

www.e-rara.ch

Junius

Junius

Basil, MDCCXCV [1795]

Universitätsbibliothek Basel

Shelf Mark: UBH AO III 67

Persistent Link: <https://doi.org/10.3931/e-rara-98419>

Letter XXII

www.e-rara.ch

Die Plattform e-rara.ch macht die in Schweizer Bibliotheken vorhandenen Drucke online verfügbar. Das Spektrum reicht von Büchern über Karten bis zu illustrierten Materialien – von den Anfängen des Buchdrucks bis ins 20. Jahrhundert.

e-rara.ch provides online access to rare books available in Swiss libraries. The holdings extend from books and maps to illustrated material – from the beginnings of printing to the 20th century.

e-rara.ch met en ligne des reproductions numériques d'imprimés conservés dans les bibliothèques de Suisse. L'éventail va des livres aux documents iconographiques en passant par les cartes – des débuts de l'imprimerie jusqu'au 20e siècle.

e-rara.ch mette a disposizione in rete le edizioni antiche conservate nelle biblioteche svizzere. La collezione comprende libri, carte geografiche e materiale illustrato che risalgono agli inizi della tipografia fino ad arrivare al XX secolo.

Nutzungsbedingungen Dieses Digitalisat kann kostenfrei heruntergeladen werden. Die Lizenzierungsart und die Nutzungsbedingungen sind individuell zu jedem Dokument in den Titelinformationen angegeben. Für weitere Informationen siehe auch [Link]

Terms of Use This digital copy can be downloaded free of charge. The type of licensing and the terms of use are indicated in the title information for each document individually. For further information please refer to the terms of use on [Link]

Conditions d'utilisation Ce document numérique peut être téléchargé gratuitement. Son statut juridique et ses conditions d'utilisation sont précisés dans sa notice détaillée. Pour de plus amples informations, voir [Link]

Condizioni di utilizzo Questo documento può essere scaricato gratuitamente. Il tipo di licenza e le condizioni di utilizzo sono indicate nella notizia bibliografica del singolo documento. Per ulteriori informazioni vedi anche [Link]

went only to their apparent meaning and intention, as it stands declared in their own resolution.

3. I never meant to affirm, that a commitment to the Tower created a disqualification. On the contrary, I considered that idea as an absurdity, into which the ministry must inevitably fall, if they reasoned right upon their own principles.

The case of Mr. Wollaston speaks for itself. The ministry assert that *expulsion alone* creates an absolute, complete incapacity to be re-elected to sit in the same parliament. This proposition they have uniformly maintained, without any condition or modification whatsoever. Mr. Wollaston was expelled, re-elected, and admitted to take his seat in the same parliament,—I leave it to the public to determine, whether this be a plain matter of fact, or mere nonsense or declamation.

JUNIUS.

LETTER XXII.

TO THE PRINTER OF THE PUBLIC
ADVERTISER.

4. Sept. 1769.

Argument against Fact; or, A new system of political Logic, by which the ministry have demonstrated, to the satisfaction of their friends, that *expulsion alone* creates a complete incapacity to be re-elected; *alias*, that a subject of this realm

may be robbed of his common right, by a vote of the house of commons.

FIRST FACT.

MR. Wollaston, in 1698, was expelled, re-elected, and admitted to take his seat.

ARGUMENT.

As this cannot conveniently be reconciled with our general proposition, it may be necessary to shift our ground, and look back to the *cause* of Mr. Wollaston's expulsion. From thence it will appear clearly that, "although he was expelled he had not rendered himself a culprit too ignominious to sit in parliament, and that having resigned his employment, he was no longer incapacitated by law". *Vide Serious Considerations, page 23.* Or thus, "The house, somewhat inaccurately, used the word EXPELLED; they should have called it AMOTION". *Vide Mungo's case considered, page 11.* Or in short, if these arguments should be thought insufficient, we may fairly deny the fact. For example; "I affirm that he was not re-elected. The same Mr. Wollaston, who was expelled, was not again elected. The same individual, if you please, walked into the house, and took his seat there, but the same person in law was not admitted a member of that parliament, from which he had been discarded." *Vide Letter to Junius, page 12.*

SECOND FACT.

M. Walpole having been committed to the Tower,

and expelled for a high breach of trust and notorious corruption in a public office, was declared incapable, &c.

A R G U M E N T.

From the terms of this vote, nothing can be more evident than that the house of commons meant to fix the incapacity upon the punishment, and not upon the crime; but lest it should appear in a different light to weak, uninformed persons, it may be advisable to gut the resolution, and give it to the public, with all possible solemnity, in the following terms, viz. "Resolved, that Robert Walpole, Esq; having been that session of parliament expelled the house, was and is incapable of being elected member to serve in that present parliament". *Vide Mungo, on the use of quotations, page 11.*

N. B. The author of the answer to Sir William Meredith seems to have made use of Mungo's quotation, for in page 18, he assures us, "That the declaratory vote of the 17th of February, 1769, was indeed a literal copy of the resolution of the house in Mr. Walpole's case".

T H I R D F A C T.

His opponent, Mr. Taylor, having the smallest number of votes at the next election, was declared NOT DULY ELECTED.

A R G U M E N T.

This fact we consider as directly in point to prove that Mr. Luttrell ought to be the fitting member,

for the following reasons. "The burgesſes of Lynn could draw no other inference from this reſolution, but this, that at a future election, and in caſe of a ſimilar return, the houſe would receive the ſame candidate as duly elected, whom they had before rejected". *Vide Poſſcript to Junius, p. 37.* Or thus: "This their reſolution leaves no room to doubt what part they *would* have taken, if, upon a ſubſequent re-election of Mr. Walpole, there had been any other candidate in competition with him. For, by their vote, they could have no other intention than to admit ſuch other candidate." *Vide Mungo's caſe conſidered, p. 39.* Or take it in this light. — The burgesſes of Lynn having, in defiance of the houſe, retorted upon them a perſon, whom they had branded with the moſt ignominious marks of their diſpleaſure, were thereby ſo well entitled to favor and indulgence, that the houſe could do no leſs than rob Mr. Taylor of a right legally veſted in him, in order that the burgesſes might be apprized of the law of parliament; which law the houſe took a very direct way of explaining to them, by reſolving that the candidate with the feweſt votes was not duly elected: — "And was not this much more equitable, more in the ſpirit of that equal and ſubſtantial juſtice, which is the end of all law, than if they had violently adhered to the ſtrict maxims of law"? *Vide Serious Conſiderations, p. 33 and 34.* "And if the preſent houſe of commons had choſen to follow the ſpirit of this reſolution, they would have received and eſta bliſhed the candidate with the feweſt votes." *Vide Answer to Sir W. M. p. 18.*

Permit me now, Sir, to show you that the worthy Dr. Blackstone sometimes contradicts the ministry as well as himself. The Speech without doors asserts, page 9, "that the legal effect of an incapacity, founded on a judicial determination of a complete court, is precisely the same as that of an incapacity created by act of Parliament." Now for the Doctor. — *The law and the opinion of the judge are not always convertible terms, or one and the same thing; since it sometimes may happen that the judge may mistake the law.* Commentaries, Vol. I. p. 71.

The answer to Sir W. asserts, page 23, "That the returning officer is not a judicial, but a purely ministerial officer. His return is no judicial act." — At 'em again, Doctor. *The Sheriff, in his judicial capacity is to hear and determine causes of 40 shillings value and under in his county - court. He has also a judicial power in divers other civil cases. He is likewise to decide the elections of knights of the shire (subject to the control of the house of commons), to judge of the qualification of voters, and to return such as he shall DETERMINE to be duly elected.* Vide Commentaries, page 332. Vol. I.

What conclusion shall we draw from such facts and such arguments, such contradictions? I cannot express my opinion of the present ministry more exactly than in the words of Sir Richard Steele, "that we are governed by a set of drivellers, whose folly takes away all dignity from distress, and makes even calamity ridiculous."

PHILO JUNIUS.