

HANGING,

Not Punishment Enough,

FOR

Murtherers, High-way Men, and House-Breakers.

Offered to the Consideration of the Two HOUSES of PARLIAMENT.

...

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TO THE

READERS

I have with great Concern for some years last past observed the Lamentable Increase of High-way-Men, and House-breakers among us; and this, tho' the Government has vigorously set it self against them, by pardoning but very Few, and that divers Laws have been Enacted to suppress them.

I have observed too, That tho' there have been very frequent Convictions, and Executions of them, yet still, as the Poets said of Cadmus's Men, new ones rise in their places, and their Number seems not in the least diminished. And this often tempted me to think, that there is still some defect in our Laws, and that One is still wanting, that may effectually reach this Distemper; and do that which those already in force ('tis plain) are unable to do.

And this is the true reason why I send this Essay into the World, to set this Evil in its due light, and attempt its Cure. And if in it I have discovered more Zeal than Knowledge, yet the good end it aims at, with Candid Judges will cover abundance of faults.

I am very sensible, that much more might have been said to the advantage of my Proposal, had I had the Convenience of a Publick Library, and that I might have brought great Authorities to concur with me. But I consider, that let the Ancients and Moderns say what they please, yet in a Discerning Age like this, every Man will certainly judge for

himself; and as the most celebrated names will not give credit to an ill Argument, so true Reasoning will take place, even from a Hand as unknown as mine with such Assistance.

I will not say, but it might have been more proper for others to have done this than for me; but since They, whose [sig. A2v] business more immediately it was, have declined it; so great a sense have I of the evil I complain of, that I have chosen rather to do it loosely and imperfectly, than not at all.

'Twere indeed to have been wished, that some Gentleman of the Long Robe would have undertaken it; because They who have considered the whole Body of our Laws, and their Dependance on each other, are much better qualified to judge of their Reasonableness, than He who looks singly into 'em, and examines only Those, that may serve his Purpose.

But the late Villanous Attempts to set Houses on fire, to Rob 'em, is such a provocation, as to engage Every Man's Indignation against such profligate Wretches, to endeavour to root them out, as lost to all sense of Humanity and good Nature. Such Horrid Practices will justify the utmost resentment; and they who are arrived at that high pitch of Wickedness, ought not to breath the common air with other Men.

I have in this Paper taken but little notice of the Scandalous Wickedness and Corruption of Prisons and None of their Keepers; which was not done by omission or ignorance, of the mischief that arises from those infamous Places and Men. They are now known to be the Sanctuaries of Villains, from whence their Emissaries are dispatch'd, and a regular and settled Correspondence is said to be fix'd and carried on, through the Fraternity of Rogues in England. This is a Grievance too great to be spoken of by the by, and under another Head; this requires a Particular Treatise by it self, and this cries aloud for a Regulation and Reformation from the Power and Wisdom of the Parliament, for no less Power or Wisdom than that of a Parliament can Regulate and Reform them.

[1]

Hanging, not Punishment enough for Murtherers, High-way Men, and House-breakers.

MY Opinion is, That our present Laws that relate to Murtherers, High-way Men, and House-breakers, are too favourable, and insufficient for the End they are intended. I fear not to say too favourable, even tho' they extend to Death; since that Death the Law enjoyns, is found unable to deter 'em. Were it not so, our Roads would not be so pester'd with that wicked

Generation of Men, nor our Sessions-Papers Monthly, and the Publick News daily full of so many Relations of Robberies and Murthers, and all the Pleasure and Satisfaction of Travelling destroyed, as it is now, by being so dangerous and unsafe: and (which ought more to be regarded) a frequent interruption given to Traded and Business, by Robbing of Packets, and intercepting Letters of Correspondence and Advice; to say nothing of the insecurity of sending Exchequer and Bank-Bills by the Publick Conveyances.

I am sensible, That the English Clemency and Mildness appear eminently in our Laws and Constitutions; but since it is found that Ill Men are grown so much more incorrigible, than in our fore-fathers Days, is it not fit that Good Men should grow less merciful to them, since gentler Methods are ineffectual?

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I acknowledge also, That the Spirit of Christianity disposes us to Patience and Forbearance, insomuch that when the Roman Emperors began to grow Christian, we are informed, That most Capital Punishments were taken away, and turned into others less Sanguinary; either that they might have longer time for Repentance, (an Indulgence agreeable to the Zeal and Piety of those Good Ages) or that the length and continuance of their Punishment might be more Exemplary. And I acknowledge with the Wise Quintilian, That if Ill men could be made Good, as, it must be granted, they sometimes may, it is for the Interest of the Commonwealth, that they should rather be spared than punished. And I know, that 'tis frequently alledg'd, That you take away a Better thing, and that is a Man's Life, for that which is worse, and that is, your Money and Goods; but tho' this be speciously enough urged, yet I doubt not, but the Publick Safety and Happiness may lawfully and reasonably be secured by this way, if it can by no other. No doubt, if other Methods would do, there had never been recourse to Death, since that was questionless reserv'd as the last Refuge. But even that now fails, and so fails, that if some Remedy be not found to stop this growing Evil, we shall shortly not dare to Travel in England, unless, as in the Desarts of Arabia, it be in large Companies, and Arm'd. For to such a height of Villany are they [3] arrived, that even some of the Nobility themselves have not escaped their hands; and there is no order of Men in England, but has been sensible of their Insolence and Rage. And 'tis a very great Aggravation of their Crime, and a high provocation to those who fall into their power, That they use them in so barbarous and insulting a manner; and so much worse than in former Ages, that some Men of spirit cannot bear so inhumane Treatment, without endangering, and often times losing their Lives, as has been to often known, to be prov'd.

So that I must beg leave to say, that they who shew no mercy should find none; and if Hanging will not restrain them, Hanging them in Chains, and Starving them, or (if Murtherers

and Robbers at the same time, or Night-incendiaries) breaking them on the Wheel, or Whipping them to Death, a Roman Punishment should.

I know that Torments so unusual and unknown to us may at first surprize us, and appear unreasonable; but I hope easily to get over that difficulty, and make it appear upon Examination, that that will be the more probable way to secure us from our fears of them, and the means of preserving great numbers of them, who now yearly by an easie Death are taken off at the Gallows. For to Men so far corrupted in their Principles and Practices, and that have no Expectations beyond the Grave (for such, I fear, is the case of most of them) no Argument will be so cogent, as Pain in an intense degree; and a few such Examples made, will be so terrifying, that I persuade my self it would be a Law but seldom put in Execution.

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But then I must add, that I fear it will not have its due effects, if it be too often dispens'd with; since *that* will be apt to give ground to every Offender, to hope that he may be of the number of those, who shall escape, and so the good end of the Law will be as defeated. For if Favour of Affection, or a Man's being of a good Family, or Money can prevail, and take off the Penalty of the Statute; if it be not executed steadily and impartially, with an exact hand (still giving allowance for extraordinary Cases) it will serve to little purpose, since many will be found (as ill men easily flatter themselves) who will not fear a Law, that has sharp Teeth indeed, but does but sometimes bite. And this, I believe, must be allowed to be the only way to root out our Native Enemies, as they truly are; as might lately have been seen in a Neighbouring Kingdom, where severity, without the least mixture of mercy, did so sweep High-way men out of the Nation, that it has been confidently said, that a Man might some time since have openly carried his Money without fear of losing it. That he cannot now, is to be charged upon their great numbers of Soldiers, without Employment and Plunder, and in poor pitiful Pay; and, it may be, on the very great necessities of the People, that make 'em desperate, and careless of their Lives.

'Tis a Rule in Civil Law, and Reason, That the Punishment should not exceed the fault. If Death then be due to a Man, who surreptitiously steals the Value of Five Shillings (as it is made by a late Statute) surely [5] He who puts me in fear of my Life, and breaks the King's Peace, and it may be, murders me at last, and burns my House, deserves another sort of Censure; and if the one must die, the other should be made to *feel himself die*.

For, as the Benefit of the clergy is of late taken from Pick-Pockets, so they are now in the Eye of the Law upon the same foot with Murtherers, High-way men, and House-breakers. Their Crimes are certainly very unequal, by the Laws of God, and the consent of Nations; Why then should not their Punishment be so too?

Besides, the frequent Repetitions of the same Crimes, even in defiance of the present Laws in being, is a just ground of enacting somewhat more terrible; and indeed seems to challenge and require it.

Farther still; at the last great day doubtless there will be degrees of Torment, proportionable to Mens guilt and sin here; and I can see no reason why we may not imitate the Divine justice, and inflict an Animadversion suitable to such enormous Offenders.

And this, I am persuaded, will best answer the End of Sanguinary Laws, which are not *chiefly* intended to punish the present Criminal, but to hinder others from being so; and on that account. Punishments in the Learned Languages are called Examples, as being design'd to be such to all mankind.

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If it be objected, That I propound Punishments, that exceed the Faults. I answer,

First, As to High-way Men, consider the great terror and fear they put people into; and that contributes largely to their Guilt, as appears from that being ever a part of their Indictment; and I apprehend, that the Legislative Power ought to be highly concern'd not only for the Safety, but for the Quiet too of the People.

Besides, those desperate Villains hinder Trade and Commerce, and have made even private Visits, and Offices of Friendship unsafe. They now Rob with that Impudence, Assurance, and Leisure, as if they did it Legally and with Commission; and as if they came not to Steal and Rifle, but rather by Authority to seize and distrain. They have ruined several, and have brought fear on almost All. They have wounded and maimed divers, have left many bound and naked in cold Weather, to the hazard, and often to the loss of their Lives.

Then again for House-breakers, the dread of them is greater than can well be express'd, or than the Inhabitants of Cities and Great Towns, who are well guarded and secured by their numbers, can imagin. They terrifie innocent people to that high degree, and bring such a Consternation on a whole Neighbourhood, where their Haunts are, that they would scarce be more afraid of a Foreign Invasion. I hope then, we may be allowed to say, it would be a good piece of Service to our Country, if somewhat more than making a Wry Mouth, as they Ridicule Hanging, were appointed for the one and the other.

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As for Murtherers, as both of them intentionally are, because they are ready armed always for bloody purposes, and have a will not only to Rob but to kill too; as for such, the Law of Nations is, That like should be returned for like. And since it is an express Law of God, That whoso sheds mans blood, by man shall his blood be shed, Gen.9.6 A scrupulous

Man may be tempted to suspect, Whether the Power that Christian Princes generally assume of Pardoning Wilful Murtherers, be not too much, and beyond their Commission, since they Pardon those, whose blood God commands directly and positively to be shed.

I am not ignorant of the common Distinction, That the King only remits the Loss of his Subject; and among us, that an Appeal remains to the Party grieved, tho' even that was but lately put in practice. Nevertheless 'tis a known Case, that the conditions of Appeals are strait and narrow, and clog'd, and that they are constantly discouraged, for a reason easily known, and a Flaw in a Word or Sentence has been commonly found in the Appeal, and (it may be) plac'd there on purpose to make it insignificant. I am no Enemy to the just Prerogative of Princes, but believe it, when in good hands, to be serviceable and advantageous to the People; but I must say, I am inclined to think, that any Usage or Custom, Memorial or Immemorial, that contradicts, or gives leave to dispense with the Laws [8] of God is null, and in it self void. I dare not positively say, that this is of that sort, lest I arraign the practice of so many Ages, and the best Princes; but I think that two eminent Civilians declaring, That a Murtherer flying to the Church, might be drawn from thence, and even by a Lay-Judge (says one of them) is a very strong Argument, That the Crime was then look'd upon as exceedingly heinous, since even the exorbitant Power of the Church, much greater than any Secular, was not able to protect those, who were guilty of it.

But still I am sensible, that tho' I argue for severity, in general we ought to be tender of shedding humane Blood; For there is such a Consanguinity and Relation between all mankind, that no one ought to hurt another, unless for some good end to be obtain'd. And Bodily Punishment, as the Civilian well observes, is greater than any Pecuniary mulcts; and every Man knows that he who loses his Life, is a much greater sufferer than he whose Goods are confiscated, or if Fined in the most unreasonable manner in the World.

But my design is not, that Man's blood should be shed, but that it should *not*; and I verily believe, that for Five Men Condemned and Executed *now*, you would hardly have *one then*. For those Men out of [9] Terror of such a Law, would ('tis to be hoped) either apply themselves to honest Labour and Industry; or else would remove to our Plantations, where they are wanted, and so many useful Hands would not be yearly lost.

But I must add, That it is not fit, that men in Criminal Causes, as the Civil law well directs, should be condemned, unless the Evidence be clearer than the midday Sun; and no Man should expire in such horrid Agonies, for whose Innocence there is the least pretence.

Now, if with this Proviso, Executions should happen to be more frequent than I suppose, as nothing is to be wondered at in an Age so wicked, let it not be called Cruelty, since ill Men are to thank themselves for what they knowingly bring on their own heads; and

'tis not the Law that is to be found fault with, but themselves for coming within the reach of it. For Seneca as his way is, says very well, That no wise Man punishes another so much, because he hath offended, but that others offend not; For (adds he) that which is to come may be hindred, but that which is past cannot. We see then the end of Laws, which in Scripture Language is to be a Terror to the Wicked, and every Constitution [10] is permitted to secure its own happiness and well-being by the best methods it is able; and the safety and quiet of the People, if it be not the Supreme Law, is a very considerable one.

Isocrates in his Panathenaic tells us, That their forefathers thought that the War with hurtful Beasts is most just and lawful; and the next to that, that with Men, like Beasts, fierce and hostile by nature, and ever lying in wait for us. And such are these Men I am describing; and when a Man turns Beast, no Beast is so cruel as he.

By the Imperial Constitutions it is declared, That if any one could apprehend a Murderer, and did not, that He should Suffer as a Traytor. A very effectual way of bringing Malefactors to Punishment; and 'twere well, if it were made *more* penal, for Men to harbour and knowingly to receive these Transgressors of the Laws. And as our Proverb says, If there were no Receivers, there would be no Thieves; so if those Men who buy Stollen Goods at under-rates, and know they are stollen, as in Morality and Reason they are equally guilty with Thieves, if they were to be punished in the same manner they are, this would be to strike at One Branch of the Root of this Wickedness. For doubtless such Villanies are carried on by a Confederacy, and they are all instruments and subservient one to another, so that if any one part be effectually suppress'd, the Whole will fall.

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And here, to be just, I fear I must say, our English Laws do not take sufficient care to Restitution to the injured Party, and by that means many Prosecutions are hindred, since a Man's own Goods or Money taken from him by violence, are not easily (if at all) to be recovered, even tho' the Thief be apprehended and convicted. And this, we need not question, occasions many Private Compositions; and, as most Men will still have an Eye to their own Interest, more than to the Publick, so they chuse to have their Goods restored, rather than to be at the great trouble and charge of Prosecution. Nay, which is worse, I am well assured, that some have refused to own their Goods (when taken on a Thief) before a Magistrate, for fear of forfeiting their Recognizance, and of long Journies, that may sometimes more than double the loss.

By the Civil Law two distinct Actions were commence'd against every Thief, nor did the one interfere with the other. And they were, first, a Criminal One, for the Breach of the Laws, and Publick Peace; and secondly, a Civil One, to demand satisfaction for what was

stollen, and the Malefactor was obliged to answer to both. First, he suffered what the Law inflicted, if he were found guilty. Secondly the injured Person had Restitution made him, if it could be; and this seems a Practice agreeable to right reason. For a Man will be apt to ask, what concern it is to *him* in particular, if a Criminal be brought to justice, if *he* must be a loser by it? But when the Publick and Private Interest go hand in hand, there is more hope of success, and Men will proceed chearfully.

'Tis true, the Question is asked, Whether the Convict has any Goods or Chattels? but according to form, the [Juries] all agree to answer, None that they know of; nor do they take care to know of any. And if any be discovered, they are forfeited to the King. A hard case this, That altho' a Man has injured me in a very great degree, by robbing me of whats' very considerable, and die solvent, yet the Laws allow me not satisfaction, but that poor one, of seeing a Rogue Hanged, who (it may be) leaves the Money, he has stollen from me, to his Whore, or his Bastard. Besides, I wish it be not against the Rules of natural justice, that another (be it who it will) should have a Legal Title to my Money of Goods, which I have forfeited by the Breach of no Law, and were taken from me by force, and ought to be restored to me, where ever I find them.

I must then prefer the Civil Law to ours, and think it scarce reasonable, that Reparation should be *only* given to the King, since *He* is not the Person chiefly, much less only injured; but I, who really am so, should be bound to appear at the Assizes or Sessions, at a great trouble and expence; and yet, after all my Attendance, shall be so far from having Restitution of my Goods lost (unless with great difficulty) that I shall not so much as have Costs and Charges.

And this, 'tis probable, is a great Hindrance to the Prosecution of Offenders, and ever will be: For tho' a Man be very angry at the loss of Money or Goods, yet if he hears of them, his Resentments commonly cool, if he finds they are recoverable; and the business is generally made up (as they call it) among themselves; and 'tis never brought before a Magistrate, to the great obstruction of Justice, and the Publick Good. And this may be constantly seen at the Old Baily, where several are acquitted every Sessions for want of Evidence, or for their not speaking home to the matter: [13] there's no question, but there's a good understanding between Culprit and Them, or you would sometimes hear another story. 'Twere then to be wished, that the Obligation to prosecute were made stronger, and those Private Compositions, which are without doubt very numerous, were more narrowly inquired into.

It was one of the most illustrious Actions of the Heroes of old, to clear the Country of Robbers; and 'tis a great part of Theseus's Character, that he destroyed Sciron, Cercyon and

Procrustes; and of Hercules, that he conquered Monsters and Oppressors of the People. Nor is it less brave or generous to do it *now*, since 'tis almost come to this, Whether Honest Men or Rogues shall command the Roads; and I hope our Legislators will soon decide that Controversie. I remember Seneca says, That when he shall order a wicked man to be Beheaded, he would do it with the same look and courage, as he would strike Serpents and poysonous creatures. And such are these Men, dangerous and mischievous, and deserve as little favour as they. They are a very great grievance to this Nation, and 'tis to be feared, will be *more* so, unless some method, yet unknown, be tryed. And altho' I am not in the least concern'd, whether it be mine, or another's, so it does well; yet I fully persuade my self, that a rigorous one will be the best; since as these Gentlemen run all this hazard, and are so injurious to others, barely for the gratification of their senses, so no way so likely to oblige them to lay down their wicked Practices, as by making the Pain much out-bid the Pleasure, and by inflicting somewhat [14] they will tremble at here, since they fear nothing hereafter. For the sort of Death is as much to be regarded as Death itself. And as the Formalities and Pomp of a Court of Justice make it appear more formidable, and convey a greater awe into the Prisoners mind, so no question but the Preparations for their Execution and the solemn manner of carrying them to it, is more dreadful with some, than the stroke it self. 'Tis true indeed, some have been so fool-hardy, as to go fearless and ranting to the Gallows, not in the least concern'd at the approach of Death; they would hardly do so, were they carrying to the Wheel, where the Pains of Death would be so often repeated, before they would expire. So Tiberius of old thought (an Emperor sufficiently skill'd in the degrees of Punishment) when he called a Man's being before-hand with him in murdering himself, an escaping him; and to one who Petitioned him for a speedy Death, he answered, That he was not upon so good Terms with him yet.

'Tis plain, every Government has allotted different sorts of Death for different Crimes, as among the rest We in this Kingdom have, and as the Romans, and the wisest Nations have always done, as I could easily prove, if it wanted it. And I believe *this* may be soon made good, that where those distinctions are made by the Laws and they are impartially put in Execution, the Publick is most safe; unless they are served up [15] much beyond the proportion of the Guilt, and *that* (I confess) is a just Objection to *any* Law whatever.

But I still insist upon what I laid down at first, that the good and quiet of *the Whole* is of so great concernment, that I doubt not but any Community may secure it self, as it best can, without the imputation of Cruelty; since one would judge so well of Humane Nature, as to believe, that such harsh methods would not be made use of, before they are absolutely necessary, any more than a Physician would Cup or Scarifie his Patient, unless to prevent his Dissolution, a greater evil.

The first reason of Mens fortifying themselves, and building Walled Cities, was to secure themselves from those who would otherwise have made a Prey of them; for in those early days, the stronger domineer'd and insulted over the weaker, and Might then passed for Right; and Plato and his Scholar Aristotle reckoned Robbery among the sorts of Hunting, and in Hebrew Robbery and Hunting are express'd by the same word. I urge this in this manner, If *they* for their general security thought it most proper to enter into Societies; I think honest Men for their particular safety should enter into a closer Alliance, and the strictest Confederacy, for the destruction of a Set of Men, who are *now* grown intolerable, and who by the contempt of Laws made against them *already*, seem to dare the Government to make new ones.

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I know well, that other Proposals have been made for the exterminating these Vipers, but none that I have heard of, but lye open to several Material Objections.

Some have thought, that should you send them for Slaves to Barbary, you might have them exchanged (tho' scarce number for number) for honest Men: and so you might redeem those poor Wretches, that groan under Captivity, and let them have Rogues in their rooms, who will suffer no more than they deserve.

The Objections to this are, That many of them, 'tis probable, would be ransomed, and perhaps some of them with that very Money they had got by Robbing: if not, that there is great danger, that such Men will renounce their Faith and Baptism (neither of which, 'tis plain, influence them much) for the Advantages to be had by so doing; and, as it has been observed of Renegadoes, prove the most desperate and malicious Enemies to Christendom, and particularly their Native Country.

Others have said, That you might Brand them in the Forehead, and condemn them to Perpetual Slavery at home, and employ them in the most painful and offensive Works you had, and feed them with Bread and Water. And this, say they, would be more dreadful to Idle Men, than Death.

In this there are many difficulties, not easily to be answered, and among others these; That *some* that cannot live without hard Working, would venture to Rob, because 'tis but Working, if the worst comes to the worst. That others would murmur themselves. That in a Nation so compassionate as ours is, they will certainly be relieved. And it may be, that their being constantly seen in so sad a condition would draw too [17] great an Odium on the Government; and besides, (there being so little publick watching in England) they would not fail of making Escapes (as appears from two several Advertisements in the late Gazetts, of Six who were pardoned on condition they would work Five years in the Welch mines, and yet

got away) or of being rescued, and then growing most desperate and mischievous Villains.

'Tis true, the Author of the Familiar Dialogue about the Mine Adventure has said some plausible things to persuade the World, that condemning Criminals to the Mines (you may be sure he means the Welsh Mines) will be more terrible than Death. But Mankind will always suspect those Reasons to be partial, when His Interest who alleges them is nearly concern'd in the cause; and they will ever be jealous of the sincerity and truth of Arguments that a Man produces on his *own* side, tho' they be sound and good. Now should I allow, that he has written fairly, and with a good design, yet what security has the Government, that these Men for bribes or favour will not be permitted to escape? None but Rogues are fit to look to 'em, and who would commit so great a trust to Men void of Honesty and Probity? Will the Adventurers give a Penal Bond of Five hundred Pound for every one they take, to be forfeited if he runs away? I doubt they will hardly consent to it. What reason then is there, that *they* should have the advantage of Men's labour, when they will not answer the Damage the Publick may receive, from such a nest of Rogues [18] being let loose among the People? What satisfaction will they give the Nation for those six, that are now free, and (I suppose) very busie in their former Vocation?

It may be, that the condemning them for Life, to the same condition with the Negro's, in our West Indian Plantations, first marking them in the Face, to distinguish them from Honest Men, may be a Proposal lyable to as few Exceptions, as any other. But then the Planters too should give security, that they will never part with them, and that they shall never return to England, tho' I fear they will hardly take them on such Conditions, they beginning already, as I hear, to grow weary of Those they have.

I could wish indeed, that *that* improved, as it may easily be, or some other method might be thought of, for suppressing them; if it might be, without taking away their Lives: but what I have hitherto written, is upon supposition that *none* can be. If there could, I would most gladly recant my own opinion, and much prefer *that*, as more agreeable with Religion, right reason, and the true ends of Government.

I have not the vanity to think, that what I offer shall convince all the world, and makes 'em of my mind. He must be but little skill'd in Mens tempers, who has such Expectations. No, I know the world and my self better than to hope for it. But this I may [19] be allowed to hope, that I may provoke some one to promote somewhat more useful than I have done. And if my Errors shall so contribute to the publick good, I shall rejoice in them.

To proceed, - Be it what it will that shall be assigned them, I believe that in the next place the speedy execution of it would be the best way of making it answer its end. For Offenders may lye in County-Goals three, four, five or six Months sometimes, before they are

brought to Trial, during which time frequent Escapes are made, at least the Evidence against them may die, may be murdered, may be tampered with and bought off, or (it may be) Endeavours used to get a Pardon. 'Tis true, *they* are very hard to be got *now*, but you can never forbid Men to attempt or hope for, what they know *may* be had. And I am not such an Enemy to Prerogative, whatever is before advanced, but that I think it very reasonable they should upon some Occasions be had (since the end of the Law may *sometimes* be best served by remitting its penalty) and Reason, were the Civilian silent, will teach us, That 'tis an unjust Law, that takes away the Power from the Magistrate of relaxing it, or making it more rigorous, according to the Variety of Causes. And yet I have read in a Body of the Scottish Laws (where the Kingly Power was lately carried very high, and justified to be Legal.)

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That if it may be Verified, that the Slaughtering was Committed, be Murther or forethocht felonie, or Malice: the King hes promised and granted, that for sic Slaughtering, he sall not give ane remission, at the instance of quhatsoever person, except it be given with the Consent and Advyse of the general Counsaill: gif they sall think it expedient for the Common Weall of the Realme.

To resume then what I said above, I wish that Goal-deliveries were more frequent; since Justice, the oftner she draws her Sword, is the more formidable; as may be seen in France, where Malefactors, as I am well informed, are Apprehended, Condemned and Executed often before their Friends can hear of them, or be able to intercede for them.

Besides, in common Persons so much Roguery is learn'd among Numbers, that I think 'twere well, if, as in the Inquisition (*Fas est & ab Hoste doceri*) every one, at least of the most notorious ones, had a Box or Cell to himself, that they might not improve each other in wickedness. This would make their Confinement more uneasie, and of consequence more dreaded, and they would be better secured. But, what is much more considerable, the unfortunate Debtors, who in County-Goals are mingled with Felons, would not be corrupted by 'em.

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I might add, that it were not amiss, if after Condemnation they were allowed nothing but Bread and Water; a good way to humble them, and bring them to a sense of their Condition, as to a future state, and to put a stop to their murdering their Keepers, and attempting to break Goal. And it were well, if a Particular Habit (Black the most proper Colour) were assigned them, at least at their Executions; and that they might not be suffered to make their Exits in Gay Clothes (as they sometimes do lie Men that Triumph) but rather as becomes Those, who are just going to undergo the Curse of the Law, and that are intended to

be a Warning to Others. These things to some may look too little to be taken notice of; but let such Men be told, That *little* things do often *greatly* affect.

We need not go far for Reasons of the great Numbers and increase of these Vermin: for tho' no times have been without them, yet we may now reasonably believe, that after so many Thousands of Soldiers disbanded, and Mariners discharged, many of them are driven upon necessity, and having been used to an idle way of living, care not to work, and many (I fear) cannot, if they would. Besides, the Poor are exceedingly numerous, of which 'tis more easie to assign the Cause than the Cure, and of consequence, 'tis to be feared, more that are dishonest. Gaming-Houses (those Seminaries of that sort of Cattel) are yet in being, tho' tis ten thousand pities they should: Lewd Women abound, to the great Scandal of good people, and I fear, They are very [22] often the chief Causes, that these Men Murther, Plunder, Rob and Steal.

I am not insensible [insensible?] that what I now offer to the Perusal of the Two Houses of Parliament will find them engag'd in business of the greatest moment and weight. I know that Affairs of Europe seem now to be drawing to such a Crisis, that the most Artful Hands and most able Heads will hardly be sufficient to keep it from a dangerous Paroxism. For when some parts of the Body grow unnaturally large, and others shrink and are disproportionably little, 'tis plain the whole is in danger, and calls out for the best Applications. I acknowledge this, but withal I know, that in the most urgent Businesses there are always such Intervals, that will allow of the dispatch of others, and I believe this is not unworthy of their Consideration.

As there is a Resemblance between the Natural and Politick Body, it may be well if our Legislators would proceed in the same manner that the Physitians do, who remove some particular Distempers by rectifying the whole Mass of Blood. And indeed a General Reformation (for which good Men wish and pray) is most likely to put a stop to this spreading evil, since *that* would set Men right in their Principles, to the corruption of which their ill practices are without doubt owing. And this is a Work most glorious, and well worthy not only of Senates, but of the greatest and most Victorious Kings; and this in future Annals will add a greater luster to their Character, than all their Noble [23] and Illustrious Actions in the Field. For tho Magnanimity, Bravery and Courage be commonly attributed to Princes and Great Men, as their greatest Ornaments; yet 'tis worth our Observation, that Piety is the best Title, by the best Poet, to the best Hero.