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Letter XX

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does not always take the lead of faction, will be sure in the end to make the most fatal advantage of it, and draw it to its own purposes. But, I trust, our day of trial is yet far off; and there is *a fund of good sense in this country, which cannot long be deceived*, by the arts either of false reasoning or false patriotism.

## LETTER XX.

TO THE PRINTER OF THE PUBLIC  
ADVERTISER.

SIR,

8. August, 1769.

THE gentleman, who has published an answer to Sir William Meredith's pamphlet, having honored me with a postscript of six quarto pages, which he moderately calls, bestowing a *very few* words upon me, I cannot, in common politeness, refuse him a reply. The form and magnitude of a quarto imposes upon the mind; and men, who are unequal to the labor of discussing an intricate argument, or wish to avoid it, are willing enough to suppose, that much has been proved, because much has been said. Mine, I confess are humble labors. I do not presume to instruct the learned, but simply to inform the body of the people; and I prefer that channel of conveyance, which is likely to spread farthest among them. The advocates of the ministry seem to me to write for fame, and to flatter themselves, that the size of

their works will make them immortal. They pile up reluctant quarto upon solid folio, as if their labors, because they are gigantic, could contend with truth and heaven.

The writer of the volume in question meets me upon my own ground. He acknowledges there is no statute, by which the specific disability we speak of is created, but he affirms, that the custom of parliament has been referred to, and that a case strictly in point has been produced, with the decision of the court upon it. — I thank him for coming so fairly to the point. He asserts that the case of Mr. Walpole is strictly in point to prove that expulsion creates an absolute incapacity of being re-elected; and for this purpose he refers generally to the first vote of the house upon that occasion, without venturing to recite the vote itself. The unfair, disingenuous artifice of adopting that part of a precedent, which seems to suit his purpose, and omitting the remainder, deserves some pity, but cannot excite my resentment. He takes advantage eagerly of the first resolution, by which Mr. Walpole's incapacity is declared; but as to the two following, by which the candidate with the fewest votes was declared "not duly elected, and the creation itself vacated, I dare say he would be well satisfied, if they were for ever blotted out of the journals of the house of commons. In fair argument, no part of a precedent should be admitted, unless the whole of it be given to us together. The author has divided his precedent, for he knew, that, taken together, it produced

a consequence directly the reverse of that, which he endeavours to draw from a vote of expulsion. But what will this honest person say, if I take him at his word, and demonstrate to him, that the house of commons never meant to found Mr Walpole's incapacity upon his expulsion only? What subterfuge will then remain?

Let it be remembered that we are speaking of the intention of men, who lived more than half a century ago, and that such intention can only be collected from their words and actions, as they are delivered to us upon record. To prove their designs by a supposition of what they would have done, opposed to what they actually did, is mere trifling and impertinence. The vote, by which Mr. Walpole's incapacity was declared, is thus expressed, "That Robert Walpole, Esq; having been this session of parliament committed a prisoner to the Tower, and expelled this house for a breach of trust in the execution of his office, and notorious corruption when secretary at war, was and is incapable of being elected a member to serve in this present parliament \*." Now, Sir, to my understanding,

\* It is well worth remarking, that the compiler of a certain quarto, called *The case of the last election for the county of Middlesex considered*, has the impudence to recite this very vote in the following terms, vide page 11, "Resolved, that Robert Walpole, Esq; having been that session of parliament expelled the house, was and is incapable of being elected a member to serve in the present parliament." There cannot be a stronger positive proof of the treachery of the compiler, nor a stronger presumptive proof that he was convinced that the vote, if truly recited, would overturn his whole argument.

no proposition of this kind can be more evident, than that the house of commons, by this very vote, themselves understood, and meant to declare, that Mr. Walpole's incapacity arose from the crimes he had committed, not from the punishment the house annexed to them. The high breach of trust, the notorious corruption are stated in the strongest terms. They do not tell us that he was incapable because he was expelled, but because he had been guilty of such offences as justly rendered him unworthy of a seat in parliament. If they had intended to fix the disability upon his expulsion alone, the mention of his crimes in the same vote would have been highly improper. It could only perplex the minds of the electors, who, if they collected any thing from so confused a declaration of the law of parliament, must have concluded that their representative had been declared incapable because he was highly guilty, not because he had been punished. But even admitting them to have understood it in the other sense, they must then, from the very terms of the vote, have united the idea of his being sent to the Tower with that of his expulsion, and considered his incapacity as the joint effect of both\*.

\* ADDRESSED TO THE PRINTER OF THE PUBLIC  
ADVERTISER.

SIR,

22. May, 1771.

VERY early in the debate upon the decision of the Middlesex election, it was observed by *Junius*, that the house of commons had not only exceeded their boasted

I do not mean to give an opinion upon the justice of the proceedings of the house of commons with regard to Mr. Walpole; but certainly, if I adhere to the precedent of the expulsion and subsequent incapacitation of Mr. Walpole, but that they had not even adhered to it strictly as far as it went. After convicting Mr. Dyson of giving a false quotation from the Journals, and having explained the purpose, which that contemptible fraud was intended to answer, he proceeds to state the vote itself, by which Mr. Walpole's supposed incapacity was declared, viz. — "Resolved, That Robert Walpole, Esq; having been this session of parliament committed a prisoner to the Tower, and expelled this house for a high breach of trust in the execution of his office, and notorious corruption when secretary at war, was and is incapable of being elected a member to serve in this present parliament:" — and then observes that, from the terms of the vote, we have no right to annex the incapacitation to the *expulsion* only, for that, as the proposition stands, it must arise equally from the expulsion and the commitment to the Tower. I believe, Sir, no man, who knows any thing of Dialectics or who understands English, will dispute the truth and fairness of this construction. But Junius has a great authority to support him, which, to speak with the Duke of Grafton, I accidentally met with this morning in the course of my reading. It contains an admonition, which cannot be repeated too often. Lord Sommers, in his excellent tract upon the rights of the people, after reciting the votes of the convention of the 28. of January 1689, viz. — "That King James the second, having endeavoured to subvert the constitution of this kingdom by breaking the original contract between King and people, and by the advice of Jesuits and other wicked persons having violated the fundamental laws, and having withdrawn himself out of this kingdom, hath abdicated the government,

mitted their censure to be well founded, I could no way avoid agreeing with them in the consequence they drew from it. I could never have a doubt, in law or reason, that a man, convicted of

&c."—makes this observation upon it. "The word *abdicated* relates to *all* the clauses foregoing, as well as to his deserting the kingdom, or else they would have been wholly in vain." And that there might be no pretence for confining the *abdication* merely to the *withdrawing*, Lord Sommers farther observes, *that king James, by refusing to govern us according to that law, by which he held the crown, implicitly renounced his title to it.*

If *Junius's* construction of the vote against Mr. Wapole be now admitted, (and indeed I cannot comprehend how it can honestly be disputed) the advocates of the house of commons must either give up their precedent entirely, or be reduced to the necessity of maintaining one of the grossest absurdities imaginable, viz. "That a commitment to the Tower is a constituent part of, and contributes half at least to the incapacitation of the person who suffers it."

I need not make you any excuse for endeavouring to keep alive the attention of the public to the decision of the Middlesex election. The more I consider it, the more I am convinced that, as a *fact*, it is indeed highly injurious to the rights of the people; but that, as a *precedent*, it is one of the most dangerous that ever was established against those who are to come after us. Yet I am so far a moderate man, that I verily believe the majority of the house of commons, when they passed this dangerous vote, neither understood the question, nor knew the consequence of what they were doing. Their motives were rather despicable, than criminal, in the extreme. One effect they certainly did not foresee. They are now reduced to such a situation, that if a member of the present house of commons were to conduct himself ever so improperly, and

a high breach of trust, and of a notorious corruption, in the execution of a public office, was and ought to be incapable of sitting in the same parliament. Far from attempting to invalidate that vote, I should have wished that the incapacity declared by it could legally have been continued for ever.

Now, Sir, observe how forcibly the argument returns. The house of commons, upon the face of their proceedings, had the strongest motives to declare Mr. Walpole incapable of being re-elected. They thought such a man unworthy to sit among them;—To that point they proceeded, no farther; for they respected the rights of the people, while they asserted their own. They did not infer, from Mr. Walpole's incapacity, that his opponent was duly elected; on the contrary they declared Mr. Taylor "Not duly elected," and the election itself void.

in reality deserve to be sent back to his constituents with a mark of disgrace, they would not dare to expel him; because they know that the people, in order to try again the great question of right, or to thwart an odious house of commons, would probably overlook his immediate unworthiness, and return the same person to parliament.—But, in time, the precedent will gain strength. A future house of commons will have no such apprehensions, consequently will not scruple to follow a precedent, which they did not establish. The Miser himself seldom lives to enjoy the fruit of his extortions; but his heir succeeds him of course, and takes possession without censure. No man expects him to make restitution, and, no matter for his title, he lives quietly upon the estate.

PHILO JUNIUS.

Such, however, is the precedent, which my honest friend assures us is strictly in point to prove, that expulsion of itself creates an incapacity of being re-elected. If it had been so, the present house of commons should at least have followed strictly the example before them, and should have stated to us, in the same vote, the crimes for which they expelled Mr. Wilkes; whereas they resolve simply, that, "having been expelled, he was and is incapable." In this proceeding, I am authorized to affirm, they have neither statute, nor custom, nor reason, nor one single precedent to support them. On the other side, there is indeed a precedent so strongly in point, that all the enchanted castles of ministerial magic fall before it. In the year 1698, (a period which the rankest Tory dare not except against) Mr. Wollaston was expelled, re-elected, and admitted to take his seat in the same parliament. The ministry have precluded themselves from all objections drawn from the cause of his expulsion, for they affirm absolutely, that expulsion of itself creates the disability. Now, Sir, let sophistry evade, let falsehood assert, and impudence deny—here stands the precedent, a land-mark to direct us through a troubled sea of controversy, conspicuous and unremoved.

I have dwelt the longer upon the discussion of this point, because, in *my* opinion, it comprehends the whole question. The rest is unworthy of notice. We are inquiring whether incapacity be or not be created by expulsion. In the cases of Bedford and Malden, the incapacity of the persons returned, was matter of public notoriety, for it was created by act

of parliament. But, really, Sir, my honest friend's suppositions are as unfavorable to him as his facts. He well knows that the clergy, besides that they are represented in common with their fellow-subjects, have also a separate parliament of their own; — that their incapacity to sit in the house of commons has been confirmed by repeated decisions of the house, and that the law of parliament, declared by those decisions, has been for above two centuries notorious and undisputed. The author is certainly at liberty to fancy cases, and make whatever comparisons he thinks proper; his suppositions still continue as distant from fact, as his wild discourses are from solid argument.

The conclusion of his book is candid to extreme. He offers to grant me all I desire. He thinks he may safely admit that the case of Mr. Walpole makes directly against him, for it seems he has one grand solution *in petto* for all difficulties. *If*, says he, *I were to allow all this, it will only prove, that the law of election was different, in Queen Anne's time, from what it is at present.*

This indeed is more than I expected. The principle, I know, has been maintained in fact, but I never expected to see it so formally declared. What can he mean? does he assume this language to satisfy the doubts of the people, or does he mean to rouse their indignation; are the ministry daring enough to affirm, that the house of commons have a right to make and unmake the law of parliament at their pleasure?—Does the law of parliament, which we are so often told is the law of the land;—does the

common right of every subject of the realm depend upon an arbitrary capricious vote of one branch of the legislature?—The voice of truth and reason must be silent.

The ministry tell us plainly that this is no longer a question of right, but of power and force alone. What was law yesterday is not law to-day: and now it seems we have no better rule to live by than the temporary discretion and fluctuating integrity of the house of commons.

Professions of patriotism are become stale and ridiculous. For my own part, I claim no merit from endeavouring to do a service to my fellow-subjects. I have done it to the best of my understanding; and, without looking for the approbation of other men, my conscience is satisfied. What remains to be done concerns the collective body of the people. They are now to determine for themselves, whether they will firmly and constitutionally assert their rights; or make an humble, slavish surrender of them at the feet of the ministry. To a generous mind there cannot be a doubt. We owe it to our ancestors to preserve entire these rights, which they have delivered to our care: we owe it to our posterity, not to suffer their dearest inheritance to be destroyed. But if it were possible for us to be insensible of these sacred claims, there is yet an obligation binding upon ourselves, from which nothing can acquit us,—a personal interest, which we cannot surrender. To alienate even our own rights, would be a crime as much more enormous than suicide, as a life of civil security and freedom is superior

to a bare existence; and if life be the bounty of heaven, we scornfully reject the noblest part of the gift, if we consent to surrender that certain rule of living, without which the condition of human nature is not only miserable, but contemptible.

JUNIUS.

## LETTER XIV.

ADDRESSED TO THE PRINTER OF THE PUBLIC  
ADVERTISER.

SIR,

22. *August*, 1769.

**I** Must beg of you to print a few lines, in explanation of some passages in my last letter, which I see have been misunderstood.

1. When I said, that the house of commons never meant to found Mr. Walpole's incapacity on his expulsion *only*, I meant no more than to deny the general proposition, that expulsion *alone* creates the incapacity. If there be any thing ambiguous in the expression, I beg leave to explain it by saying, that, in my opinion, expulsion neither creates, nor in any part contributes to create the incapacity in question.

2. I carefully avoided entering into the merits of Mr. Walpole's case. I did not inquire, whether the house of commons acted justly, or whether they truly declared the law of parliament. My remarks