



with that warmth which he honestly feels. It happens that he, and they who entertain similar opinions, were in the course of a long reign prevented from carrying congenial measures into execution, by certain unyielding scruples which put their object at an insuperable distance; and they were desired to wait for a certain time, when an event, which would be on so many accounts deeply to be deplored, would bring about the object of their wishes. Now, Gentlemen, do you figure these men to your minds, his anxious expectation—from the exalted characters described in the first part of the publication, which has been read to you, down to the humbler supporters and advocates of the cause, and among others this Defendant—that an event, to be deplored on every other account, would secure to them the measure to which they looked forward: imagine their disappointment, when this their object was almost grasped, when turning to the quarter from whence their hopes were held out, not for the purpose of again hoping, but for the purpose of expressing that gratitude, which they expected would be called for, as considering the fulfillment of their wishes as certain, and forced to change this for black despair! I do not stand here to arraign the conduct of those who advised the Prince against fulfilling the hopes of the country. I do not blame them; and I cannot blame the other exalted Personage; but, Gentlemen, you are men, and you know how to feel upon these subjects. I put it to you, whether any thing short of a miracle could have prevented expressions of earnestness—of regret—even of bitterness, in so trying a moment. Could the feelings of those, who thought like the Defendant and his friends, be expected to evaporate, and to leave the man quiet, submissive, and contented, without expressing one murmur against this new and unexpected dispensation? The persons to whom I alluded were present at the meeting, as you have heard read; and the statement of my Client is quoted from the *Morning Chronicle*, in which a report of the Meeting appeared. Upon a certain expression from one of the speakers, marks of disapprobation were displayed—I do not say even decency, certainly not justifiably. It was after this change in the Prince Regent's sentiments, that there appeared on the part of his adherents and enemies—in those who, from the beginning of his life, had been in the habit of vilifying and traducing him—a disposition now to persecute him in a more unparagoning, unbecoming manner, by the gross ridicule of excessive adulation. Then it was, that by those who had defended him for half a century, he was given up as a prey to the most envenomed of the profligate demagogues of truth, those who by flattery seduce them into vice, and then cover them with ridicule by praise, and I hold the proofs in my hand.

Lord Ellenborough asked, what proofs?—This was allowing a latitude to which the Court was not accustomed.

Mr. Brougham submitted that he was within the strict limits prescribed by the practice of the Court. The Solicitor-General said, it would be better for him to state his objection, and then his Lordship could decide upon it.

Lord Ellenborough said this latitude must be checked, else it would become necessary to recast the judicial character. Every thing that was material to the vindication of his client, the Learned Gentleman had a right to adduce; but to offering proofs of the manner in which his Royal Highness had been dealt with by others could not be tolerated. The Solicitor-General said, he felt it to be his duty to object to the mode of proceeding adopted by the Learned Counsel on the other side; the Learned Gentleman would have an opportunity of answering him; and then it would be his Lordship's duty to decide between them. His objection was this—In order to defend his own clients, the Learned Gentleman had offered to adduce proofs, that certain other persons had first seduced the Prince Regent to vice, and had then loaded him with praise, as being most virtuous. Such evidence, however, he submitted, could in no case be received.

Mr. Brougham begged that he might be allowed to set himself right: he had been completely misunderstood. His Clients were accused of publishing a Libel, to which another publication, by a different party, served as the context: all he wished was, to be allowed to show, that it was in answer to, or in animadverting on, this other publication, that the Libel, as it was charged to be, had been published.

Lord Ellenborough.—Then let the whole be read.

Mr. Brougham said, the publication in question only recapitulated the epithets contained in the other publication alluded to. He had only referred to this former publication, and wished to be allowed to show what it was.

Lord Ellenborough said, then those were only papers in explanation, which the Learned Counsel had called proofs.

Mr. Brougham answered, that was all he meant. He had on a former occasion been allowed to go farther, having then been permitted to read a pamphlet of Sir Robert Wilson's, to show that similar sentiments to those held out as a libel by these present Defendants had been tolerated, and even countenanced, in others.

Lord Ellenborough admitted that this was so, but this latitude must not be enlarged.

to the lowest degree of degradation. That thing he now called to the attention of the Jury; upon it was the publication in question a free and a warm commentary, and to it was it a free and a warm answer, never carrying a single word or epithet.—The present publication, therefore, was not a malicious attempt, deliberately undertaken by the Defendants, to libel the Prince Regent, but was merely to be regarded in the light of remarks on this publication, in which his Royal Highness was turned into ridicule. Mr. Brougham then went through the different parts of the doggerel in question, declaring that one could not but have felt a sort of compassion for any inferior person, if what was there said about the Prince Regent had been said of him. Immediately following the doggerel, there were some stanzas about Fame and her Trumpet, which, from the similarity of the style and manner, he at first supposed was a continuation of the same article, till, on examining it more minutely, it turned out to be a common Lottery Pull. He called on the Jury to bear in mind, that it was with the view of writing a comment on this doggerel—with the feelings he had already described, arising from disappointed hopes; and immediately after the meeting of the persons interested in the Catholic Question had been held, that the defendant sat down to write the article in question. If the defendant had sat down deliberately to attack this illustrious person; if in a publication, willingly proceeding from himself, he had given vent to such language, he (Mr. Brougham) was not sure but he should have admitted, with his Learned Friend, that it was of the character he had described. It might then have been in the power of his Learned Friend to have inferred malice. He called on the Jury, however, to look at the doggerel rhymes, mixed up as they were with the feeling he supposed to have been spared on, remembering that to attack the doggerel verses was the object in view. We all knew, when a man sat down with the view of exposing what had given him disgust, even as a matter of taste, what lengths he might be carried, even against a third party, who might chance to be the object of panegyric in the article sought to be exposed. The odds in such a case were greatly against the idea of the third party escaping, though nothing against him were intended. The object being to expose an article, even on account of bad taste, it was in human nature that the person endeavouring to expose it should avoid usually expressing himself not in the most respectful terms of the object of the panegyric. This was not peculiar to the Defendant. On the contrary, he could show to the Jury a variety of passages taken from the works of some of our most celebrated writers, which, when viewed by themselves, seemed to have been carried by all bounds. As a specimen, he read to them an extract from the works of a man never to be forgotten, while there was any regard either for loyalty or genius in this country—the eminent Mr. Burke; in whose writings were to be found whole chapters, which, if taken by themselves, might have drawn down on that bulwark of our monarchical system, the pain of answering to a state prosecution. In one part, that great man said, speaking of an Act of Parliament just then passed, "Such an Act of Parliament would have appeared in any other Legislature a measure of the most manifest injustice." Thus, then, the Jury saw the unmeasured language of Mr. Burke, even when speaking of an Act of Parliament. In another passage, he says, "Kings are naturally lovers of low company." As to the Nobility, the same writer observed, that it must be admitted many of them acted the part of flatterers, pimps and buffoons, but they were not so fit for such offices as eunuchs. Was it, he asked, that Mr. Burke entertained a disrespect for the monarchy, that he so talked of kings? Undoubtedly it could not be. He was the man, who, more than any other, had supported the monarchy of this country; and he was, moreover, a man who, if any one would, would have laid down his life in support of it. If these had not been Mr. Burke's feelings, and if such had not been his well-known and established character, he (Mr. Brougham) should not have thought of citing him on the present occasion. He should only, in that event, be defending one libel by another. But when he showed that such language had been raised by a man such as Mr. Burke, who, instead of being prosecuted for his expressions, had been promoted to honours and to wealth, at least when compared with his desires; when he stated this of Mr. Burke, a name not so much descriptive of the man who bore it as of loyalty itself; when the Jury saw these things, was it to be endured, that for a heated expression or two, coming from the pen of the individual in this case, he should be consigned, perhaps, to a dungeon!

Gentlemen, (continued Mr. Brougham,) I have no hesitation in admitting, that there are expressions in this paper that might have been spared, and that I could wish had been spared: in the writings of Mr. Burke, to which I have already referred, are many sentences which he himself, in his cool moments of reflection, would have been anxious to correct, not because they are in themselves wrong or unjustifiable, but because they might be subject to misconstructions, they might unnecessarily tend to inflame the public mind, an object he by no means contemplated. But those expressions often burst from him in the ardour and heat of eloquence; and in the paper now before you, there are passages originating in the same warmth and indignation, which I am sure you will not deem any sufficient foundation for your verdict of conviction: it would be bearing too hardly upon a public writer so to treat him, because Juries will always look at the main design, without picking out particular passages that may be justly objectionable: when a person acts under impressions like those which influenced my client,

ent, these incidental expressions will sometimes unfortunately break from him in a moment of irritation, and I humbly submit that, putting the whole of the publication together, you will say that the motives of this individual are not such as you must find them to be, before you come to the conclusion, that he has been guilty of publishing a libel. They are, however, in this letter, other expressions, which, on the face of them, appear to bear a bad construction, which construction, upon due examination, I am convinced, will be found not to be justified. I entreat you to consider that, with the exception of those passages which were provoked and forced from the writer, by the miserable doggerel I have read, (to which the whole of the alleged libel is one continued and avowed answer,) there is nothing that I can discover, which does not relate to general topics, and contain a statement of opinions which the Defendant had a right to give, as to the effects of certain proceedings, then matter of public discussion, and open to the observations of all who deemed it right to make them. For instance, you will not for an instant imagine that, when Mr. Hunt asserts, that the Prince is "a violator of his word," he means to impute to his Royal Highness the most odious and contemptible of all qualities; so degrading, that a man is almost degraded who but employs the word, that in common acceptance signifies what some have supposed was intended to be imputed to his Royal Highness. I shall not therefore make use of so coarse a term. But is the author speaking of the Prince in his private capacity, as a violator of his word between man and man?—God forbid, that any such meaning should be understood.—Certainly no more than it could be fairly said of Mr. Burke, when he asserted that Kings were fond of low company, that he intended to convey that they were really lovers of what is commonly and vulgarly comprehended in the terms *low company*. The expression, like that in this paper, is to be taken in a figurative sense, and it is liable to misconstruction, and it would perhaps have been better to qualify it; that, however, is a matter depending on a difference of taste, and an extremely nice discernment of what is judicious. Mr. Burke might have selected better expressions, because he could not mean that Kings were actually fond of pot-houses and dipping companions; yet it was published in a pamphlet, and this apparent slander was widely and spitefully disseminated, even among the frequenters of those pot-houses.

Gentlemen, I request you ever to bear in mind, that the Defendant is not talking of the Prince himself, but of the Prince's Adulterator; to him he is writing, and him he is confuting. I say that the meaning of the assertion, that the Prince is a violator of his word, is obvious; it lies at the very surface; you have it before you in evidence, because it is the first part of this publication which has been given in as a part of the testimony. It alludes to that great cause to which I alluded in the opening of my observations; that cause which at present divides the minds, but not the wishes of all men, because all are equally anxious; it alludes to the question of the Catholic Rights, or the Catholic Policy (if you so please to call it); it alludes to the promises held out to the hopes consequently indulged, and when it states that the Prince is a violator of his word, the only object is to remind you, that those promises have been disregarded, and those hopes disappointed, for the warmth of their participation in which the Defendants once stood on the floor of this Court. Shortly afterwards, I find another reference of a like nature, where the publication talks about debt and disgrace; this paragraph, again, is not applied directly to the Prince, but to confute his adulterators. When we talk of the debts of a Prince, or of a Prince being in debt, we do not mean necessarily to imply blame, or to say that he has entered into a plan to defraud his just and lawful creditors. Princes more in a different sphere from that occupied by common men, and words used towards the one convey a meaning entirely different from that which they imply when used towards the other. Princes are public functionaries; the country pays them for discharging certain duties. To say that either of us are in debt, might be a stigma upon you or me; but referring to a Prince, it can mean little more than that one branch of the revenue is in arrears. The public takes cognizance of his situation, and when he has run into arrears, the public inspects his bills and accounts. So it stands upon record in the statute book of our Realm, and therefore it is matter of public discussion; it is open to this author and to all authors, because it is known that by an Act of Parliament the Prince was placed in a situation to which this allusion refers. By that statute, be it remembered, he was prevented from contracting an obligation equal to the amount of sixpence, and all those who might indiscreetly treat with him were warned that they did so at their peril, for he was unable to pay them. The writer had in view this melancholy fact—I do not term it melancholy with reference to the Royal Person himself, but melancholy with regard to the finances of the country at that period; not because his royal hands were tied up, and he was placed in a situation which his friends esteemed degraded; but melancholy because the country was reduced to the deplorable alternative of increasing the burdens of the People, or of placing his Royal Highness in this most hateful predicament.

Gentlemen, I have now advanced to a part of the alleged Libel, upon which I would touch as slightly as possible, if not pass over altogether unnoticed. For the steps I have just taken were planted upon tender ground, my advance must now be continued with much more caution; my tread must be much more light, because the path is directed through circumstances of much more intricacy and delicacy, and the ways are involved in mystery and darkness. I would willingly leave it to your own feelings, without daring the hazard, did not my duty to my client

require me to remind you that, if I am prevented from alluding to a direct explanation of the phrase employed regarding a transaction of the most intricate delicacy, and in every sense of the word *dangerous* (I abstain from any other term), yet I must call your recollection to that unhappy event; for, unless you keep it in your minds, it is impossible for you to understand the meaning of the passage—"A *Dayner of domestic ties*." All I can say upon this sentence is, that it refers to no private matter. It refers to a subject of public discussion, and I will go no further than to state to you, that there is none of the highest and most undoubted importance to the future welfare of this Realm. It has been publicly discussed, and it has become a matter of lively interest to all individuals, not only from its own intrinsic magnitude, but because it has been the cause of additional taxes imposed upon the country. The words I have read refer to that separate establishment which formed a portion of the budget of the last year, and which has been published in the Votes of Parliament. It arose out of circumstances that all must allow to be most deplorable; but I affix no blame to any individual, and only lament that the example of the Royal Parents has not been followed by their children.—Gentlemen, over this topic I have passed with trembling anxiety. I am glad that I am now beyond it. I scarcely dare look back at the dangerous road I have been travelling, and while I am on the subject, I dredged every moment lest I might, by an unfortunate accident, utter that which would not only have called for his Lordship's rebuke, but which would have frightened even myself. I have, however, proceeded thus far, almost miraculously, in safety, and we come now upon firmer footing. I shudder to look behind me at the ground I have just gone over—but I am now where I ought to be, upon a constitutional eminence. "The companies of gamblers and demerits."—I have a right, Gentlemen, to say that such is the fact. I am now emboldened by assurance, and I feel none of those alarms which, but to recollect, make me tremble. This sentence alludes to a fact stamped in a Gazette: it is matter of public notoriety; it belongs to the Records of a Court of Justice in Ireland, and is to be found on the files of the official paper of the Government.—I have told you that the author of this paper, living in retirement, at a distance from Court and Court affairs, passes his days certainly not among the profligate of mankind. He has nourished in his solitude an admiration not merely for public virtue, but for private morality; indeed, the ardour with which he loves those who possess it, and the firmness with which he hates those who are destitute of it, may, by some persons, be considered a species of enthusiasm, or, perhaps, even of fanaticism. I do not assert that it is so, but there are those who look upon him as a well-meaning but mistaken young man, who attacks, as grievous crimes, offences which, seen by other eyes, appear venial and trifling. Such, Gentlemen, is the state of his mind, and as he tells you in another part of his publication, having heated himself by the perusal of the most eloquent speech ever delivered at the Irish bar, by the distinguished person who has since been appointed Master of the Rolls, Mr. Hunt, burning with the fervour of that enthusiasm of virtue by which I have already said my client is distinguished, he did think it his duty to denounce and expose, as he terms them, the failings of an individual, whom I will not name. This individual had an action brought against him for criminal conversation with a Clergyman's wife; and when Mr. Hunt was inflamed by the eloquence of the Master of the Rolls, while the burning words he had pronounced still vibrated on his ears, he composed the writing which is now the subject of complaint. The eloquence employed gained a verdict against the noble person accused, and after perusing it, the very next London Gazette that came into the hands of Mr. Hunt (no doubt from a total ignorance of these circumstances on the nomination) contained a grateful people of the exemplary private virtues of the Royal Father? Fenced round, then, by affectionate recollections of his Majesty's worth, and secured by the unwieldy force committed to their own charge, they wisely exercise their functions in the midst of almost entire negligence: they already possess the union of all that can dazzle the senses, and awe the mind, and set they call upon you to perform what is all your duty, because against all this array of equipage and power they drew a line in a Sunday Newspaper.—It was observed by a great man, whose clients have been the admiration of the country, and whose conduct might be an useful example to its Princes, to punish the crimes of their subjects, and to establish the fabric of Government on a firmer basis, I mean Oliver Cromwell, who was daily and hourly reminded, "that if his Government were made to stand, or deserved to stand, it need not to dread the splendour of royalty to dazzle, and no confederate would be able to overcome the enemies by whom he was surrounded: he had no virtuous father to be revered, no amiable progeny to be beloved; no affectionate people to be governed; he was himself deformed with vice, and the times in which he lived were disgraced by fanaticism; but nevertheless, with in a year after he had succeeded the throne he had usurped, such was the language he held, and such language he controlled by his practice. If, indeed, we have not one a Government, supported by the abilities of a Cromwell, with a Milton for his Secretary, we have a Government supported by unprejudiced establishments, over a people endowed with boundless patience, and I will not think so meanly of it as to imagine that it has any occasion to dread paper shot.

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that are to result from a verdict of acquittal; let me terminate my remarks by reminding you, that no small danger may result from a verdict of conviction. It is fit that, if there be danger to be apprehended from your declaration that the Defendants are not guilty, you should have placed before your eyes, equally clearly, the perils that may arise from an opposite conclusion, and doubtless a man begins to ascend the step of ambition, all his actions are notorious: let him turn which way he will, the eyes of thousands are fixed upon him; and if, in his composition, one spark of merit can be discovered, the universal breath of public applause quickly fans it into a blaze. Do we not know, too, from experience, that this perpetual notoriety is what they most dreadly prize. If then they gain this goal, as they consider it, must they not endure also the evil? They cannot have their merits basking in the sunshine of public approbation, and their failings veiled by the shade of obscurity: they must not expect that contradictions will by them be reconciled; they, or their ancestors for them, in cases of hereditary descent, have taken their choice. In truth, as my learned friend said in his opening, they are in no respect private characters; they have no privacy; you might as well speak of their shepherds' crooks as of their private lives, when you talk of those who have the handling of sceptres. They are public topics; matter of public concernment; and the public have a great and constant interest in tenants of the Court, like the Noble Lord alluded to by the Defendants. Those who object to the public examinations by the press, if they ever read history, will know that the mode of making men think, is to present them with speaking. If any man, covered with offices, wishes to stifle public inquiry, the only effect is to make men think with ten-fold bitterness, and to act, when the moment comes, with ten-fold keenness. If, indeed, they merit no censure, they need entertain no dread of open investigation. The stifling of discussion is most to be feared; for although it buries the thoughts of men within their bosoms, it only increases the avidity with which they will ponder on their wrongs. If the thinking principle were eradicated—if, indeed, freedom of thought could be extinguished, I readily admit that it would not signify whether we did or did not possess freedom of discussion.

Gentlemen, we hear much of the dangers that are to result from the discussion of these topics; of the perils to which they expose the peace and order of the community; by these topics I mean, the topics to which I am now alluding, as illustrated by the court appointment. Permit me, however, to ask you, whether any thing more harmless can be fancied, than attacks levelled at such exalted characters? It need of me to say, that he whose arguments were backed by an army of 50,000 men, needed not to be a very sound or skillful logician. I am sure that it is much more just to assert, that those who occupy the great places at Court, backed by the whole resources of this mighty country, may well despise, not a Libel. You must not despise that; but they may well despise the casual expressions of warmth, or anger, accidentally dropping in the course of legitimate discussion. Who are they whose conduct is thus made the subject of inquiry? Not private individuals, dragged unwillingly from privacy, where their obscurity, if not their decorum, makes their vices innocent; but they are persons volunteering to make themselves objects of animadversion, whose failings cannot be private; whose failings, for the sake of public example, that they may not tend to the public detriment, must be exposed. Against such men the observations in this paper are levelled, and they are legitimate objects of general remark. Why then need they dread discussion? Are they not the very persons in whose hands they have placed the whole force of the empire to defend them, and who have the respect due to the long paternal reign of his Majesty—not only invested with authority, and armed with power, but who can never even appear in public without reminding a grateful people of the exemplary private virtues of the Royal Father? Fenced round, then, by affectionate recollections of his Majesty's worth, and secured by the unwieldy force committed to their own charge, they wisely exercise their functions in the midst of almost entire negligence: they already possess the union of all that can dazzle the senses, and awe the mind, and set they call upon you to perform what is all your duty, because against all this array of equipage and power they drew a line in a Sunday Newspaper.—It was observed by a great man, whose clients have been the admiration of the country, and whose conduct might be an useful example to its Princes, to punish the crimes of their subjects, and to establish the fabric of Government on a firmer basis, I mean Oliver Cromwell, who was daily and hourly reminded, "that if his Government were made to stand, or deserved to stand, it need not to dread the splendour of royalty to dazzle, and no confederate would be able to overcome the enemies by whom he was surrounded: he had no virtuous father to be revered, no amiable progeny to be beloved; no affectionate people to be governed; he was himself deformed with vice, and the times in which he lived were disgraced by fanaticism; but nevertheless, with in a year after he had succeeded the throne he had usurped, such was the language he held, and such language he controlled by his practice. If, indeed, we have not one a Government, supported by the abilities of a Cromwell, with a Milton for his Secretary, we have a Government supported by unprejudiced establishments, over a people endowed with boundless patience, and I will not think so meanly of it as to imagine that it has any occasion to dread paper shot.

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Gentlemen, we hear much of the dangers that are to result from the discussion of these topics; of the perils to which they expose the peace and order of the community; by these topics I mean, the topics to which I am now alluding, as illustrated by the court appointment. Permit me, however, to ask you, whether any thing more harmless can be fancied, than attacks levelled at such exalted characters? It need of me to say, that he whose arguments were backed by an army of 50,000 men, needed not to be a very sound or skillful logician. I am sure that it is much more just to assert, that those who occupy the great places at Court, backed by the whole resources of this mighty country, may well despise, not a Libel. You must not despise that; but they may well despise the casual expressions of warmth, or anger, accidentally dropping in the course of legitimate discussion. Who are they whose conduct is thus made the subject of inquiry? Not private individuals, dragged unwillingly from privacy, where their obscurity, if not their decorum, makes their vices innocent; but they are persons volunteering to make themselves objects of animadversion, whose failings cannot be private; whose failings, for the sake of public example, that they may not tend to the public detriment, must be exposed. Against such men the observations in this paper are levelled, and they are legitimate objects of general remark. Why then need they dread discussion? Are they not the very persons in whose hands they have placed the whole force of the empire to defend them, and who have the respect due to the long paternal reign of his Majesty—not only invested with authority, and armed with power, but who can never even appear in public without reminding a grateful people of the exemplary private virtues of the Royal Father? Fenced round, then, by affectionate recollections of his Majesty's worth, and secured by the unwieldy force committed to their own charge, they wisely exercise their functions in the midst of almost entire negligence: they already possess the union of all that can dazzle the senses, and awe the mind, and set they call upon you to perform what is all your duty, because against all this array of equipage and power they drew a line in a Sunday Newspaper.—It was observed by a great man, whose clients have been the admiration of the country, and whose conduct might be an useful example to its Princes, to punish the crimes of their subjects, and to establish the fabric of Government on a firmer basis, I mean Oliver Cromwell, who was daily and hourly reminded, "that if his Government were made to stand, or deserved to stand, it need not to dread the splendour of royalty to dazzle, and no confederate would be able to overcome the enemies by whom he was surrounded: he had no virtuous father to be revered, no amiable progeny to be beloved; no affectionate people to be governed; he was himself deformed with vice, and the times in which he lived were disgraced by fanaticism; but nevertheless, with in a year after he had succeeded the throne he had usurped, such was the language he held, and such language he controlled by his practice. If, indeed, we have not one a Government, supported by the abilities of a Cromwell, with a Milton for his Secretary, we have a Government supported by unprejudiced establishments, over a people endowed with boundless patience, and I will not think so meanly of it as to imagine that it has any occasion to dread paper shot.

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