plantations, which are Martinico, Guadeloupe, Marigalant, Grenados, St Christophers, Kayan, and part of Hispaniola, do already find an employment for two hundred sail of ships, and seamen proportionable, and are increasing daily: And the Dutch have already many ships annually loaden with sugar from Surinam, which they make a business of state to improve.

This increase of the sugar trade of the French and Dutch, hath brought those sugars that were worth between five and six pound the hundred weight, when the last book of rates was made, to be worth now not above thirty-five shillings, out of which the planter pays five shillings custom, and fourpence half-penny per hundred to the king in the plantations; insomuch, that an estate that was formerly worth two thousand pound per annum in the plantations, is not now worth six hundred pound per annum; and if any further imposition be laid, will yield little or nothing, to the undoing many thousand English families, many of which reside in England; for which reason the planters intended to have addressed to this parliament, for reducing the book of rates to the present value of sugars.

This low value of the commodity causes the inhabitants of the English colonies to forsake them, and remove to other places, whilst the King of France useth all imagin-

able industry to strengthen and fill his plantations (some of which are in sight of ours) with inhabitants, having made Dunkirk a free port for his own sugars, where no customs are paid in or out, by reason of which the markets of Flanders and Holland, &c. are furnished with French sugars at two shillings and sixpence per hundred cheaper than the English can, by reason of the acts of trade and navigation.

This increase of the strength of the French plantations, and decrease of the English, hath made many of the planters consider of withdrawing their stocks, for fear, if a war should happen with France, all would be lost.

The English sugar trade being apparently decaying under the present impositions upon sugar, can by no means bear more and subsist; and it is of great advantage to France to have our plantations ruined by more impositions on their sugars; for should the French gain the sugar trade from the English, England would lose the employment of four hundred sail of ships, and eight thousand seamen, and France would gain it, which would differ the present balance of seamen sixteen thousand, besides the loss of a native commodity, that hath brought so much wealth to the kingdom, and would also be the loss of the trade of Africa for negroes.

It hath been ever the practice and policy of trading nations, to set the publick taxes on foreign commodities, and not those of their own growth.

In the time of the usurper Cromwell, when all things were raked into to find a revenue to support his usurpation, no excise was put on sugars of the growth of the English plantations.

England is an island whose wealth and strength consists in trade, which cannot be preserved but by being master at sea; and the plantation trade is near one half of the navigation of England, and whether it be so convenient to hazard the loss of it by overburthening it, since an imposition may be set on commodities of foreign growth, that will be equivalent, is humbly submitted.

And whereas some seem to be of opinion that an imposition will fall upon the buyer only, and not hurt the planter, it is a mistake for the reasons following:

For it was found by experience in the time of the late rebellion, when there was an excise imposed, the buyer refused to buy commodities of the importer, unless he would clear the excise, so that the importer came generally to pay the excise as well as the customs. And it is well known, that all commodities are in value as there is a greater or lesser quantity of them at the market. If the imposition doth not lessen the quantity of sugar imported, it cannot raise the price, and then by consequence the imposition must be borne wholly by the planter. If it doth lessen the quantity of sugar imported, it lessens the employment of our shipping and seamen, and the king's revenue, and will constrain those planters who are forced to leave making sugar, to forsake the plantations, as having no employment there, which will so weaken them of defendants, as they will be in hazard to become a prey to the French or their own negroes; which will be a total loss of that trade to this kingdom, and be the ruin of many thousand English families, who in England and the plantations subsisted by that trade of making sugar, or by furnishing cloaths, tools, and utensils.

The Antiquity, Legality, right Use, and ancient Usage of Fines, paid in Chancery upon the suing out, or obtaining some Sorts of original Writs returnable into the Court of Common Pleas at Westminster. By Fabian Philipps, Esq. one of the Filacers of the Court of Common Pleas at Westminster. Printed 1663.

Longævi temporis usus et consuetudinis non est vilis autoritas.—BRACTON, lib. i. cap. 3.

Of the author of this tract, Anthony Wood has given us the following account:—"His father was Andrew Philipps, of an ancient family in Herefordshire, born to a good estate in Lempster, and near it, and his mother was a Bagshott, of a good family also, and heir of one of her brothers. When he was young he spent some time in one of the inns of Chancery, and thence translated himself to the Middle-Temple, where, by his assiduity and continual lucubration, accompanied with a happy memory, he became a proficient in some sorts of learning, and at length a great lover and adorer, and well versed in some parts of, and in venerable antiquity. He was always a zealous assertor of the king's prerogative, and so passionate a lover of K. Charles I., that, two days before he was beheaded, he wrote a protestation of his intended murder, which he printed, and caused to be put on posts, and in all public places. He was afterwards, if not before, philazer for London, Middlesex, Cambridgeshire, and Huntingdonshire, and did spend much money in searching and writing for the asserting the king's prerogative, yet got nothing by it, only the employment of one of the commissioners appointed for the regulation of the law, worth 200*l.* per an. which lasted only two years - - - - At length, having lived to a great age, he surrendered up his soul to God on the 17th of Nov. 1690, and was buried near to the body of his wife, in the south-west part of the church of Twyford, near to Acton, in Middlesex. Some years before he died he made his own epitaph, which begins thus: *MS. Fabiani Philipps Armigeri, Medii Templi socii, qui quosdam perfidos et ingratos nimium amicos amando, seipsum non uti potuit, amavit, curis librisque consenuit, &c.*"—Wood's *Fasti*, II. 3.

The reader may consult the *Athenæ Oxoniensis* for a long catalogue of Philipps's writings, chiefly regarding the law of England.

To the Honourable Sir Harbotle Grimston, Bart. Master of the Rolls.

SIR,

IF the Holy Scriptures had not told us that rebellion was the sin of witchcraft, we have had cause enough to believe it; when, in the evil days of our last twenty years unhappy wars and confusions, we have seen so very much of the folly and madness of that soul, as well as kingdom-destroying sin, and perceived all that traded therein to have met with Circes, and the fate of Ulysses his companions, and to have been almost transformed into swine, who muzzling in the earth, and looking for some filth agreeable to their brutish appetite and diet, can, without any remorse or pity of better things, turn and overturn, spoil and trample upon the fairest flowers; and are at the best no otherwise to be esteemed than as men bewitched, or hugely misled by their own fancies, and arrived to a degree beyond fanaticks, and as near unto madness as the most outrageous inhabitant of Bedlam: When, as in the beginning of the long and unhappy

parliament in the year 1641, it was their common outcry that the laws of England were their birth-right, they should be most miserable if they did not enjoy them, could after that, without any just cause, take arms to defend and preserve them, and employ themselves, their wives and children, in a procession or pageant to dig and make out-works and fortifications about the city of London, to secure their laws and liberties, when in effect they did but keep them out; and after that, engage themselves, and as many as they could enforce unto it by an illegal league and covenant, to maintain them, and yet after the king's murder, by that rebellious contrivance, and the consequence of it, and a declaration made and published by those that calling themselves a parliament, that those laws were most suitable to the good and constitution of the nation, could, in the hirecano of their pretended reformation of the same laws, agitated and driven on by a mechanick party that did not understand them, endeavour all they could to subvert and take away those very laws, as they had done the lives of many, and the estates of most of those of the king's party, who really, and not hypocritically, fought for them and their king, and adventured all they had in it; and in that furious, ignorant, and self-seeking humour of reformation, could like nothing but what came out of their own groundless imaginations: The discipline and orders of the church were looked upon as Antichristian; the laws were pretended to be chargeable, dilatory, and Antichristian; the equitable sense of laws and scripture of their own framing and picking out were more (as they said) to be esteemed, than the better or learned interpretations of them: The inward spirit and intentions of men were to be the rule of all our justice and actions: Old customs and constitutions were to pass away, and be laid by, and the new inventions and notions acted (as they foolishly imagined) by a more divine light, were to take place, and rule in the stead of them. In order whereunto the common people were taught in all their discourses to make that which before they had taken so much care of, to be as a by-word or reproach; the law itself must be called a cheat, and the lawyers, whom the heathen could stile *Sacerdotes Justitiæ*, and our christian fore-fathers, *Laudabile genus hominum qui in campo justitiæ tanquam athletæ militant*, so hated and threatened, (except at such times as they had need of them) as it was some danger to wear a gown; and one of their mighty mechanick commanders threatened to pull off their gowns, and hang them up in Westminster-hall among the Scotch colours. The judges were many times threatened to be pulled out of the courts, and from their tribunals; the inns of court, the nurseries of the law, designed to be turned into brew-houses, tenements, or garrisons, and places for quartering of their rabbi red-coat soldiers. That which was in our law-books of French or Latin, must be translated, and the writs, process, and pleadings put into English; and they knew not right reason, the original and foundation of all laws, nor the way or method of it, would like no law further than their vulgar and shallow understandings could come up unto it: And where they might or could reach it, found it to be no loss unto themselves to pull down old laws and constitutions, to the end they might be gainers by the invention of setting up new. Every thing but themselves were grievances: The moral and judicial laws of Moses were commended and desired to be introduced by some, and those of Holland and Scotland by others; that parliament not long before as much adored by a factious and rebellious part of the people, as the rebel Israelites did their golden calf; when nothing but the parliament was to be the standard of their religion and conscience; now seemed unto them not to be well constituted, or in equal frame or balance, but would be much better if the Venetian balloting-box were cast in amongst them, the military officers and commanders, many of whom could not read English, and worse write it, busying themselves in reading Livy and Plutarch, and other heathen authors translated into English, and not well observing the many

* Constitut. Othoboni in Lindwood.

mutinies, seditions, dangerous and troublesome alterations and changes, which the people of Athens and Rome had sadly experimented and dearly paid for, and how those levelling humours, by necessity, as well as fate, fell afterwards into the better state and condition of monarchy, thought nothing so good and profitable for the good of the people and of themselves (more especially) than to advance and increase the changes of government, which was most commonly cast into a frame and design of their own interests. Every common soldier thought himself as wise and as fit to frame a commonwealth as Lycurgus or Solon; and pretended that their business was not only to fight, but to be legislators and superintendents of our parliaments as well as laws; they were to bind and limit them to their (silly as well as knavish) contrivances. The lands of the crown, church, and loyal party, were to be a part of their land of Canaan; and they were to make what further progress they could in the altering of laws and customs, hitherto, and through many ages, so very much approved: Put down the old offices and employments, and erect new; and the citizens and men of trade finding fault with all but the multiplied deceits and knaveries of their own trades; which, with the adulterating and enhauncing of all manufactures and commodities, have not only lost and spoiled our trade in foreign parts, but do, by the connivance of their companies or mysteries, and for want of a due execution of laws, and regulations of falshoods, yearly cozen and cheat the people at home, as much as amounts to some millions of sterling money, or a great deal more than doubles our taxes, and not understanding the right reason, just ends and intentions of our laws, nor distinguishing betwixt the right use and abuse of laws, of the which only the cozening part of the people are guilty, neither contented to have gained so much as they had done by the law and its residence at London, could not be satisfied unless they could pull it all in pieces, and make a merchandize of it; and believed a citizen in a committee, by the study and help of a diurnal, being the tinder to the greatest of all rebellions, to be as grand a statesman as the late Lord Burleigh, or as if he had been bound apprentice to Solomon, and served out his time in the compiling of his Proverbs: And their multiplying costly orders at six shillings and eight-pence, or ten shillings a piece for a few lines, to be as great a blessing and refreshing to the people, as the land of promise was to those that had endured a forty years tedious journey through the wilderness; and when, as too many of themselves were, and are by their tricks of trade, the grand and superlative grievances of the kingdom, could at the same time raise their false and groundless clamours and scandals against the king, the church, and the laws, because he would not quit his regalities, and suffer a rebellious and prevailing part of the people to enslave the residue, though our religion and laws did forbid it. In the midst of which frenzies, whilst the tradesmen did drive on the soldiers, many of whom had been their run-a-gate, or cast-off apprentices; and the soldiers were driven on and encouraged by some lecturers, and men of extempore nonsense, rather than divinity; and the devil leading them with his new lights, and false expositions of scripture, and a gaining ungodly part of the people, were busy in plundering and oppressing the loyal, honest, small, and remaining part of them, and used our excellent laws and customs as the Bactrians are said to do by their parents when they are sick or aged, and set their *canes sepulchrales*, dogs kept on purpose, to tear and devour them: It would have been a wonder how any of the most refined right reason or constitution of our laws could rest in quiet, when the graves of some of our British or Saxon kings were in a most unchristian and barbarous manner opened and disturbed, and their dust and bones cast into the air and high-ways, and the Book of God itself suffered a kind of martyrdom, in their suspecting the original, and covering the sense and meaning thereof with ridiculous notions and ignorant interpretations.

Or that a very innocent and legal part of the king's revenue, so well employed in the support and administration of justice, should escape a disturbance: and therefore

the fines which were usually, and through many past centuries and ages, paid in Chancery upon all original writs in personal actions, wherein the debt or damages demanded exceeded forty pounds, must have its share in the suffering under those grand and continued persecutions of truth, loyalty, and right reason, and be forbidden by an act of a factious part of the people, supposing themselves to be the commons of England, assembled in parliament, and sacrificed but to the pretended liberties of the people, to the intent to leave them as little as they could of their liberties in greater matters: which being, with other of our good laws and customs, worried and cryed down by the causless outcries and clamours of those that better understood their own evil purposes and designs in it, than the original institution, benefit, and right use of them, could not rise again, or be revived, until that happy restoration of our king, religion, laws, and liberties; nor then neither, without the cicatrices and scars of the wounds under which they formerly languished; and as the imagination, being once hurt, is seldom ever after free from those melancholick impressions which it once harboured, so did those of a necessity of reforming our laws, or of supposed evils or grievances in them, beget an ill opinion in the minds of the people, where yet it sticks so much, as some well-meaning and good men are not so willing as they should be to abandon the causeless suspicions and prejudices which they had entertained of them: and those illusions, and inconsiderately received impressions, have as yet kept up in too many the humour of endeavouring to overthrow those and many other of our good laws and constitutions, which, if understanding or knowledge may be the judges or touchstone of them, will appear to deserve a better usage.

The more than ordinary misapprehension whereof, by those that build upon no better a foundation than the ignorance of its legal, original, and right use, hath summoned my duty to our sovereign and his laws to hinder, what I may, the unjust censures and ill-advisedness of some people, who are as ready to cast away their own good, as those who, to avoid a little cold, which their delicacy, and a surfeit upon peace and plenty, cannot perswade them to indure, can think it to be no small part of prudence to tear up and burn the planks of the ship wherein they are sailing at sea, and far from the shore, and run the inevitable hazard of perishing by the fury of a cooler element; and that I might satisfy such as mislike the payment of fines in Chancery upon some original writs, and that it hath for many ages past been a most legal and useful part of the crown revenue, without any the least of grievance to the people, or our so often reiterated Magna Charta, or any other our laws or liberties; and shew them that the usefulness and legality of it is not taken away or diminished, because a part of it is paid or goeth to the support of the lord chancellor, or lord-keeper of the great seal of England, for the time being, in that great and as eminent as careful place of administration of justice, in granting writs remedial, or abating by moderation and equity the rigour and justice of the laws, many times too unconscionably made use of, or put in execution by the people, one upon the other, who are to be enforced and kept from being over severe, or taking unjust advantages one upon another, which hath taught the most of nations to look upon that high and superlative officer of state as greatly necessary; and to give him allowances becoming so great and honourable a charge and employment; insomuch as the very thrifty and prudent commonwealth of Venice, well understanding the use and dignity of that great officer in most of the kingdoms and nations of Europe, and the necessity of his honourable support, do think it requisite to allow their *gran cancelliero* a great revenue out of the publick stock.

And that it cannot be a grievance, that the master of the rolls, and cursitors in Chancery, are allowed some part of that small part of the king's revenue for their support and encouragement, which would be more chargeable to the people, and be more unequal, and not consist so well with the rules of justice, if it should be raised by any

other way or contrivance, to give them a recompence proportioned to their cares and labours.

Which my endeavours I have presumed to offer unto your view ; not that I can believe that your known integrity, sincerity, and care of justice in that honourable office and dignity, wherein his majesty hath worthily placed you, can, by any bias of self-interest, lead you to a better liking or approbation of these my labours, in the vindication of a legal duty, which so many are ready to throw stones at; and do dislike it, not because it is not a friend to Cæsar, but because it is. But that I can be sure to be well weighed in the balance of judgment by you, who, in the times of our unhappy wars and turmoils of the pen and sword, when the seas roared and swelled, the winds and waves cuffed each other, and mountains and short-breaking seas did only busy themselves to run over one another, would not, like the representation of our old Britannia, sit safely upon the rocks, and contemplate the fury of the seas, but would with your boat adventure to launch into the deep, and help to rescue, as well as you could, the ship of the commonwealth, which, by the inconstancy of winds and weather, and the rage of many waters, had lost her anchors, rudder, masts, and cables, and was ready to dash upon the next rock she met with, or founder or sink into the bottom of an unmerciful heap of waters ; and, when the law was in extremes, and at the last gasp, did, like the undespairing Roman that bought a field when Hannibal, being at the gates with a conquering and prevailing army, had put Rome into more than an ordinary fit of an ague, publish those excellent Reports of your learned father-in-law Justice Croke, to tell, as well as instruct the students of our laws, that our laws would notwithstanding, like the triumphant lawrel and peaceful palm, be green again and ever flourishing ; and did, together with some other good patriots and well-wishers to your king and country, adventure your estate, and not without some hazards and dangers, did, by all the rocks, shelves, and quick-sands, more perilous than those of Goodwin, over the Scylla of a guilty party on the one hand, and by the Charybdis of a prevailing interested party of the other hand ; and of as many more difficulties as, summed up all together, made a miracle, help to bring into the port or haven that weather-beaten and distressed ship, fraught with the invaluable riches of the hopes of England, and restorer of our peace and plenty ; who hath built up and repaired our Jerusalem, and brought our religion, laws, and liberties from its captivity, and the waters of Babylon : in contemplation whereof, his majesty, well understanding how much it would conduce to the good and welfare of himself and his people, did intrust you with the keeping of his records, being the evidences of the people, as they were called in an act of parliament in 43d E. III., together with those which have been since added thereunto, and do now remain in the Tower of London and in the high court of Chancery ; and with the dispensing of equity and conscience in causes accustomed to come before you : in which great office and employments, and care for the common good, that you may long continue, is, as it ought to be, the hearty well-wishes and desires of all that know you : amongst whom you cannot err, if you shall please to number

Your most humble servant,

FABIAN PHILIPPS.

The Antiquity, Legality, right Use, and ancient Usage of Fines, to be paid in Chancery upon the suing out or obtaining some Sorts of original Writs returnable into the Court of Common Pleas, Westminster.

The payment of fines upon original writs in England was, anciently and originally, not as any exaction, purchase, or money given to defile or betray justice, but as retri-

butions or oblations to the prince, or supreme magistrate, for his grace and favour in granting writs remedial, and as some recompence of his charges and care in causing justice to be done to all that have need, or should seek for it.

And some or such like payments to the magistrates or ministers of justice were in use, more than two thousand years ago,¹ amongst the Grecians, the grand pretenders to morality and justice, that greatest of the virtues, where, besides a certain sum of money deposited by the plaintiff for the making good of his action or complaint, he against whom judgment was given did pay a fine as a *vectigal temerariè litigantis*.²

And when judges were appointed for the hearing of a cause, who, amongst the Athenians, were in many civil causes but as *arbitri* or arbitrators, constituted by more supreme judges or magistrates, they were to meet at the place for them ordained, there expect both parties until the evening; at which time, if neither, or but one of the parties appeared, it was in their power to fine the party neglecting, according to law. And at the time they entered the suit, and wrote the accusation, with the fine which was required for damages, the judges received, as a fee from the plaintiff, one drachm, which, according to the Attick valuation, was in the lowest account seven-pence half-penny, and the Æginean, twelve-pence half-penny.

And are nothing like either a burden or oppression, when it shall be, as it ought to be considered, that amongst the Romans,³ who imitated them, and were so exact and curious in their justice as they would not a great while permit their magistrates, prætors, or lord chief-justices to take their wives with them into their provinces, *ne feminae in avaritiam suapte natura propensæ, potentiæ subnixæ provinciam expilarent*.⁴ And that the plaintiff could not *vetustissimo jure*, by a most ancient law or usage go to law, as Varro tells us, nor the defendant be permitted to make his defence without an equal or certain sum of money deposited both by the plaintiff and the defendant, which the *sponsiones, sacramenta, and stipulationes* amongst the ancient Romans do testify, and that of the monies deposited as well by the defendants as the plaintiffs. *Qui judicio vicerat suum sacramentum, id est, pecunia interpositum auferebat, victi ad ærarium redibat*. But that being found too troublesome, was afterwards reduced only unto the plaintiff's depositing of the tenth part of the money demanded, by undertaking that the defendant should have it, if the plaintiff did not make good his action.

Which Justinian,⁵ at the time of his compiling the civil laws, finding almost grown out of use, and thinking it fit to abolish, did afterwards see cause enough to restore and set up again.

And it did come to be so usual and customary, as there were *gratuîtæ oblationes*⁶ for remedies in matters of right and justice, or for lawful favours, and they were sometimes, and not unfrequently, called, *Pennam auream quod tantum habeat dominus de assensu et subscriptione quod posset fieri una penna aurea*, were frequently offered and paid.

And the *primiscrinus*,⁷ or lord chancellor, or *princeps prætorii omnium sportularum quæ à litigantibus solvebantur particeps erat, et majus stipendium quam ceteri officii summates percipiebat*.

Which necessity or custom of paying fines for suits or controversies was so well

¹ Sigonius, lib. 3. de Repub. Athen. 525, 530.

² Rous Archæologia Attica, 119, 135, et 136.

³ Rosinus de Antiquitat. Rom.

⁴ Hottoman in Parte Juris de Actionibus. Sigonius lib. 1. de Judiciis cap. 21. Varro de Lingua Latina. Bodin de Repub. lib. 6.

⁵ Leg. ult. Antiq. Cod. Novel. 112.

⁶ Math. de Afflictis in 4. cap. præterea Sect. et de Prohibit. Feud. alien. per Frederic. n. 6. et Frantzkius de Laudemiis.

⁷ d. l. f. C. de Princip. Agen. et Panciroll. 9 Comment. in Noticiam utriusq. Imperii.

liked by the Goths, and that inundation of northern nations, which, in the unwieldiness of the Roman empire and declension of it, had overrun a great part of its European territories, as though they hated the civil law, prohibited its use, and did all they could to destroy and burn the books thereof, it obtained amongst them as good an entertainment as it had formerly in the civil law, by an allowance of that manner of depositing of the *decimam partem litis*. Notwithstanding which they did also after judgment given *exigere*, and carefully collect their *fredas* or penalties imposed upon the vanquished by the judges, as the Salique and Alman laws¹ and customs do frequently evidence.

From whence it came to be in use amongst the old Franks, (now metamorphosed into the French,) a people once esteemed to be as free as their name imported, and taken to be the *custodes libertatis* of that part of Germany, there being then, and for many ages after, no other *expensæ litis*, or charges, given to him that prevailed in law, but the tenth part of the money so deposited, until that Charles IV. King of France,² who lived in the latter end of the reign of our King Edward II. made a law or decree *ut victus victori in expensis teneretur*, that the party condemned should pay the charges of the other party, yet so notwithstanding as the tenth part continued to be paid to the Exchequer, *sportularum et judicii nomine*, or as *mercedes judicantium*, for the rewards and fees of the judges and their maintenance.

In Hungary,³ being an elective kingdom, where the people kept a continual guard upon their liberties in the *minori cancellaria regis taxa*, they did not think it, in anno 1486, to be a grievance to pay for certain writs, or letters, a certain rate per cent. and for many other *juxta quantitatem possessionis seu rei obtentæ, habita concordia inter causantes et protonotarium*.

And was in other countries and kingdoms, by a custom of paying moderate fees in chancery upon the obtaining writs or process remedial from the prince or supreme magistrate, so allowable; as in that great dominion of Burgundy and its large extent of provinces, in anno domini 1383, which was in the reign of our King Richard II., the fees or rates of the chancery were set and ordained: *pour la lettre*⁴ (a writ being no other than a short letter or rescript) *du petit seel pour le droit de monseigneur, six deniers, pour le droit du tabellion, 3 deniers et le coadjuteur, 11 den. littera 3 Francorum usq. ad 13 exclusive pro duobus juribus 2 solidos sex den. turon. de quibus dominus dux capit 17. denarios et tabellio reliquum coadjutor 20. denarios et sic in totum duos solidos cum denario littera 120 Francorum*, (being but seven pound English,) *15 solidos, 5 den. turon. debet de quibus dominus dux capit 10 solid. quinque den. turon. pro registro tabellio capit reliquam et pro coadjutore 55 den. in littera retentionis bestiarum*, (like our writs of *recordari* to remove complaints upon distresses,) *non computatur fructus neque domus, &c.*

Which the princes of the German empire, (a people supposing themselves to be very free,) in a diet under their emperor Sigismund, in ann. 1425, which was in the reign of our King Henry VI. did hold to be so legal and reasonable, as they ordained, That in *Cancellaria redemptiones literarum judiciarum et conservatarum tenetur antiqua consuetudo ejusdem cancellaria*; and that for fees of writs in chancery, *pro literis generalibus, 24 denarii* should be paid, &c.

And in a diet holden in anno 1546 and 1548, which was in the beginning of the reign of our King Edward VI., the princes of Germany did ordain and limit the taxes *cancellaria*, viz. amongst many other rates,⁵ *pro simplici citatione unus florenus et quarta pars floreni*. And when an inhibition is inserted, *duæ floreni et duo partes floreni, &c.*

¹ LL. Salick et Alman.

² Bignonius in Marculsi Formulas, 496.

³ In legibus Hungariæ

Dercet. Mathie Regis anno 1486. Artic 76.

⁴ Consuetudines Burgundiæ, lib. de Gabels, 1787.

⁵ Goldastus Constitutiones Imperiales, 264. tit. 33. et 447. tit. 25.

Atqui tamen cum æquum sit cancellariæ ob laborem et operam in qualibet causa habere rationem et æquam mercedem accipiat victores causarum quibus expensæ adjudicantur in omnibus causis in quibus nullæ sententiarum literæ, (which, before that time, usually paid great fees, and being accounted unnecessary, were left arbitrio partis whether he would sue them out or no,) sumuntur teneantur se cum administratore laborum et operum ergo ad ipsius taxationem (quam quovis tempore juxta magnitudinem et qualitatem, adeoque conditionem causæ ac partium mediocri et tolerabili modo faciat) priusquam expensæ ad taxandum producantur, aut executoriales cancellariæ partibus concedantur. Notwithstanding that there is besides a *collecta provincialis, quæ Landsteur*¹ *vocatur, quæ non nudè in signum subjectionis, et vi absolutæ superioritatis, sed pro fructibus et emolumentis jurisdictionis; item pro curis et laboribus, necnon ob recompensationem expensarum quas domini facere et pati debent pro pace et quiete tenenda inter subditos, pro sua dignitate servanda, pro salariis officialium ad justitiam administranda exigitur.* Which *oblatus* or pledges before-hand towards the satisfaction of costs, and the fine, *pro falso clamore*, were in France by a law, or edict of Charles IX. made to be *vectigal judiciarum ad cohibendam litigatorum hominum indomitam et effrænatam licentiam, quo vix ullum* (saith² Bodin) *afflictis ærarii opibus utilius et Galliæ imperio litium innumerabili multitudine oppressos splendidius cogitari poterat*: a kind of revenue out of the law, to lessen or take away those great multitudes of law-suits with which France then abounded, which brought a great supply to the publick treasury, and produced the effect intended.

And our reforming brothers of Scotland have found so little fault with those or the like customs, as the lords of secret council and session (as they there are called) did, no longer ago than in *anno* 1606.³ in the reign of King James the Sixth, by his commission limit and set down the prices or fees to the director of the chancery, which varied according to the qualities of the persons, and values of the matters or things, as twenty shillings Scots money for a second or third precept; and for a summons of error past the quarter seal, four pounds Scottish money; and to the keepers of the signet, ten shillings Scots money for a summons; which were ratified by act of parliament in that kingdom in *anno Dom.* 1621: and do at this day keep their chancery, and the fees and profits thereof so high, as for a defendant's entering into a recognizance or obligation in a suit depending before the lords of session, or court of justice so called, which, with us, without passing the great seal, would not have cost twenty shillings, being to pass the seals in their chancery, no less than forty pounds sterling is demanded for the incident charges thereof.

Long before which, and many of those or the like customs in other nations, the payment of⁴ fines in England upon original writs issuing out of the chancery, did, by imitation of the Greeks and Romans, or the light and law of nature, and the same, or a like reason, very early come unto us: as may be perceived by that law of King Ina, in *anno* 720, when the defendant did *pignora deponere ante litem æstimatam*; and by the *Wytas, Overseenesses, and emendationes Pacis*, paid to the king in the time of our Saxon ancestors and King Henry I. and the *Sachas*, which were in that nature paid in those days to the lords of manors, upon suits or actions in their petty courts.

And it appears by the fine-rolls in the reigns of King John, Hen. III. Ed. I. Ed. II. and until 25 Ed. III., that fines were paid upon very many, if not all manner of writs original issuing out of the Chancery, and even upon actions of trespass; and being

¹ Besoldus de *Ærario Publico* Quest. 5. Simon de Præstis, lib. 3.

² Bodin de *Repub.* lib. 6.

³ 23 Parl. Jacobi, anno 1621.

⁴ LL. Inæ 63. LL. Edwardi Regis, 4 Edgari Regis 2 Canuti 12. Edwardi Confessoris. Gulielmi Conquestoris, LL. H. 1. cap. 35 et 53.

since 25 Ed. III. by the grace and favour of the Chancery and chancellors, (notwithstanding diverse petitions in parliament in that king's reign, to some of which he had given negative answers, and to others, referred them to the chancellor to deal favourably with them therein,) reduced to that which they now are, viz. where the debt or damage demanded and expressed doth exceed the sum of forty pounds, there is only paid six shillings and eight-pence; from thence to one hundred marks, and thence to one hundred pounds ten shillings, and so proportionably, according to that rate, as the sum of money demanded and expressed shall exceed the sum of one hundred pounds.

Which probably might be so limited or restrained, by occasion of a petition of the commons in parliament in the twenty-fifth year of the reign of King Edward III., where they did pray, *That les graces de la chancellerie pour briefs avoir, ne sont des formes si dures ne si estreites come ore ont estre de novel quar home en prent ore en la chancellerie fins de chescun maner de briefs et ceux fins seront paier maintenant en le hanaper que de ceo en arere ne estoit fait quel chose est si grand damage au peuple que gentz ne poient leur droit poursuiuer par reasone de le grand charge susdite et en grand arrerissement de profit le roy.* To which the king answered, *Il plect au roy que le chaunceller soit si graciosus come il purra bonement, sur le grant des briefs considerant l'estat des persones quiles pourchassent.*

And may with probability and warrant enough be well conjectured to have been, if not as those ancient *depositas* which the Romans and the civil laws might long before have introduced, or as the customs in the empire, or large walk or extent of the civil or Cæsarean law, have brought into a well-allowed *praxis*, yet as *honorarias* or *oblatus*, retributions or free-will offerings of the people for favours received.

Of which some of the fine-rolls of King John's time² do bear that title.

Where it appeareth that *Abbas de Burgo dat. domino regi unum palfridum pro habendo brevi de nova disseisina.*

Johannes le Tanner dat. dimid. marcam pro habendo pone coram justic. domini regis apud Westmonasterium.

Magister Honorius Archidiaconus Richemund dat, unum palfridum pro capiendo quosdam excommunicatos.

And before the custom of giving or assessing costs, either to the plaintiffs or defendants, the plaintiff could not, as appeareth by the form of the original writs mentioned by Glanvil, Lord Chief Justice of England, when he wrote his book, *de Consuetudinibus Angliæ*, in the reign of King Henry II., prosecute his action upon an original writ, which was then, for aught appears to the contrary, long before used and accustomed, nor has any thing done by the sheriff, to whom it was directed, or any process out of the Court of Common-Pleas, where it was made returnable, before he had put in to the sheriff two real sureties or pledges *de clamore suo prosequend.* which for some ages after continuing, it was in the 36 Ed. III. ordained by an act of parliament,³ That costs should be taken before the justices in the presence of the pledges, and that the pledges know the sum of their fine before their departing. But it being afterwards found to be an obstruction of justice, and a denial or delay of it, where poor men, or of low and mean condition were not able, or could not without great trouble or inconveniences before-hand procure sureties in their suits in seeking for justice, especially against rich or potent adversaries, (although the judges did by discretion of court not seldom, as the records do witness, *propter paupertatem*, dispense with the putting in of sureties to prosecute,) it did by reason of a more rational or speedy way and course of taxing or assessing costs, and putting in the same execution for the principal debt or cause of action, grow into a desuetude, and a meer formality of returning pledges or sureties for the payment of the costs to the party vanquishing, and the fines

¹ Ro. Parl. 25 E. 3. m. 29.

² Fines 6. Johannis 10.

³ 38 E. iii. cap. 3.

which were before carefully collected for the king, and together with the *misericordias*, which upon *non prosequendus*, and upon every judgment, are now only entered with a *misericordia* in the margin, and made a considerable revenue to the king, (as by the estreat-rolls of the *iters*, or circuits, in the reign of King Edward I. may appear,) being not now imposed, the feigned and usual names of John Doe and Richard Roe, to avoid alterations in the *formulas* or proceedings of the law, and the evil consequences which do often happen by innovations, do only yet remain to tell us the former reason and design of the law therein.

Which payments of fines, upon the suing out of original writs in debt, for sums of money for which fines are to be paid according to the usage and course of Chancery, may be as warrantable as that which is not to this day complained of, or denied upon writs of *formedon*, and other real actions, but willingly paid in to the *hanaper* in Chancery; or that profit which heretofore came to the king upon the writs of assize of *novel disseisin*, where the sheriffs did before the statute of Westmin. 2.¹ take an ox of the disseisee, or of him which purchased an assize: And were by that statute commanded that they should not upon writs of assize (which were then the usual remedies in many real actions, and sometimes in trespass) from thenceforth take an ox of the disseisee, but of the disseisor only, nor receive any ox but of five shillings price or value. Or the half mark usually paid by the tenant (or defendant) upon the *mise* joined in a writ of right, that the grand assize might enquire of the time that the demandant alledged he was seized of the lands in question: "For it seemeth," saith Littleton,² who was a judge, and wrote his book after the fourteenth year of the reign of King Edward IV., "that the grand assize ought otherwise to be charged only to enquire of the meer right, and not of the possession," &c.

And was no selling and bargaining for justice, as some have groundlessly supposed; and may rectify their errors by a due consideration that for our Magna Charta itself, which was confirmed in the ninth year of the reign of King Henry III., and wherein *nulli vendemus justitiam* is provided and ordained, the people of England did give to the king the fifteenth part of all their moveables: That in the levying of fines for common assurance, there is and hath been anciently a *dat. domino regi*, money given or paid to the king, *pro licentia concordandi*, in the court of Common Pleas at Westminster: That for private acts of parliament at this day as well as heretofore, fees to the speaker of the House of Commons, and the clerks thereof, are usually paid without any sale of justice, or contradiction supposed of that branch of Magna Charta: That in the statute of 18 E. III. and the oath thereupon given to the judges, that they shall take no gift or reward, nor any fee of any person, there is an exception, unless it be meat, drink, or of small value.

For by the same reason that fines upon some original writs (for they are but upon some few) are supposed to be a selling of justice, the cursitor's fees ordained by the statute of Westminster the second, in *anno* 13 E. 1. to be but a penny for every writ, which the price of victuals and way of livelihood (which is now a great deal more than formerly) considered, amounts unto as much as ten-pence for every writ, and will not now buy, as it would do then, the sixtieth part of an ox, which was then valued but at five shillings: And the fees of the virgers, and the chyrographer in the court of Common Pleas, and all those many other fees ordained by act of parliament, would be (as they are not) a selling of justice, and a breach of Magna Charta, and unwarrantable.

And howsoever those due and warrantable fees which are paid to clerks and officers of courts, and the fines which are paid upon original writs, (ex. using greater fees to the

¹ Westm. 2. cap. 25.

² Littleton, tit. Releases.

cursitors, who could not otherwise be contented with a pitiful fee of six-pence for the writing of every original writ,) cannot bear any proportion or resemblance of a bribe, or of the king's, or any of his judges selling of justice: And if it did, (as it cannot,) being always paid by the plaintiff, must then conclude that all plaintiffs must of necessity never or seldom fail of their designs or recovery, which daily experience manifestly contradicteth, nor can possibly be so understood, when, as in every action, the defendants do pay fees as well as the plaintiffs.

Neither can it be any breach of Magna Charta, or injury done to the clause therein of *nulli vendemus justitiam*; when as the wisdom of former as well as of later parliaments did always foresee and allow of a necessity of something to be paid to the judges, officials, or ministers of justice, in the obtaining or expediting of it, for a provision and maintenance to support and encourage them in giving a dispatch to the people who came for remedies to the court of justice, or the chancery.

And the statute of Westminster the second, which was not long after the making of Magna Charta, intended certainly just recompences to the clerks and officers, when it ordered them to use so great a diligence and care in the dispatch of justice to all that came for it, as *ne deficiat justitia conquerentibus concordent clerici*, &c. all good ways and means were so to be taken by framing and forming of writs according to every man's particular case, *ut nullus recedat à cancellaria sine remedio*.

For which the king was at charges to the officers and clerks of the Chancery¹ for robes and liveries to be yearly given them; and the keepers of the seal took care for their diet and other conveniences, as may appear by the usage and course of that court, in the² reign of King E. III., when the king conceived himself to be so much concerned in it, as writs were frequently sent to the sheriffs and bailiffs, *tam infra libertates quam extra*, to be aiding and assisting to the purveyors for the Chancery, in *diversis providenciis*, or purveyances, *de pane, vino, cervisia, carnibus, puletria et aliis victualibus feno arenis litteris et cariagiis ad opus ipsius cancellarii*,) the Bishop of Winchester being then chancellor,) *pro denariis suis solvend*. When as also the profits arising by the fines in those times, and long after, were collected and accounted for in the Exchequer.

And that or the like maintenance or support is again to be given to them, or the lord chancellor for them, if the king should not be pleased to allow the profits arising by his fines upon original writs in personal actions to the lord chancellor or lord keeper, and the master of the rolls, for the support of those high and honourable offices and places which they hold, and the cursitors for their better encouragement in the service of the king and his people in Chancery in their several orbs and employments; or otherwise the people, who will not do any thing themselves without pay, or sell their victuals to them without money, are to pay the cursitors such other fees as their attendance, skill, and labour shall merit.

And, therefore, if the statute of Westminster the second had not informed us, that besides their provisions and livelihood then provided for them, they had their *sportulas*, fees, and encouragements allowed them for making of every writ, which, with their victuals and necessary provisions, made a greater benefit, considering their then most commonly single and unmarried condition, than the cursitors fees and parts of the fines do now amount unto.

It will be no more improbable that the clerks and officers of the Chancery, when they either lived in the house with the lord chancellor, or had their diet and necessary maintenance elsewhere provided for them, had their *sportulas* also and fees for their labour and care in the making and dispatch of writs remedial, than that the secretaries and clerks attending upon a lord chancellor, or keeper of the great seal, or the judges,

¹ Claus. 24 E. III.

² Rot. Pat. 7 E. III.

should, as they now have and ought to have, besides their diet, lodging and other necessities, some fees and establishments for their rewards in their care and dispatch of businesses.

All which that parliament, which was almost in the infancy of our then lately settled and contested for Magna Charta, well understood when they limited and settled fees, and legal and just rewards in the courts of Chancery, Common Pleas, and King's Bench; and all our succeeding parliaments did the like in their creating other fees, or giving allowance to those which they found to be rationally introduced by time and ancient usage, though no original constitution, or creating of many of them by a law can be found, but only by the authority and power of courts and discretion of judges, or the light and guidance of common reason, which teacheth the clients themselves, or the most ordinary sort of men, to know how to reward or value benefits and accommodations received, and to proportion payments or satisfactions for one another's labours.

And King Richard II. was well informed of, when, by advice of his council learned in the law and otherwise, he did in the fifth year of his reign to the petitions of the commons in parliament, who prayed, *That 'Come per le grand chartre soit ordene et affirme communement en touz autres parlaments que la ley ne serra point denie ne venduz nullui à contraire de que le chartre est use en la chancellerie de prendre fins pur diverses briefs avour à grant arrerisement de l'estat de touct le peuple et de la ley que plesse ordener en ce present parliament que chescun qui vendra purchaser brief en la dite chancellerie eit le dit brief sans fin faire; answer, That nostre Seignor le Roy nentende mye de soi desmetra de si grant commodite quad este usez continualment en dit chancellerie si bien avant come apres la confection del dit chartre en temps de touz ses nobles progenitors qui dequis aient este Rois d'Engleterre.*

And is no more a buying of justice then the fees taken by the stewards of the lords of manors in their court barons, wherein an inferior sort of justice is administered when they take fees upon plaints and actions, and largely enough for admissions, surrenders, and licenses; or the fees which are taken by guilds, corporations, and companies of trades for binding or making free apprentices, or for quartridges to their halls, for the maintenance of the good and credit of their companies; or which is paid by the poor tankard, or water-bearers, at the conduits in London, where every one payeth three shillings and six-pence at his admittance, and a penny a quarter for the support of that poor and pitiful society.

No more a buying of justice than when every ship, trading to Leghorn or Smyrna, pays a certain rate of ten shillings per cent. towards the support of the consuls there resident, to assist them in the matters of trade, and procuring justice from the superiors of the territory.

Or the *espices*, or money in lieu of them, given to the judges and ministers of justice in France, in the parliament of Paris, or other parliaments or courts of justice in that kingdom.

But may be the more approved, when as our *sportulæ* and fees allowed in England are not without some resemblance (if it extend not to a direct pattern or warrant) of the courses held by God's own appointment in his righteous theocracy or government, which he himself framed for his chosen people of Israel; where the Levites and priests of the Jews, whose offices were not meely or altogether ecclesiastical,¹ but having some mixture of civil affairs and judicature, as in the cases of leprosy and jealousy, hard matters and controversies, and the like, had, besides the forty-eight cities, with

¹ Pet. Parl. 5 R. II. pa. 1. nu. 88.

² Cuius de Repub. Hebræorum, cap. 12. Grotius in Deut. 17, 19. 2 Chron. 19. 5, 6. Levit. 17, 8. Deut. 17. 8. Lev. 14. 19. Numb. 3. 47, 48. cap. 18, 11, 15, 16, 17. 18. Ezek. 46, 24.

their suburbs belonging, given unto them for their support and maintenance, some parts of the sacrifices and offerings, as not only to eat of the flesh of the sin and trespass offerings, but were to have the shoulders and heave-offerings, the wave-breast, and a part or oblation of every sort of oblations, with the redemption of the first-born of men, as casualties and fees happening unto them in their several offices and employments, by an eternal law and statute of God's own making, appropriate and allowed unto them. *Qui quod pingue haberent otium, non tantum omnia legis, sed et medicinarum aliarumque artium diligentur ediscebant ut et Egyptii sacerdotes*; who, having leisure, did as the Egyptian priests, not only diligently study the law, but physick and other arts and sciences. *Ideoque* (saith the learned ^aGrotius) *primis sæculis ex illis ut eruditioribus senatus LXX. virum legi maxime solebat*. And therefore in the first ages the senate of LXX. were for the most part commonly chosen out of them.

Which the light of reason, that *divini luminis radius*, did so well inform other nations, as the Athenians would not think it fitting that their standing and continual senate, or court, and their judges, should be without their competent allowances and rewards: and their famous and popular orator Demosthenes understood to be so necessary, as, in his oration against Timocrates, he saith, *Lex est vobis si qua alia præclara ut qui sacras publicasque pecunias possident in curia pendant, sin minus ut senatus ab eis legibus usus telonicis exigit hac igitur lege res communes administrantur, si quidem quæ in conciones, et sacrificia, et senatum, et equites, et alias res pecuniæ impenduntur hujus beneficio legis abunde suppetunt, cum enim vectigalia non sufficiunt quæ ad pensiones dicuntur metu legis hujus penduntur quomodo igitur non omnes reipublicæ partes dissolventur cum vectigalium pensiones non fuerint satis neque hac nisi in exitu anni capere liceat senatus autem et judices eos qui ad pensiones non solvant vincendi potestatem non habeant quid agemus? non conveniemus? nec deliberabimus si opus erit et amplius popularem statum retinebimus? non judicabunt fora et privata et publica? non inibit senatus et tractabit ea quæ legibus continentur? at gratis scilicet hæc faciemus? quid vero iniquius est quam si ex lege quam tu mercede corruptus tulisti populus et senatus et judices mercede sua priventur*. And Sigonius, who had very learnedly and industriously searched and traced their customs, adds hereunto his own opinion, That *hanc consuetudinem Atheniensium intuens. Aristoteles qui suos de reipublica commentarios diligenti omnium rerum publicarum observatione et maxime si quis attendat Atheniensis confecisse videtur scripsit populare maxime esse mercedem omnibus dare concionibus senatui judiciis et magistratibus et ex concionibus maxime ordinariis et magistratibus imprimis iis una esse et inter vesci quotidie cogenterentur*.

For when the scripture itself can tell us, that *operarius mercede dignus*, the workman is worthy of his hire, or to be paid for his labour; and justice itself persuades it, if the client or party immediately concerned, who is most properly to do it, shall not pay it, the king is to do it by a stipend or salary yearly, to be paid out of the common treasury: which being to be furnished or supplied by the people, will return heavier again upon them, and lay a burden upon those which should not bear it, or never in their lives may have any occasion to sue for remedies at law, or be petitioners either as plaintiffs or defendants for justice.

And the defendants, and such as are innocent and victors, must in those public assessments or contributions help to bear the prince's charges, and pay for the plaintiff's unjust vexations, if no fees or *sportulas* should be taken, but a constant and yearly salary should be given to officers and clerks, which, unless it be large, cannot probably be adequate to the skill, industry, labours, and fidelity of the officers and clerks, which, in the casualties and contingencies of actions and business, cannot well be foreseen, or

^a Grotius Comment. in 17 Deut. 9.
Sigonius de Rep. Athen. lib. 2. cap. 3, 495, 496.

^b Ibidem.

^c Demosthenes adversus Timocratem.

made to be proportionable thereunto by any just measure to be taken before-hand, or any prospect which can possibly be made of it.

And therefore a yearly stipend or salary being likely to be either too narrow or too large, will, if plentiful, or too much, violate the rule or purpose of justice; or, if too little, put a sinful necessity upon the officers to do their business lazily and carelessly, or stir up in them a greedy and craving appetite and temptation of taking the advantages of all opportunities to satisfy those appetites, or that which they shall sinfully conceive to be a recompence for their labours; the wickedness and inconveniences whereof have been sufficiently held forth unto us by what hath been seen, felt, heard, and understood in the yearly stipends or salaries, with a restraint of taking any other fees heretofore given to officers and clerks, both in England and Scotland, in our late times of pretences, rather than reformati^ons, when those public spirits, as they thought themselves, made up of the outsides of holiness, did only gather in their prey, and a greater than otherwise they could have done, under colour of it.

And the plaintiff, by paying and depositing that most commonly small sum of money before-hand, or giving of it, doth it but in the confidence of the justice of his cause, and hopes to recover it of him that did him wrong.

And if his action proves to be unjust, did but justly pay for his abusing of the ears of justice by his unjust complaint or vexation put upon the innocent, who, having costs allowed him, and a means to recover it, hath no reason to claim any share or part in the money paid for the fine, if it were a *depositum*, for that it would then be as a *caducum*, or thing which neither the plaintiff nor defendant, after it is paid, can have any title unto; and is therefore, according to the ancient custom, if it were not an *oblatum* (which it is rather conceived to be) to be paid to the king: whose lord chancellor hath, towards his support in that high and eminent place and care of justice under the sovereign, one part in four allowed him; the master of the rolls another part; and the cursitor, or clerk that makes the original writ, the moiety of the other two parts. And in the highest time of suits in law of that kind, when they were four times as much or more than now, amounted to no more then five thousand pounds per annum amongst them all, or little more than a third part of that miscalled sum of twelve thousand pounds per annum, which some of the members of the Long Parliament were (by the factious and giddy calculations of those little foxes that could spoil any vineyard they did but bark at) well contented to believe.

And must otherwise, as to their support and employment, have been satisfied either by the people or the king, which is the head and well-being of the body politick, is, as in the natural, to be supported by the members; and with the greater reason in this particular of the fines upon original writs issuing out of the Chancery, for that whether they be as *depositas* or oblations, or mulcts imposed *pro falso clamore*, if the profit were greater, it will be but a small part of the people's retribution and thankfulness for the great charges of the king, amounting to near as much as twenty thousand pounds per annum, for the salaries of his judges and ministerial officers in the administration and execution of justice, the safe keeping of the records thereof, and giving cheap and easily-to-be-obtained remedies to his subjects and people for all their complaints and grievances, "who cannot, without the blemish of a great ingratitude, take it to be any thing less than right reason," saith the excellently learned Sir Francis Bacon, "that the benefited subject should render some small portion of his gain, as well for the maintenance of those rivulets and springs of justice, and his own ease and commodity arising thereby, as for the supportations of the king's expences, and the reward of the labours of those who are wholly employed in the making of writs remedial;" and therefore it was well said by Littleton, 34 H. VI. fo. 38, "That the Chancellor of England is not bound to make writs without the due fees for the writing and seals of them."

And hath had so general an allowance of nations, as that the custom of paying fines or some little oblations at the commencement of their suits, is at this day continued amongst many of our neighbour nations.

For the Emperor or Great Duke of Russia¹ hath five *alteenes*, or so many five pence sterling, for every name containing in every writ which passed out of his courts of justice, besides a penalty or mulct of twenty *dingoes* or pence upon every ruble or mark, which is to be paid by the party convicted by law.

In Florence and Tuscany,² *Litigantes omnes cum primum actionem suam instaurant certam summam duci solvunt quam sportulam vocant.* And by an edict or proclamation of King Charles IX., who reigned in France in the time of our Queen Elizabeth, every man is to deposit two crowns upon the commencing of any action, *eosdem ab eo quem judicio superasset recuperaturus, aut suæ temeritatis si vinceretur justam penam laturus*,³ to be had again and recovered of him which is overcome, or otherwise is to lose it, as a just punishment for bringing his action for that which he had no right unto.

And the Dutch, who pretend so much to liberty, have taken it to be so little or no prejudice at all unto their freedom, as they do in this our present age or century, besides two stivers taken upon every order or petition in any court of justice, for the lesser seal with which the paper upon which it is written is marked, and four stivers, or our four pence half-penny, for a greater seal imposed, and do take it at the beginning of every action or suit, to be paid to the states, thirty stivers, or three shillings English, for every fifty florins, or five pounds English of the sum demanded, as a *vetigal temerariè litigantium*, a fine or punishment for those which do not maintain or make good their actions: Which far exceeds the rate and manner of our fines paid upon the beginning of every action.

And by laying some charge upon the fertility of contentions, and in punishing such as, without just cause of action, do molest and trouble one another, have but done therein as the Hebrews or children of Israel did, upon whom the light of the wisdom of the Most High did first shine, when finding that nation, as Rabbi Maimon saith, to be *litiosum genus hominum duplum rependere coegerunt qui debitum scienter denegarent, et non incongruum sacræ pagine videtur*; and is not repugnant to the reason and equity of God's own law, wherein he ordained that the⁴ trespasser should pay double damages; which the paying of costs with us, either single or double, in finable or not finable actions, did never arrive unto.

And is much better than, when as anciently, until a better course and way of bringing men to justice was found out, by establishing of fixed and certain courts, times and place of justice, with less trouble to the people.

They did, where they did not foully contend or fight it out by the bloody and direful chance of might or power of parties, make choice of arbitrators, and bear their charges, (which when the law was in *cunabulis*, every one which hath travelled but easy journies in the civil law, and the law of nations, knows to be frequent) to meet at an equal distance, or other convenient place, or at their houses.

Or when, as it appeareth by Marculfus, who, living near the time of Charlemain the emperor,⁵ wrote about eight hundred years ago; and Bignonius's Notes or Comment upon him; it was the custom in the reign of Charlemain, that judges being made itinerant by commission to hear and determine causes at the houses of those that complained for want of justice, did not only, *freda exigere*, take a third part of the fine or

¹ Fletcher's Hist. of Russia.

² Bodin lib. 6. de Repub.

³ Exod. 22. p.

⁴ Begethus de Principibus Italiae.

Philippus Cæsius à Zefen in Leone Belgico.

⁵ Marculfus Formules et Bignonii notæ in eundem.

penalty for themselves, and enforced their entertainments to be defrayed; but *redhibitions*, some other fees and rewards to be given to them.

Insomuch as some abbies and monasteries beyond the seas, and our largely privileged abbey of St Albans in England, who were well enough fitted for publick entertainments and hospitality, and much used unto it; and diverse great cities and towns, did so little like of that trouble which those kind of judges,* and their then necessary and greater trains and retinues brought upon them, as they made shift to obtain immunities and privileges from their kings to be freed from those kinds of troubles.

Which may the more persuade the right usage and reasonableness of fees in courts of justice or chancery, where the reason and difference of fees in and through all ages and times, in the custom and usage of courts in this and all places of Christendom, have been grounded and made to be, 1. According to the labour in writing. 2. A more special care and skill to be taken and used, as in a real action more than in a personal. 3. The quality of the judge, and the superiority or eminency of the court which granteth it. As more in parliament, where the House of Commons takes for the least order that is made six shillings and eight pence, and the House of Peers fourteen shillings and six pence, or more, according to the length; more in the Chancery for an order than in the King's Bench or Common Pleas; and lesser fees in the inferior or pipowder courts than in the superior: And therefore when a justice of peace shall take two shillings and four pence for his warrant or writ, a writ issuing out of the high court of Chancery may justly claim to be as much, that of sixpence, which they have now for every writ besides the fine; or where it is not finable, being far too little, and so below encouragement of their labours, fidelity, and well-being, as may put them either into a carelessness of doing their business as they should do, (which, when the fines were put down, were sufficiently experimented) or a temptation to do things which they should not do.

Or if the fee but of six-pence more should be added to their fee for common writs, if the fines should be taken away, and a recompence of seven hundred pounds, or one thousand pounds per annum, granted by the king to the lord chancellor, and as much to the master of the rolls, and their successors, for what they shall be losers by the taking away of the fines, it would altogether amount to a greater charge upon the people than it was twenty years ago, when the accompt of the fines was a great deal more than in the last year.

And if they should have so much for every common writ, whereupon no fine is paid, which in London, where most fines are paid, are not one in every twenty; and in the country, where few finable writs happen, are not one in every two hundred; the charge thereof making many to bear the burthen of a few, would be unequal and unjust, and more to the subject in general, than that which upon seldom or particular cases are now paid.

Which may please the people's fancies, but will in the end or consequence of it but delude their imaginations; and they will readily find no more ease thereby, than he that is to carry a bushel of wheat shall do, when he shall put some in his large pockets, some in his boots or stockings, or some in a hawking-bag at his girdle, and carry the rest upon his shoulders; or one that shall be so wise as to think a pound of feathers to be less in weight than a pound of lead.

Wherefore all things being, as they ought to be, duly considered, and the great benefit which all the people of England do receive by having a court of chancery, and *officina justitiæ*, and the several offices therein open, as well in the vacations, as terms, to resort unto for their writs remedial, and of course, being as a balm of Gilead, never

denied to any that want it; and not being put to petition for them to the king, or his lord chancellor, as anciently and originally all men did for their writs, or to be at much expence of money and time to obtain orders thereupon; and that men of no ordinary judgments and experience in the courts of Common Pleas, did find themselves deceived in their opinions, when they did verily believe that when the fines in Chancery should be taken away, as they were for six or seven years in the time of the late confusion and usurpation, by an act of parliament, as it was then so called, a great encrease of business would have followed in that court, but could never perceive any; or, if any, it was so very small as it was not discernable.

When it is well known that fines (when the business was by many times or parts a great deal more than now it is) were chearfully and willingly paid.

That the unwillingness of some of the people to pay them, is by reason of an illegal track or beaten road of suing actions in the King's Bench, which do by law belong to the court of Common Pleas, and the attorneys of the court of Common Pleas do more than needs for their own ease and advantage, and to trouble themselves as little as they can with the learning of the law, or the knowlege how to frame an action, sue almost as many actions out of that court as their own, the cheapness of the *lutitat*, and other fees in that court, being more than is or can be in the court of Common Pleas, if the fines were taken away.

That the cheapness of process and contention doth not seldom breed, encourage, and heighten the humour of suits and controversies, as is daily experimented in ten or twelve thousand bills of Middlesex, taken forth to arrest men in every year in that small county and jurisdiction, because they are easily and quickly had for eighteen pence a-piece.

And by the broom-men (since the extravagancies of the Marshalsea court, by their taking cognizance of all manner of personal actions within the verge, or twelve miles of the king's courts, where neither plaintiffs or defendants are of the king's household) who, whilst they are crying brooms in the streets, and in Clifford's-Inn, can ask at the same time for the office of the Marshalsea, and for a writ of eighteen pence, and go to law with one another for many times less than the writs cost them.

And that such a cheapness may be as prejudicial to the people as that old law was amongst the Romans; which, when money was more scarce than it was afterwards, did enact, That whosoever did strike a man upon the mouth or face, should pay to the party beaten twenty and five asses, which were a certain small coin, about the value of our English half-penny.

But the wealth of Rome increasing, and that penalty coming to be very little, one Neratius, a rich Hector, or debauched gentleman of those times, finding how cheap it was to beat men, did frequently, as he went along the streets, strike on the mouth or face such as he thought fitting, and presently command his servant attending him with a bag of money, to pay the money, or recompence, which the law awarded him; which gave the senate of Rome the occasion to repeal that law, and put the power in the prætor, or lord chief justice, to punish such offenders arbitrarily.

And it will not once only, but always, be more for the good of the people, that the very ancient, rational, and legal usage now held of paying fines in Chancery be continued; which cannot in a more easy and just way be charged upon the subjects who receive a benefit by them. And that for a supply of the king's now languishing and too small a revenue.

The courts of the King's-Bench and Marshalsea, and office of pleas in the Exchequer, upon their writs of *Quo Minus*, which of all the king's courts should most advance, and least hinder his majesty's just rights and revenues, if they will (as they

* Bidin. lib. 6. Repub. 1196.

should not) stretch their jurisdiction further than they ought to do, and hold pleas, or take a cognizance where they should not, may be ordered, as is usually done in Chancery upon writs returnable in the court of Common Pleas, to pay fines upon such writs, and that upon every of such writs taken forth, and before they shall be sealed the plaintiff's attorney do endorse the sum of money which he demands bail for, or intends to declare for, and pay to the king's receiver to be appointed for that purpose, such fines as shall be due and payable, according to the rates now used in Chancery.

Which will the more conduce to the good of the people, than their not paying of fines upon some few original writs, when as those troublesome and vexatious writs of *latitat*, *quo minus*, and bills of Middlesex, shall be thereby somewhat kept within their legal bounds and limits, and not be made use of upon meer fictions and pretences, to promote the malicious ends and designs of ill-disposed people, and the process of those courts abused, and made the instruments of men's oppressing one another. Not to be suffered by those whose oaths are not to permit any thing to be done in disherison of the crown; nor to be practised by the people, whose oaths of allegiance and supremacy should dissuade them from diminishing or taking away any of the king's regalities or jurisdiction, when as their forefathers, and the days of old, may tell them and their posterities, and after generations will find it, that their welfare and happiness is included in the king's; that the lessening of his legal revenues will but lessen and inconvenience their own; that his good is more to be taken care of than any man's particular, by how much every man's particular is comprehended in the universal; and that the king cannot well protect and defend them and their particular estates, if his own shall be daily diminished, purloined, or kept from him.

The Impeachment of the Duke and Dutchess of Lauderdale, with their Brother, my Lord Hatton. Presented to his Majesty by the City of Edinburgh.

The infamous tyranny of the Duke of Lauderdale in Scotland occasioned complaints against him too grievous and too loud to be suppressed, even by the arbitrary authority which he exerted to drown them. Mr Laing gives the following account of his impeachment, and of its bad success:—

“ Notwithstanding the prohibition to quit the kingdom, fourteen peers and fifty gentlemen, of whom Duke Hamilton was threatened, and the Earls of Cassilis and Loudoun, Lord Cochran and others, were charged with lawburrows, and denounced outlaws, repaired to court, and were joined in their complaints by Athol and Perth, two of the committee of council employed in the west. As they had departed without permission, an audience was refused. But the invasion and sufferings of the western counties had excited universal execration; and amidst the fervid debates of the English commons the voice of two nations was too powerful to be resisted. Was this the spirit of government which was displayed in Scotland? Or were these the measures to be adopted in England when the dark designs of the court were mature for execution? An address for Lauderdale's removal was rejected; but it was necessary to suspend his enormities, to recal the lawburrows and bands, and to disband the army; and the highlanders, after exacting free quarters and wasting the country for three months, were dismissed with impunity and wealth to their hills. Hamilton and the chief nobility were heard in presence of the cabinet council, and, when taxed by the king with disobedience to his proclamations in repairing to

court, their only answer was their sufferings and complaints. In the midst of profound tranquillity, when not a shadow nor surmise of insurrection existed; to let one part, the most barbarous of the nation, loose against the other; to instigate the excesses of the one by a previous indemnity; to devote the other like a hostile country to indiscriminate ravage, was without example in a civilized state. Lauderdale, who remained in Scotland secure of impunity, was vindicated by Danby and the Duke of York. Field conventicles had been styled in the late acts the rendezvous of rebellion; and it was inferred from this rhetorical expression, that wherever conventicles prevailed, the country was in a state of actual insurrection and revolt. Free quarters for a few days were of little estimation, when the fortunes and lives of the people were proffered by parliament for his majesty's support; the bonds were tendered, not enforced as an exemption from free quarters; and where the king was apprehensive of danger from his own subjects, the writ of lawburrows was a just and necessary alternative for the bonds. The miserable apologies to which tyranny must resort, dishonour and degrade the tongue that utters, and the understanding that receives them. The Scottish nobility imagined at first that their sovereign was touched with pity and compunction at their wrongs; but when he required their complaints to be produced in writing, when they demanded an indemnity from lease-making before they preferred an accusation against the privy council, his positive refusal revealed the insidious design. Unwilling to disown a minister, who had exceeded perhaps in the execution of his express commands, he declared that he was well assured of an insurrection intended in Scotland, but it should be his care that the actors should suffer, and bestowed next day, in a letter which cannot be ascribed to Lauderdale, a full approbation on the measures of council, because the nobility, from the iniquity of its administration, durst not subscribe their just complaints."—*LAING'S History of Scotland*, II. 81.

"In the meantime the Scottish lords had obtained an audience, and counsel were fully heard on their complaints. But the principal charges were prejudicated by Charles, who declared that it belonged to the crown to dispose of offices, therefore to incapacitate from public trust; to prevent conspiracies, therefore to imprison suspected persons; to suppress insurrections, therefore to raise and distribute troops at discretion, to quarter or employ them as his exigencies required; nor in those particulars would he suffer his prerogative to be impeached or touched. A declaration, the most extraordinary perhaps ever uttered by a limited monarch, was combated with a spirit honourable to the memory of Lockhart, who asserted, that the places from which persons thus incapacitated had been arbitrarily excluded, were conferred by the free suffrage of the people in their corporations or counties; and that his majesty's opinions respecting conspiracies and insurrections were inconsistent with the ends for which government was established. It appeared indisputable, that Lauderdale's administration was rapacious, cruel, unjust, and perfidious; and that the introduction of a barbarous horde to live at free quarters on the country in profound peace, was prohibited by the express laws and constitution of the realm. Mackenzie was reduced to the wretched subterfuge, that as conventicles were figuratively styled in the laws the rendezvous of rebellion, the counties where these predominated were in a state of actual revolt. Essex and Hallifax declared that the complaints were fully established; the former acknowledged that the Scots were entitled by their constitution to greater freedom than the English themselves; but they were afraid to substitute Monmouth to Lauderdale; and the king was not ashamed to absolve the administration which he was unable to vindicate. It was determined, that nothing had been done by Lauderdale but what his majesty had commanded, and would uphold by his prerogative, which was above all law. In private, he acknowledged that many detestable things had been done by Lauderdale against the Scots, but that nothing against his service had appeared; a sentiment not less dishonourable than natural to a sovereign, who forgets, when he separates his interest from the people, that he creates an interest in opposition to the throne."—*Ibid.* 94.

The Matters of Fact particularly relating to the Town of Edinburgh, humbly offered for your Majesty's Information.

Before the Matter of Fact be spoke to, it is necessary that your Majesty be informed of one Thing upon which this whole Affair hath moved.

THE city of Edinburgh had at several times given considerable sums of money to the Duke of Lauderdale, amounting to upward of twelve thousand pounds sterling, and the Lord Hatton, brother to the said duke, being intraged by that their former practice, and being arrived to great height and influence in the administration of your majesty's affairs in Scotland, did thereupon resolve on a design of getting money for himself also from them, as will appear to your majesty by the following narration; but the magistrates at that time, and others, as had then the principal influence in the administration of affairs in that town, being honest men of good fortunes, and not to be brought to comply with his design, he bethought himself of all ways to vex them; and knowing they did much value the prosperity of the town, he thought that the first means for promoting that his design, was to have them threatned with removing your majesty's publick judicatures from that city to Stirling, and persuaded his brother the Duke of Lauderdale to move your majesty to that purpose; but being disappointed of that project by your majesty's royal wisdom, your majesty looking upon it as if it were to declare to the world that you were jealous of so great a part of that your ancient kingdom, he bethought himself of new ways to accomplish his design, for which he judged nothing so proper and effectual as to disturb them in the choice of their magistrates and town council; and by all means possible to get some of his own chusing, fit for his own ends, brought into the administration of the affairs of that city. In order to which, being impatient of any longer delay, he laid hold of what follows, being the first occasion that offered, though a very frivolous one.

At Michaelmas 1674, the said city of Edinburgh being to go about the election of their magistrates for the ensuing year, there was procured a letter from your majesty to your privy council, commanding them to forbid the magistrates and town council to proceed in their elections, but to continue the magistrates that then were, till your majesty's further pleasure should be known; the reason suggested to your majesty for it was taken from this circumstance, that the election ought to be made upon th Tuesday after Michaelmas, and (it happening this year that Michaelmas fell to be on a Tuesday,) they were resolved to proceed to their elections upon Michaelmas day.

Though this was a very small matter, and upon very good and prudent considerations, resolved, as will afterward appear, yet was it represented to your majesty as a factious design, and an innovation of dangerous consequence, tending to create a d maintain faction in that city, contrary to your majesty's service. Your majesty's aforesaid letter being intimated to the magistrates and town council, they did immediately give an exact obedience to the same.

They did also represent to your majesty's privy council, the rights that they had for chusing their own magistrates, which had been granted to them by many of your majesty's royal ancestors, and confirmed by many parliaments; by virtue of which they humbly conceived they ought to be suffered to proceed in their elections.

They did also represent to your majesty's privy council, the reasons which had moved them to resolve of making their elections on the said Tuesday, being Michaelmas day, which in short were, that by their constitution they were obliged upon the Friday before Michaelmas to make the list out of which the magistrates are to be chosen; after the doing of which there is a surcease and vacation of all ordinary courts of judicature within the town, and the whole time is spent by the common people and trades-