William Godwin
Cursory Strictures
On the Charge Delivered By Lord Chief Justice Eyre To The Grand Jury, October 2, 1794.
October 21, 1794

Retrieved on 25th September 2020 from http://dwardmac.pitzer.edu/anarchist_archives/godwin/cursory.html

usa.anarchistlibraries.net

Cursory Strictures

On the Charge Delivered By Lord Chief Justice Eyre To The Grand Jury, October 2, 1794.

William Godwin

October 21, 1794

Contents

to whom that care ordinarily falls, sent for the book from the office, and took the task upon themselves. It is further affirmed, that, in consequence, various mistakes were made; the same persons were summoned upon the Grand Jury, and the Petty Jury; and letters of summons sent to the one, that ought to have been sent to the other. Officers of the great and important trust, ought not to content themselves with acting from pure and disinterested motives, but should refrain from affording even a color of suspicion. It is obvious that every person who casts his eye over the list, that it consist of a most extraordinary assemblage, King's tradesmen, contractors, and persons laboring under every kind of bias and influence; very few indeed that can at all pretend to independence and impartiality; and perhaps those few to be ultimately challenged by the officer of the crown. Thus every part of the transaction appears to be uniform, and marks an administration, calloused to public character, and determined to apply all means indiscriminately to effect their sanguinary purposes.

the bill for preventing traitorous correspondence with France was on that day read; and an amendment moved by Mr. Adams, and supported by Mr. Fox, to allow "The persons, who should hereafter be arraigned upon this act, the same interval of ten days, that is allowed to other persons accused of the crimes of high treason." This clause was opposed by the Chancellor of the Exchequer, who alleged, that "the proposed allowance would be of little use to the culprit. A list of such a cloud of witnesses might be sent him, as would render it impossible for him, with all the assiduity of his friends, to enquire into their characters in the space of ten days."

Mr. Fox professed his "utter astonishment at such language from the Minister of the Crown. It must be in great measure by his advice that the law officers for the crown are to conduct prosecution for treason; and that such a person, in such a situation, should suggest even the possibility, of a public accuser swelling the number of witnesses, for no other purpose than that of baffling the law, was a declaration of the most alarming nature. He hoped no such infamous trick would be attempted. But, if it were, he trusted that there was spirit enough in the people to bring its authors to a proper account."[35]

From this citation it appears, that the present proceedings is by no means the suggestion of the hour; and that there is a man in his Majesty's councils, capable of brooding in the solitary majesty of his mind, upon the different modes of defeating, to the person he shall select as the object of his vengeance, the purpose of substantial justice.

Reports have been propagated of a very extraordinary nature, respecting the manner of forming the Jury. These reports, if not legally proved, have never been contradicted; and there for ought to be stated, that, if false, they may be contradicted. It is said, that the Sheriff's, instead of suffering the Jury to be struck, at the place where the book of the Freeholders is kept, and used be the Officers

[35] Senator, vol.vii, p. 580, 588.

A Special Commission was opened on the second day of October, for the trial of certain persons apprehended upon suspicion of High Treason, the greater part of whom were taken into custody in the month of May 1794. Upon this occasion a charge was delivered to the Grand Jury, by Sir James Eyre, Lord Chief Justice of the Court of Common Pleas.

It is one of the first privileges of an Englishman, one of the first duties of a rational being, to discuss with perfect freedom, all principles proposed to be enforced upon general observance, when those principles are first disclosed, and before they have yet, by solemn and final proceeding, been made part of a regular established system. The Chief Justice, in his charge to the Jury, has delivered many new and extraordinary doctrines upon the subject of treason. These doctrines, now when they have been for the first time stated, it is fit we should examine. In that examination, I shall deliver my opinions in a manner perfectly frank and explicit. No man should seek to offend high authorities and elevated magistracy; but the object before us is of an importance paramount to these considerations. Decorum is an excellent thing; but we ought not to sacrifice to the fastidious refinements of decorum, all that is most firm in security, or most estimable in social institution.

The Chief Justice has promised a publication of his charge, and I should have been glad to have waited for the opportunity of an authentic copy. But there are only a few days remaining, previous to the commencement of trials, of the highest expectation, and most unlimited importance. He who thinks, as I think, that the best principles of civil government, and all that our ancestors most affectionately loved, are struck at in the most flagrant manner in this charge, will feel that there is not an hour to be lost. While I animadvert upon its enormities, it is with some pleasure that I shall reflect upon the possibility of the enormities being aggravated or created by the imperfect and irregular form of the publication before me. Every friend of his country will participate the highest satisfaction, at finding them answered, by a regular publication of

the charge to the Grand Jury, stripped of the illegal and destructive doctrines that now appear to pollute it.

Among the various branches of the English Constitution that have for centuries been a topic of unbounded praise, there is none, that has been more, or more deservedly, applauded, than that which relates to the law of treason. "The crime of of high treason," says Chief Justice Eyre,[1] "though the greatest crime against faith, duty, and human society, and though the public is deeply interested in every well founded prosecution of this kind, has yet, at the best times, been the object of considerable jealousy, in respect of the prosecutions instituted against it: they are State prosecutions." It is therefore of the utmost consequence, that the crime of high treason should be clearly defined, and the exquisite jealousy allayed, which must otherwise arise in every benevolent mind. This has been done by the act 25 Edward III, one of the great palladiums of the English Constitution. This law has been sanctioned by the experience of more than four centuries; and, though it has been repeatedly attacked by the incroachments of tyrannical princes, and the decisions of profligate judges, Englishmen have always found it necessary in the sequel to strip it of mischievous appendages and artificial glosses, and restore it to its original simplicity and luster. By this law all treason, exclusively of a few articles of little general concern, is confined to the "levying war against the King within the realm, and the compassing or imagining the death of the King." Nay, the wise framers of the law were not contented to stop here: they not only shut out the the mischief of arbitrary and constructive treason for themselves, but inserted a particular clause, providing that "if in any future time it might be "necessary to declare any new treasons, that should

[1] P.4. He adds, "it is not to be dissembled," — Will any one venture to say, that the Judges of England would dissemble, if they could, in matters of the utmost value to the subject; and that it is with reluctance they confess anything, that tends most to general security, equity, and welfare?

ceedings against the prisoners in his Majesty's goals of Newgate and the Tower, without a few words upon the subject.

The law of High Treason differs from our other criminal laws, by allowing the persons accused an interval of ten days, between the delivery of the indictment and list of witnesses, and the day of trial. The object of the law apparently is, that he may have adequate time, in a matter of so extraordinary magnitude, to prepare his defence. This object is completely defeated in the in the present instance. One indictment is preferred against twelve of the most eminent persons involved in the accusation. It consists of nine counts, and it is well known, that several of these counts will not be attempted to be proved against the majority of the prisoners. Every man is left to pick out, as he can, the articles, which the sobriety or the wantonness of accusation may think proper to allege against him. In the same manner one list of witnesses is delivered to all. This list consists of more than two hundred persons.

Thus are the lenity and humanity of this provision baffled. For what reason is this? Shall we be told that it saves trouble to the Crown lawyers? This is perhaps the most plausible pretence that can be adduced. And yet, in that case, it would scarcely have been less decent, to have saved trouble, by hanging the accused without the form of trial.

But this is not the real reason. The most temperate and scrupulous man cannot fail to confess, that the object is, to facilitate the conviction of persons so much the object of detestation to be the present Ministry. Government hastily involved itself in a dilemma, by apprehending these men for the sake of propagating alarm; and it is thought better to hang a few innocent persons, than that the Minister should stand detected in an error, or that the arm of government should be weakened by an act of justice.

It is a memorable fact, and well worthy to be revived in the present crisis, that on the eighth of April 1793, Mr. Pitt openly and unhesitatingly delivered, in the face of the House of Commons, the doctrine which he has now reduced to practice. The report upon

or no hanging men is the most suitable way of teaching them good manners, is a point that will remain to be considered.

The second method that may be employed for teh "subversion of the Monarchy," is open force, But let this force be a little examined. is it to be employed upon all Members of the Constitution at once ; and is the present race o traitors, like Guy Fawkes of old, to blow up King, Lords, and Commons with gunpowder, on the first day of the Session of Parliament? If "war be levied against the King within the realm," this is already treason by 25 Edward III. If the plan be "to depose the King, to imprison him, or to get his person into the power of the conspirators," this also, if we are to credit the authorities of Foster and Hale, is already High Treason. But let us not be deceived with high sounding words. An attempt to subvert the Monarchy is nothing, if it be not definite, and capable of some clear and precise explanation. An attempt to procure a reform in the Commons' House of Parliament, through the medium of associations and Conventions, is not a conspiracy to subvert the Monarchy. If it be a crime, it will not be less so, for being called by its appropriate name. The attempt to involve a man in the penalties of High Treason, by calling evidence to prove that he has done one action, and then bestowing upon that action another appellation, will be regarded with contempt by every man of common sense, and with the deepest abhorrence by every man of common humanity.

APPENDIX, No. II.

HITHERTO I have confined myself to an examination of the charge to the Grand Jury. But there is something so peculiarly flagitious in the manner of preparing the indictment, and the list of witnesses, that it seems improper to dismiss an Essay, the object of which is to call the attention of Englishmen to the present state of the pro-

only be done by a direct proceeding of parliament for that special purpose."

It is obvious upon the face of this wise and moderate law, that it made it extremely difficult for a bad king, or an unprincipled administration, to gratify their resentment against a pertinacious opponent by instituting against him a charge of treason. Such kings and ministers would not fail to complain, that the law of Edward III shut up the crime within too narrow bounds; that a subtle adversary of the public peace would easily evade these gross and palpable definitions; and that crimes of the highest magnitude, and most dangerous tendency, might be committed, which could never be brought under these dry, short and inflexible clauses. It is not to be denied, that some mischief might arise from so careful, lenient, and unbloody a provision. No doubt offences might be conceived, not less dangerous to the public welfare, than those described in the act under consideration. But our ancestors exposed themselves to this inconvenience, and found it by no means such as was hard to be borne. They experienced a substantial benefit, a proud and liberal security, arising out of this statute, which amply compensated for the mischief of such subterfuges as might occasionally be employed by a few insignificant criminals. If we part with their wisdom and policy, let us beware that we do not substitute a mortal venom in its stead.

The Chief Justice has thought proper to confine himself to that article of the statute of King Edward III, which treats of "compassing and imagining the death of the King." This compassing and imagining, he very properly observes, "requires that it should be manifested by overt acts;"[2] and he adds, "that they who aim directly at the life of the King, are not the only persons, who may be said to compass or imagine his death. The entering into measures, which in the nature of things do obviously tend to bring the life of the King into danger, is also compassing and imagining the death

[2] P.s.

of the King; and the measures which are taken, will be at once evidence of the compassing and overt acts of it. The instances which are put under this head by Sir Michael Foster and Sir Mathew Hale, and upon which there have been adjudged cases, are {principally four, viz.} of a conspiracy to depose the King, to imprison him, to get his person into the power of the conspirators, and to procure an invasion of the kingdom."[3] He further states, "that occasions have unhappily but too frequently brought overt acts of this species of treason under consideration, in consequence of which we are furnished with judicial opinions upon many of them. We are also furnished with opinions drawn from these sources, "sources, of text writers, some of the wisest and most enlightened men of their time, whose integrity has always been considered as the most prominent feature of their character, and whose doctrines do now from great land marks, by which posterity will be enabled to trace with considerable certainty the boundary line between High Treason, and offences of a lower order and degree. It is a fortunate circumstance," continues the Chief Justice, "that we are thus assisted. I can easily conceive that it must be a great relief to Jurors, placed in the responsible situation in which you now stand; and sure I am that it is a consolation and comfort to us, who have upon us the responsibility of declaring what the law is, in cases in which the public and the individual are so deeply interested."[4]

In all this preamble of the Chief Justice, there is certainly something extremely humane and considerate. I trace in it the language of a constitutional lawyer, a sound logician, and a temperate, discreet, and honest man. I see rising to my view by just degrees a judge resting upon the law as it is, and determinedly setting his face against new, unprecedented, and temporizing constructions. I see a judge, that scorns to bend his neck to the yoke of any party, or any administration; who expounds the unalterable principles of justice,

[3] P.5.
[4] P.4.

APPENDIX, No. I.

A More minute attention appears to be due to Chief Justice Eyre ‘s new treason of a "conspiracy to subvert the Monarchy." The term. in which the idea is conveyed are strong and impressive ; and many persons, who shall be convinced by what has been already offered, that by the law of England this is no teason, will yet perhaps entertain a wish that a new law were framed for the purpose of making it treason. Thousands and tens of thousands of the inhabitants of England, are deeply attached to that Constitution, under which our ancestors made so conspicuous a figure in the face of the world. The attachment they feel is no doubt a virtuous attachment ; but it is not every method that can be proposed for preserving what we love that is entitled to our approbation. Let us consider a litle this phrase, a "conspiracy to subvert the Monarchy." There are but two ways in which such a subversion can be attempted. The first, argument, all writing, and familiar speaking, by which a man, by himself, and without confederacy with others, shall seek to prevail upon his countrymen to adopt sentiments similar to his own. This, by the very meaning of the term, cannot be conspiracy.

Two observations will suffice to clear up this article. First, it might be supposed that he who is attached to the Monarchy, believing, of course, that the Monarchy is a good thing, should feel little reluctance to commit his opinions to the fair field of argument, and entertain small doubt that truth must prove more vigorous and of longer life than falsehood. Secondly, if it should be said, that some writings may be exceedingly inflammatory, we have already Laws of Libel. These Laws might be made still stronger ; but at all events the inflammation constitutes the offense, and not the object proposed, whether it be the subversion of the Monarchy, or of the Athanasian creed. As to familiar and unconfederate conversation, there can be little danger of inflammation in that. The only offense committed, will be an offense against decorum. Whether

is notorious to the whole universe. He has already admitted, that there is no law or precedent for their condemnation. If therefore he address them in the frank language of sincerity, he must say: "Six months ago you engaged in measures, which you believed conducive to the public good. You examined them in the sincerity of your hearts, and you admitted them with the full conviction of the understanding. You adopted them from this ruling motive, the love of your country and mankind. You had no warning that the measures in which you engaged were acts of High Treason: no law told you so; no precedent recorded it; no man existing upon the face of the earth could have predicted such an interpretation. You went off to your beds with a perfect and full conviction , that you had acted upon the principles of immutable justice, and that you had offended no provision or statute that was ever devised. I, the Judge sitting upon the bench, you, Gentlemen of the Jury, every inhabitant of the island of Great Britian, had just as much reason to conceive they were incurring the penalties of the law, as the prisoners at the bar. This is the nature of the crime; there are the circumstances of the case.

"And for this, the sentence of the Court [but not of the law] is, That you, and cach of you, shall be taken from the bar, and conveyed to the place from where you came, and from thence be drawn upon a hurdle to the place of execution, there to be hanged by the neck, but not until you are dead: you shall be taken down alive, your privy members members shall be cut off, and your bowels shall be taken out and burnt before your faces ; your heads shall be severed from your bodies, and your bodies shall then be divided into four quarters, which are to be at the King's disposal ; and the Lord have mercy on your souls !"

and is prepared to try by them, and them only, the persons that are brought before him. I see him taking to himself, and holding out to the Jury the manly consolation, that they are to make no new law, and force no new interpretations; that they are to consult only the statutes of the realm, and the decisions of those writers who have been the luminaries of England. Meanwhile what would be said by our contemporaries and by our posterity, if this picture were to be reversed; if these promises were made, only to render our disappointment more bitter; if these high professions served merely as an introduction to an unparalleled mass of arbitrary constructions, of new fangled treasons, and doctrines equally inconsistent with history and themselves? I hope these appearances will not be found in the authentic charge. But whoever be the unprincipled imposter, that thus audaciously saps the vitals of human liberty and human happiness, be he printer, or be he judge, it is the duty of every friend to mankind to detect and expose his sophistries.

Chief Justice Eyre after having stated the treasons which are most strictly within the act of Edward III, as well as those which are sanctioned by high law authorities, and upon which there have been adjudged cases, proceeds to reason in the following manner.

"If a conspiracy to depose or imprison the King, to get his person into power of the conspirators, or procure and invasion of the kingdom, involves in it the compassing and imagining his death, and if steps taken in prosecution of such a conspiracy, are rightly deemed overt "acts of the treason of compassing the King's death, what ought to be our judgment, if it should appear that it had entered into the heart of any man, who is a subject of this country, to design to overthrow the whole government of the country, to pull down and to subvert from its very foundations the British Monarchy, that glorious fabric, which it has been the work of ages to erect, maintain, and support; which has been cemented with the

best blood of our ancestors; to design such a horrible ruin and devastation, which no king could survive?"[5]

Here we are presented with a question which is no doubt of the utmost magnitude and importance. Is the proceeding thus described matter of high treason, or is it not? It confessedly does not come within the letter of 25 Edward III. It does not come within the remoter instances "upon which there have been adjusted cases." Chief Justice Eyre has already enumerated there, and, having finished that part of his subject, gone on to something confessedly different.

Are we reasoning respecting law, or respecting a state of society, which, having no fixed rules of law, is obligated to consult the dictates of its own discretion? Plainly the former. It follows, therefore, that the aggravations collected by the Chief Justice, are totally foreign to the question he had to consider. Let it be granted, that the crime, in the eye of reason and discretion, is the most enormous, that it can enter into the heart of man to conceive, still I shall have a right to ask is it a crime against law? Show me the stature that describes it; refer me to the precedent by which it is defined; quote me the adjudged case in which a matter of such unparalleled magnitude is settled.

Let us know the ground upon which we stand. Are we to understand that, under Chief Justice Eyre, and the other Judges of the Special Commission, reasonings are to be adduced from the axioms and dictums of moralists and metaphysicians, and that men are to be convicted, sentenced, and executed, upon these? Are we to understand that henceforth the man most deeply read in the laws of his country, and most assiduously conforming his actions to them, shall be liable to be arraigned and capitally punished for a crime, that no law describes, and that no precedent or adjudged case ascertains, at the arbitrary pleasure of the administration for the time being? Such a miserable miscellany of law and metaphysi-

[5] Page 6.

by the statue of Edward III, and no law- giver in this country has ever ventured to contemplate. The other, "that of overawing Parliament," he states to be a new and doubtful case, and reccomends, that it should be " put into a judicial course of enquiry, that it may receive a solemn adjudication whether it will or will not amount to High Treason."

Thus it is fully admitted, respecting the persons now under accusation, that they could find no reason, either in the books of our law, or of any commentators of received authority, to suppose that they were incurring the guilt of treason. "The mark set upon this crime, the token by which it could be discovered, lay entirely concealed; and no human prudence, no human innocence, "could save them from the destruction with which they are at present threatened.[34]"

It is pretty generally admitted, that several of these persons, at least, were honest and well-intentioned, though mistaken men. Punishment is awarded in human Courts of Justice, either according to the intention, or the mischief committed. If the intention be alone to be considered, then the men of whom I speak, however unguarded and prejudicial their conduct may be supposed to have been, must on that ground be infallibly acquitted. If, on the other hand, the mischief incurred be the sole measure of the punishment, we are bound by every thing that is sacred to proceed with reluctance and regret. Let it be supposed, that there are cases, where it shall be necessary, that a well designing man should be cut off, for the sake of the whole. The least consideration that we can pay in so deplorable a necessity, is, to warn him of his danger, and not suffer him to incur the penalty, without any previous caution, without so much as the knowledge of its existence.

I anticipate the trials to which this charge is the prelude. I know that the Judge will admit the good intention and honest design of several of the persons arraigned: it will be impossible to deny it; it

[34] Hume, vol. vi, ch. liv. p. 404

do, speak, or say, for doubt of the pains of treason."[33] The constructions of Chief Justice Eyre, and the Special Commission, put a perpetual bar to all associations, delegations, and consultings respecting any species of grievance. Will any man venture to say, that we shall never stand in need of these expedients ; or shall we consent for all time coming, to hold every possible reform and amendment at the mere will of the administration? If these principles be established, utterly subcersive as they are of the principles of the English government, who will say that we shall stop here ? Chief Justice Eyre says to-day, "all men may, nay, all men must, if they possess the faculty of thinking, reason upon every thing, that sufficiently interests them to become an object of their attention ; and among the objects of attention of freemen, the principles of government, the constitution of particular governments, and, above all, the constitution of the government under which they live, will naturally engage attention and provoke speculation." But who will say how long this liberty will be tolerated, if the principles, so alarmingly opened in the charge to the Grand Jury, shall once be established ? This is the most important crisis, in the history of English liberty, that the world ever saw. If men can be convincted of High Treason, upon such constructions and implications as are contained in this charge, we may look with conscious superiority upon the republican speculations of France, but we shall certainly have reason to envy the milder tyrannies of Turkey and Ispahan.

From what has been said it appears, that the whole proceedings intended in the present case, are of the nature of an ex post facto law. This is completely admitted by the Chief Justice. In summing up the different parts of his charge, he enumerates three cases, in the first of which he directs the Grand Jury to throw out the bills, and in that of the two last to find them true bills. One of these two relates to Chief Justice Eyre's new treason of "a conspiracy to subvert the Monarchy," a treason which, he says, is not declared

[33] Blackstone, book iv, chap. 6, p. 86.

cal maxims, would be ten thousand times worse, than if we had no law to direct our actions. The law in that case would be a mere trap to delude us to our ruin, creating a fancied security, an apparent clearness and definition, the better to cover the concealed pitfalls with which we are on every side surrounded.

The Chief Justice is by no means unaware of the tremendous consequences that would result from such an administration of criminal law. He speaks respecting it, when the subject is first started, with great temperance and caution. He says, "That " That the crime of conspiring to overthrow the monarchy, is such a one, as no lawgiver in this country has ever ventured to contemplate in its whole extent. If any man of plain sense, but not conversant with subjects of this nature, should feel himself disposed to ask, whether a conspiracy of this extraordinary nature is to be reached by the statute of treasons, whether it is a specific treason to compass and imagine the death of the King, and not specific treason to conspire to subvert the Monarchy itself? I answer, that the statute of Edward III, by which we are bound, has not declared this, which undoubtedly in all just theory of treason is the greatest of all treasons, to be a specific high treason. I said, NO LAWGIVER HAD EVER VENTURED TO CONTEMPLATE IT IN ITS WHOLE EXTENT."[6]

The language here employed is no doubt manly and decisive. From hence it follows, with the most irresistible evidence, that that "which the statute by which we are bound, has not declared to be treason," that "which no lawgiver has ever ventured to contemplate," can never be construed intro treason, till all law is annihilated, and all maxims of jurisprudence trampled under foot and despised.

No author has reasond with greater accuracy, And in a more satisfactory manner upon this important branch of the English constitution than the celebrated David Hume, in his History of England. This author is well known to have Been sufficiently favourable to

[6] Page 6.

the prerogative, yet His reasonings upon this subject, in the case of Lord Strafford, are as minutely applicable to the case before us, as if he had written them with the proceedings of the Special Commission of October 1974, being before him upon his table.

" Of all species of guilt, the law of England has, with the most scrupulous exactness, defined that of treason ; because on that side it was found most necessary to protect the subject against the violence of the King and of his Ministers. In the famous statute of Edward III. all the kinds of treasons are enumerated, and every other crime, beside such as are there ex- pressly mentioned, is carefully excluded from that appellation. But with regard to this guilt, An edeavour to subvert the fundemental laws, the statute of treason is totally silent ; and arbitrarily to introduce it into the fatal catalogue, is it self a subversion of all law ; and, under colour of defending liberty, reverses a statute the best calculated for the security of liberty, that was ever enacted by an English Parliament."[7]

The following are a few sentences from teh defence of Lord Strafford, as quoted by Mr. Hume, a nobleman, whom the republicans of that time so vehemently hated, and were s fixed to destroy, as to render them little scrupulous of overstepping the simple and unbending provisions of the law.

"Where has this species of guilt lain so long concealed? Where has this fire been so long buried, during so many centuries, that no smoke should appear till it burst out at once to consume me and my children? Better it were to live under no law at all, and, by the means maxims of cautious prudence, to conform ourselves the best we can to the arbitrary will of a master, than fancy we have a law on which we can rely, and find at last, that this law shall inflict a punishment precedent to the promulgation, and try us by maxims unheard of till the very moment of the prosecution. Where is the mark set upon this crime? Where the token by which I should discover it? It has lain concealed ; and no human prudence, no

[7] Vol. vi. chap. iv. p. 403.

Irish, and other severe measures, were reserved to be adopted, as the case might acquire This fallacious show of lenity, now turns out to be the most unprincipled tyranny. Mr. Dundas and others talked in the last Session of Parliament, of bringing home the Scottish principles of jurisprudence, if need were, to England, and rendering associations and Conventions a subject of transportation to Botany Bay. They have since refined upon their plan, and carried the law of England, or what they are pleased to call so, into Scotland, rendering these offences, real or imaginary, a subject of the penalties of High Treason. Such have been the incroachments upon the Constitution, by men who have the audacity to call themselves its champions, that a man who should have pretended to foretel, from six months to six months, the measures they would think proper to pursue, would have been laughed at for the improbability and utter absurdity of his tale. Britons will at length awake, and the effects of reason and conviction upon them, will not be less formidable or less unacceptable to their oppressors, than the effects that might flow from a course of violence!

I have hitherto abstained from saying any thing respecting the personal character of the men now under accusation. If their abilities be as rare, and their merits as high as their warmest admirers can conceive them, it would still be foreign to the question I purpose to consider. If they be men, exceptionable in their character, ambiguous in their designs, and mischievous in their counsels, that also ought to be put out of the consideration. The ENglish Constitution is strong enough to disarm all the adversaries of the public peace, without its being necessary for that purpose to destroy its very essence. Twelve men are apparently concerned, but the liberties and happiness of all are at stake. If these new treasons be establish, we may say, as the Parliament of Henry the Fourth did, speaking of he new-fangled treasons under RIchard the Second, that "no man can know how "he ought to behave himself, to

the persons that shall be brought before him, the better to ascertain the truth or falsehood of his pre-conceived conjectures. The plain English of his recommendations is this : "Let these men be put upon trial for their lives ; let them and their friends, through the remotest strainers of connection, be exposed to all the anxieties incident to so uncertain and fearful a condition ; let them be exposed to ignominy, to obloquy, to the partialities, as it may happen, of a prejudiced judge, and the perverseness of an ignorant jury : we shall then know how we ought to conceive of similar cases. By trampling upon their peace, throwing away their lives, or sporting with their innocence, we shall obtain a basis upon which to proceed, and a precedent to guide our judgment in future instances."

This is a sort of language which it is impossible to recollect without horror, and which seems worthy of the judicial ministers of Tiberius or Nero. It argues, if the speaker understood his own meaning, or if the paper before me has faithfully reported it, the most frigid indifference to human happiness and human life. According to this method of estimate, laws, precedents, cases and reports are of high value, and the hanging a few individuals is a very cheap, economical and proper way of purchasing the decision of a doubtful speculation.

Surely it would be worthy, if not of the Judges, at least of the immediate Ministers of the Sovereign, to consider whether, if they mean to put us under a new rule of criminal law, it be not better solemnly to originate that law in the two Houses of Parliament, than to suffer it to be made out of new constructions of old statutes, contrary to all law and precedent, and contrary to the security and liberty of the subject.

In Ireland, some time ago, it was thought proper to bring forward a COnvention-Bill, declaring such proceedings, as are the subjects of the forced constructions of Chief Baron Eyre, to amount to High Treason. When the Habeas Corpus act was suspended in England, we were given to understand that this proceeding was thought sufficient for the present, and that a Convention-Bill, similar to the

human innocence, could save me from the destruction with which I am at present threatened."

"It is now full two hundred and forty years since treasons were defined. Let us be content with what our fathers left us ; let not our ambition carry us to be more learned than they were, in these killing and destructive arts! To all my afflictions add not this, my Lords, the most severe of any, that I, for my other sins, not for my treasons, be the means of introducing a precedent so pernicious to the laws and liberties of my native country!"[8] Chief Justice Eyre's charge consists of three parts. The first five pages contain principally a sound and constitutional exposition of the lw of treason, as exhibited in the books. In the two following pages we are presented with this portentious speculation, this new treason of "conspiring to subver: the Monarchy;" though the Chief Justice, as has already appeared, has qualified his speculation, with expressions, proving, by accumulated evidence, and in the most precise terms, that his new imaginary treason is no treason by the laws of England.

Here, as the Chief Justice observes, the charge might have concluded. Here, if a proper regard has been paid to the essential principals of criminal justice, it would have concluded; if not in reality a little sooner. The remainder of the charge is made up of hypothesis, presumption, prejudication, and conjecture. There is scarcely a single lien that is not deformed with such phrases as "public notoriety", "things likely," "purposes imputed," "measures supposed," and "imaginary cases."

The plain reason of all this is, that the Chief Justice suspected, that the treason described in the stature 25 Edward III, and those founded upon precedent, or deducible from adjudged cases, even with the addition of the Chief Justice's new constructive treason, founded, as he confesses, upon no law, precedent, or case, and which therefore is in reality no treason, did not afford sufficient ground of crimination against the prisoners. He is therefore

[8] Ibid

obliged to leave the plain road, and travel out of the record. No law, no deduction, or construction of law, that could be forced or drawn out of a mere view of the statute, would answer the purposes of the Special Commission. He is therefore obliged to indulge himself in conjecture, as to what the prisoners may have done, and and what are "the facts likely to be laid before the jury."[9] Two flagrant iniquities are included in this mode of proceeding. First, the Chief Justice implicitly confesses himself unable, by direct deductions of law, to show us what it is we ought to avoid, and is reduced to the necessity of reasoning, not forward from general rules of action to the guilt or innocence of particular men, but backward from actions already performed to the question, whether or no they shall fall under such or such provisions of law. Secondly, by this perverted mode of proceeding, he completely prejudges the case of the prisoners. He does not proceed, as a judge ought to proceed, by explaining the law, and leaving the Grand Jury to fix its application upon individuals; but leads them to the selection of the individuals themselves, and centres in his own person the provinces of judge and accuser. It may be doubted whether, in the whole records of the legal proceedings of England, another instance is to be found, of wild conjecture, such premature presumption, imaginations so licentious, and dreams so full of sanguinary and tremendous prophecy. The conjectures of the Chief Justice respecting the probable guilt of the accused fall under two heads. First, "associations, the professed purpose of which has been a change in the Constitution of the Commons House of parliament, and the objaining of annual Parliaments."[10] Secondly, "the project of a Convention to be assembled under the advise and direction of some of these asociations."[11]

[9] Page 8.
[10] Page 8
[11] Page 10

Here the Chief Justice speaks with a proper degree of modesty and precaution, so far as relates to the supposed guilt of the persons under confinement but when he has occasion to resume the subject, he, in his usual manner, introduces a variation variation into the statement. "It may perhaps be fitting," says he, "if you find these persons involved in such a design, and if the charges of High Treason are offered to be maintained against them upon that ground, that in respect of the extraordinary nature, the dangerous extent, and at the best, the very criminal complexion of such a conspiracy, this case, which I state to you as a new and a doubtful case, should be put into a judicial course of inquiry, that it may receive a solemn adjudication, whether it will or will not amount to High Treason."[32]

It is difficult to conceive of any thing more abhorrent to the genuine principles of humanity, than the doctrine here delivered. The Chief Justice, after having enumerated various sorts of treason, respecting which he speaks diffidently at first, and peremptorily at last, but which are all the mere creatures of his own imagination, comes to a case upon which even he hesitates to decide. He dares not aver the proceeding described in it to be treason. Well, then; what is the remedy he proposes? Surely a new Act of Parliament ; the rememdy prescribed by the act of Edward III, "in cases of treason, which may happen in time to come, but which could nto then be thought of or declared." No such thing. Upon this case, which he does not venture to pronounce to be treason, he directs the Grand Jury to find the bills to be true bills! He tells them "that it is fitting that this case," which he "States as new and "doubtful, should be put into a judicial course of enquiry, that it may receive a solemn adjudication, whether it will or will not amount to High Treason!"

The Chief Justice, in this instance, quits the character of a criminal judge and a civil magistrate, and assumes that of a natural philosopher or experimental anatomist. He is willing to dissect

[32] P.15.

and respect. Thus the Chief Justice very properly observes, that "a Convention, having for its sole object a dutiful and peaceable application to Parliament," does not fail to find that application attended with "respect and credit, in proportion to its universality."[30] Indeed there can be no doubt, that there are but two ways of operating upon men's conduct, the one, by exhibiting arguments calculated to prevail upon their own inclinations and conviction, the other a perceiving how much the thing required accords with the sense of numerous bodies of men, and bodies of men intitled to eminent credit.

Such being the substance of the most material paragraph paragraph in the charge to the Grand Jury, let us see in what manner this paragraph is concluded, and what are the inferences drawn from it. What is the treatment due to this *force* which is no *force*; this *collecting together a power*, unarmed, and entitled to credit only for its universality? What shall be done to the men who thus *overawe* the legislative body, by exciting its deference and respect; or, failing this, do not overawe it at all, inasmuch as they have no power to inforce their demands? "Whether or no," as Chief Justice Eyre sagaciously observes, "the project of such a Convention will amount to "High Treason, is a more doubtful question." He adds, "in this case it does not appear to me, that I am warranted by the authorities, to state to you as clear law, that the mere conspiracy to *raise such a force* [*recollect* what has been said upon the nature of this force], and the entering into consultations respecting it, will alone, and without actually raising the force, constitute the crime of High Treason. What the law is in that case, and what will be the effect of the circumstance of the *force* being thus meditated, will be fit to be solemnly considered and determined when the case shall arise."[31]

[30] P.14.
[31] P.13.

The treasons which the Chief Justice imagines himself capable of fixing upon some of these associations for a parliamentary reform, are of two kinds.

Before we enter upon these, let us pause a moment, and consider the unexpored country before us. Every paragraph now presents us with a new treason, real or imaginary, pretendedly direct, or avowedly constructive. Division and subdivision rise upon us, and almost every one is concluded with the awful denunciation of treason. The Chief Jusice is no loger contented with the plain treasons of 25 Edward III, or the remoter treasns of Foster and Hale. His whole discourse hangs by one slender thread. He perpetually refers to the new and portentous treason of his mere creation, "a conspiracy to subvert the "Monarchy;" a treason, which he ingenuously avows "no lawgiver in this country has ever ventured to contemplate,: and "the statute of Edward III, by which we are bound, has not declared." Upon this self-constituted treason he hangs his other conjectures and novelties as well as he is able, by the help of forced constructions, of ambiguous and deceitful words, and all the delusions of a practised sophister. Was it necessary for the destruction of twelve private and untitled men, to create all this confusion, to produce all this ruin, to overturn every thing that is valuable in English liberty, and place us for time coming under the most atrocious and inexplicable despotism that the world ever saw?

Let us attend to the opinion of Judge Blackstone upon this subject.

"By ancient common law, there was a great latitude left in the breast of the judges, so to determine what was treason or not so; whereby the creatures of tyrannical princes had opportunity to create abundance of constructive treasons : that is, to raise, by forced and arbitrary constructions, offences into the crime and punishment of treason, which were never suspected to be such. To prevent these inconveniences, the statute 25 Edward III, chapter 2, was

made.[12] –This is a great security to the public, and leaves a weighty memento to judges to be careful, not overhasty in letting in treasons by construction or interpretation, especially in new cases that have not been resolved and settled.–The legislature was extremely liberal in declaring new treasons in the unfortunate reign of King Richard the Second; but, in the first year of his successor's reign, an act was passed, which at once swept away this whole load of extravagant treasons. Afterwards, particularly in the bloody reign of Henry VIII, the spirit of inventing new and strange treasons was revived; all which new-fangled crimes were totally abrogated by the stature 1 Mary, chap.1; since which time the legislature has become more cautious upon this subject."[13]

The first mode in which, according to Chief Justice Eyre, an association for Parliamentary Reform, may incur the penalties of High Treason, is, when "other purposes besides those of Parlimentary Reform, and of the most traiterous nature, are hidden under this veil."[14] The purposes he may be supposed to mean are those of his new-fangled treason, of "conspiring to subvert the Monarchy." Thus, in the first place, we have an innocent purpose constituting the professed object of this supposed association; and behind that the Grand Jury are to discover, if they can, a secret purpose, totally unlike that which the associators profess; and this purpose Chief Justice Eyre declares to be treason, contrary, as he avowedly confesses, to all law, precedent, and adjudicated cases.

The second mode, in which the Chief Justice is willing to presuppose High Treason in an association for Parliamentary Reform, is by such an association, not in its own nature, as he says, "simply unlawful, too easily degenerating, and becoming unlawful in the highest degree."[15] It is difficult to comment upon this article with the gravity, that may seem due to a magistrate, delivering his

[12] Book iv. chap. 6. p. 7.
[13] P. 85, 86.
[14] P. 8.
[15] P. 9.

"Whether the project of a Convention, having for it's object the collecting together a power, which should overawe the legistative bod, but not suspend it, or entirely determines its fuctions, if acted upon, will also amount to High Treason, and inmagining the King;s death, is more doubtful question. Thus far is clear: a force upon the Parliament, must be immediately directed against the KIng. It must reach the King, or it can have no effect at all. The laws are enacted in Parliament by the King's Majesty, by and with the advice and consent of the Lords of Commons in Parliament assembled. A fource mediated against the parliament therefore, is a force mediated against the King, and seems to fall within the cases described."[29]

Nothing Can be more gross to the view of any one who will attentively read this paragraph, than its total want of all definite aud intelligible meaning. The chief Justice talks of " collecting together a power," and of " a force" exercised upon the Parliament. What is here intended by the words power and force? Under the kindly ambibuity of these words, the Chief Justice seems very willing to slip upon us the idea of an armed power and a military force. But this can scarcely by any construction be reconciled to the idea of a Convention. An army of delegates was an idea reserved for Chief Justice Eyre to introduce into the world. Well then: let's suppose that arms and violence are not intended; yet the Chief Justice says, that the project of a Convention has for its object "the collecting together a power, which should *overawe* the legislative body." This word is still more ambiguous than any of the rest. What are we to understand by the phrase "to overawe?" *Awe* in its true acceptatiun has always been understood to mean *deference* or *respect*. It cannot mean any thing else here, since, as we have already seen, armed power and military force are out of the question. But in this sense what is the object of every species of Convention or political association whatever? It is always intended to produce deference

[29] P.13.

proposing to obtain it without the authority of Parliament," and for that purpose "usurping, at least in this instance, the functions of legislation."[27] This the Chief Justice determines, upon just the same grounds as in the preceding instances, "would be High Treason in every one of the actors."[28] After this laborious discussion, Chief Justice Eyre is not yet satisfied that he has framed a construction, strong enough to ensare the persons now under confinement. He has promulgated at least five or six different classes of treason, not found in the direct provisions of 25 Edward III, not supported, as he explicitly confesses, by any law, precedent or adjudged case. But all this he does in the mere wantonnes of his power. If any of the prisoners now under confinement has acted according to all the enumerations of his imaginary case, it may safely be affirmed, that, upon any sober trial upon a charge of High Treason, they must infallibly be acquitted. But the Chief Justice implicitly confesses, that they have not acted according to any one of his cases. All this profusion of fiction, hypothesis, and prejudication, is brought forward for the sole purpose, either of convincing us of the unparalleled ingenuity of the Lord Chief Justice of his Majesty's Court of Common Pleas, or to bewilder the imaginations, so throw dust in the eyes, and confound the understandings of the Grand Jury and the nation. If this last be the purose conceived, and if it could possibly be supposed that it should be successful for a moment, early would be the repentance, deep the remose, and severe, it is to be feared, the retribution!

The Chief Justice then, having hitherto talked of every thing that is not to the purpose, comes at last to speak of the matter in hand. Here he employs all his ingenuity, exerts all his arts, and displays his utmost intrepidity of countenance. This part of the case is opened as follows.

[27] P.12.
[28] P.12.

opinions from a bench of justice. An association for Parlimentary Reform may "degenerate, and become unlawful in the highest degree, even tp the enormous extent of the crime of High Treason." Who knows not that? Was it necessary that Chief Justice Eyre should come in 1794, solemnly to announce to us so irresistible a proposition? An association for Parliamentary Reform may desert its object, and be guilty of High Treason. True: so may a card club, a bench of justices, or even a cabinet council. Does Chief Justice Eyre mean to resinuate, that there is something in the purpose of a Parliamentary Reform, so unallowed, ambiguous and unjust, as to render its well wishers objects of suspicion, rather than their brethren and fellow subjects? What can be more wanton, cruel, and inhuman, than thus gratuitously to single out the purpose of Parliamentary Reform, as if it were of all others, most especially connected with degeneracy and treason?

But what is principally worthy of observation in both these cases, is, the easy and artful manner in which the idea of treason is introduced into them. First, there is a "concealed purpose," or an insensible "degeneracy," is supposed to tend directly to this end, the "subversion of the "Monarchy." Lastly, a "conspiracy to subvert "the Monarchy," is a treason, first discovered by Chief Justice Eyre in 1794, never contemplated by any lawgiver, or included in any statute. Deny the Chief Justice any one of his three assumptions, and his whole deduction falls to the ground. Challenge him, or any man living, to prove any of them; and you require of him an impossibility. And it is by this sort of logic, which would be scouted in the rawest graduate in either of our Universities, that Englishmen are to be brought under the penalties of treason!

Of these assumptions, the most flagrant perhaps, if in reality there can be any gradation in such groundless assertions, is that which imputes to the associations a " conspiracy to subvert the "Monarchy." The Chief Justice knows, for no man is ignorant, that there is not the shadow of evidence of such a conspiracy. If any man in England wishes the subversion, if effected at all, can only

be effected by an insensible revolution of opinion? Did these associations plan the murder of the King, and the assassination of the royal family? Where are the proofs of it? But the authors of the present prosecution probably hope, that the mere names of Jacobin and Republican will answer their purposes; and that a Jury of Englishmen can be found who will send every man to the gallows without examination, to whom these appellations shall once have been attributed!

If Chief Justice Eyre, or his Majesty's servant, have any charge of High Treason to advance, let them advance it. The purpose of Parliamentary Reform, as the Chief Justice confesses, so far from being treasonable, is not "simply unlawful." If the persons now under confinement, have been guilty of High Treason, that is the point to which our attention is to be called. Their treason is neither greater nor less, for their being engaged in a lawful object, the associating for a Parliamentary Reform. Tell us what they have done that is criminal, and do not seek to excite extrajudicial against them for what is innocent.

Having dismissed the immediate purpose of a Parliamentary Reform, the Chief Justice goes on in the last place to consider "the project of a Convention, to be assembled under the advice and direction of some of these associations."[16]

And here it was impossible not to recollect, that Conventions and meetings of delegates are by no means foreign to the English history; and that twelve or fourteen years ago, many of his Majesty's present Ministers were deeply engaged in a project of this nature. Accordingly, the Chief Justice takes a very memorable distinction. He calls it "a project, which in better times would have been hardly thought worthy of grave consideration, but, in these, our days, when it has been attempted to be put in execution in a distant part of the united kingdom, and with the example of a

[16] P. 10.

have seen, affirms it to be "a case of no difficulty, and the clearest High Treason."

Can any play upon words be more contemptible, than that by which the Chief Justice, finding the King's death the subject of one of the clauses, and determined to trace at least some remote analogy between that and the subversion of the monarchy, describes the latter by the appellation of "the death and destruction of all order, religion, &c. &c.?"

The second sort of Convention in Chief Justice Eyre's arrangement, is a Convention, which, not intending to usurp the government of the country, "has for its sole object the effecting a change in the mode of representation of the people in Parliament, and the obtaining that Parliaments should "be held annually. And here," says the Chief Justice, " there is room to distinguish. Such a project of Convention, taking it to be criminal," —[25]

" Taking it to be criminal!" Was ever postulate, more extraordinary, or more intolerable? Did ever Judge, sitting upon the bench, previously to this instance, assume the whole question; affirm at his ease, and without the shadow of an authority, scriptural or nuncupatory, stature or report, the whole criminality; and then proceed at his leisure to distribute the assumed criminality into all its different degrees? Meanwhile, after this loud and peremptory preamble, the Chief Justice is obliged to grant, that one sort of Convention, one "degree of criminality," "a Convention, having for its sole object a dutiful and peaceable application to Parliament by petition, cannot of itself be ranked among this class of offences."[26] He dares not affirm that it is to be ranked among any class of offences whatever. — But to proceed to the distinctions he undertakes to enumerate.

The first sort of "Convention, which has for its object the obtaining a Parliamentary Reform, and that object only, is a Convention,

[25] P.12.
[26] P.14.

neighbouring country before our "eyes, is deservedly become an object of jealousy to the law."[17]

This remark constitutes one of the most flagrant violations of the principles of executive justice, that was ever heard of or imagined. If the times require different measures of justice, we are already instructed by the act 25 Edward III, as to the proceeding fitting to be employed. "The Judge," says the act," shall tarry, without going to judgment of the treason, till the cause be shown and declared before the King and his Parliament, whether it ought to be judged treason or other felony." Parliament, the legislative authority of the realm, may make new provisions of law in accommodation to circumstances; but the Judges, the bare expounders of the law, are bound to maintain themselves in an atmosphere unaffected by the variations of popular clamour, ministerial vengeance, or the ever changing nature of circumstances. They are to be severely and unalterably the same. The meaning they found in the statute yesterday, that meaning, and no other, they are to find today. An interpretation, shifting with every gale of accident, may produce undefinable terrors in its miserable victims, may devote its authors to eternal execration, but can have none of the venerable features either of law or justice.

Some of the dreadful consequences involved in this loose and fluctuating interpretation, show themselves in the very next sentence.

"It will be your duty," says the Chief Justice to to the Jury, " to examine the evidence on this head very carefully, and to sift it to the bottom; to consider every part of it in itself, and as it stands connected with other parts of it ; and to draw the conclusion of fact, as to the existence, the nature and object of this proposed Convention, from the whole.

"In the course of the evidence you will probably hear of bodies of men having been collected together, of violent resolutions voted at

[17] P. 10.

In describing his first sort of Convention the Chief Justice roundly affirms, "that the project of such a Convention, and any one step taken towards bringing it about, such as, for instance, consultations, forming committees to consider of the means, or acting in those committees, would be a case of no difficulty: it would be the clearest High Treason; it would be compassing and imagining the King's death; and not only his death, but the death and destruction of all order, religion and laws, of all property, and security for the lives and liberties of the King's subjects."[22]

There is a figure in speech, of the highest use to a designing and treacherous orator, which has not yet perhaps received a name in the labours of Aristotle, Quintillian, or Farnaby. I would call this figure *incroachment*. It is a proceeding, by which an affirmation is modestly insinuated at first, accompanied with considerable doubt and qualification; repeated afterwards, unaccompanied with these qualifications; and at least asserted in the most peremptory and arrogant terms. It is thus that Chief Justice Eyre expresses himself, respecting a "conspiracy to overturn the Monarchy." It is first a Treason, "not declared by the statute 25 Edward III;" a Treason, "which no lawgiver in this country has ever ventured to contemplate;" a Treason, "not resting for its authority upon any law, precedent or adjudged case." It is not this thing, nor it is not that; "the *seditio regni* spoken of by some of our ancient writers," but *which is no part of our law*, "seems to come the nearest to it,"[23] but will not apply. "The particular nature of the traiterous attempt, will fall within *one or other* of the specific treasons of the statue of Edward III."[24] A strange crime, which the judge knows is provided against by the first or the second principal clause, but is unable to determine whether it is by the former or the latter! Afterwards the Chief Justice speaks of it with less hesitation; and at least, as we

[22] P. 11.
[23] P. 6.
[24] P. 7.

this and other meetings, of some preparation of offensive weapons, and of the adoption of the languge and manners of those Conventions in France, which have possessed themselves of the government of that country. I dwell not on these particulars, because I consider them not as substantive treasons, but as circumstances of evidence, tending to ascertain the true nature of the object which these persons had in view."[18]

Here we have set before us in the most unblushing and undisguised manner, that principle of Constructve Treason, which has upon all occaisons formed an object of execration in English history. Let us hear what Hume says upon the subject in the farther progress of that very passage which has been already quoted.

" As this species of treason, discovered by the Commons," in the case of Lord Stafford, "is entirely new and unknown to the laws; so is the species of proof by which they pretend to fix that guilt upon the prisoner. They have invented "a kind of accumulative or constructive evidence, by which man actions, either totally innocent in themselves, or criminal in a much inferior degree, shall, when united, amount to treason, and subject the person to the highest penalties inflicted by the law. A hast and unguarded word, a rash and passionate action, assisted by the malevolent fancy of the accuser, and tortured by doubtful constructions, is transmuted into the deepest guilt, and the lives and fortunes of the whole nation, no longer protected by justice, are subjected to arbitrary will and pleasure."[19]

It is not easy to conceive of two passages more parallel to each other, than the doctrines here delivered by Chief Justice Eyre, and the condemnation pronounced upon them by war of anticipation by the illustrious Hume. Thus, "a hasty and unguarded word,"- "Adoption of the language of the Convention in France." — "A rash and passionate action," — "Violent resolutions voted at the and

[18] P. 11.
[19] P. 403.

other meetings-some preparation of offensive weapons." — "Actions either totally innocent in themselves, or criminal in a much inferior degree," — "I consider not the particulars as substantive Treasons."

Can any thing be more atrocious, than the undertaking to measure the guilt of an individual, and the interpretation of a plain and permanent law, by the transitory example that may happen to exist "before our eyes in a neighbouring country?"

The chief Justice speaks of two sorts of Convention. The first, "a Convention, in imitation of those which we have heard of in France, in order to usurp the government of the country."[20]

There lurks a memorable ambiguity under this word Convention. A Convention was held no long time ago, of delegates from the royal burghs in Scotland, to consider of a reformation in the administration of those burghs. Of this Convention, the present Lord Advocate of Scotland, among others was a member. A Convention was proposed in 1780, of delegates from the different country meetings held at that period. Both those Conventions were considerably more formidable in their structure that that which is the subject of present animadversion. The royal burghs, and the meetings of freeholder in the several counties, consist of bodies more or less recognized by the constitution, and possessing a degree of inherent authority. The Convention propose in the present instance, was simply of delegates from the different societies, voluntarily associated for the purpose of Parliamentary Reform. They could possess no inherent authority. The persons who constituted them, must have been actuated by the most perfect insanity, before they could have dreamed of usurping the government of the country. No delusion therefore can be more gross, than an attempt to style, as Chief Justice Eyre styles, such a convention as "*A Convention of the People*."[21]

[20] P. 11.
[21] P. 10.