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ASSISTED BY
EMINENT LITERARY AND SCIENTIFIC MEN.

EMINENT BRITISH LAWYERS.

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LONDON:
PRINTED FOR
LONGMAN, REES, ORME, BROWN, GREEN, & LONGMAN,
PATERNOSTER-ROW;
AND JOHN TAYLOR,
UPPER GOWER STREET.
1833.

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LORD ERSKINE.

1750—1823.

THE Honourable Thomas Erskine, the third and youngest son of Henry David, tenth Earl of Buchan, in Scotland, was born in Scotland, in the year 1750. At a very early age he selected the navy as his profession, for which he is said to have manifested a decided predilection, and went to sea with Sir John Lindsay, the nephew of the celebrated Lord Mansfield. He did not remain in the service a sufficient period to obtain a commission of lieutenant, though, by the friendship of his commander, he acted for some time in that capacity. In the eighteenth year of his age, having few hopes of promotion in the naval service, he entered the army as an ensign in the Royals, or first regiment of foot, and immediately afterwards accompanied his regiment to Minorca, where he remained three years. At this early period of his life, while labouring under the inconveniences of a very restricted fortune, he yet ventured, with that want of forethought which was unhappily a distinguishing feature of his private conduct, to unite himself to a young lady, who accompanied him to Minorca. In the year 1772, on his return from that island, he appears to have resided for some time in London, where the brilliancy of his talents speedily made him known in society. Amongst the distinguished persons who assembled at the house of Mrs. Montague, where Dr. Johnson, Sir Joshua Reynolds, the Bishop of St. Asaph, Dr. Burney, and others of the most celebrated scholars of the day, were in the habit of meeting, Mr. Erskine was not unfrequently seen.* “He talked,” says Boswell, who met him in society at this time, “with a vivacity, fluency, and precision so uncommon,

* *Warrall's Memoirs*, vol. i. p. 152

that he attracted particular attention." * "He told us," adds the biographer, "that, when he was in Minorca, he not only read prayers, but preached two sermons to the regiment."

Of the motives which first led Mr. Erskine to the study of the law little is known; but it has been said that he was induced by the advice of his mother, a lady of uncommon acquirements and great penetration, to relinquish his commission, and to enter his name on the books of Lincoln's Inn. At the same time he also became a fellow-commoner of Trinity college, Cambridge, where one of his declamations, the subject of which is the Revolution of 1688, is still extant, and is said to display in some of its passages the traces of that eloquence by which he was subsequently so much distinguished. In his speech on the trial of Paine, for the publication of the second part of the Rights of Man, Mr. Erskine mentions with complacency this youthful effort. "I was formerly called upon, under the discipline of a college, to maintain these truths, and was rewarded for being thought to have successfully maintained that our present constitution was by no means a remnant of Saxon liberty, nor any other institution of liberty, but the pure consequence of the oppression of the Norman tenures, which spreading the spirit of freedom from one end of the kingdom to another, enabled our brave fathers, inch by inch, not to reconquer, *but for the first time to obtain* those privileges which are the inalienable inheritance of all mankind."

The object of Mr. Erskine in becoming a member of the university was, that by taking the degree to which, as the son of a nobleman, he was entitled, he might save the term of two years, during which his name must otherwise have remained on the books of Lincoln's Inn. He did not therefore apply himself to the usual course of academical study, but devoted his time to the acquisition of the learning essential to his new profession, in the chambers of Mr. Buller, one of the most eminent

* Life of Johnson, vol. II. p. 170. ed. 1799.

special pleaders of that day. While thus studying the rudiments of the law, Mr. Erskine is said to have exhibited much diligence; and on the promotion of Mr. Buller to the bench, he became a pupil of Mr. Wood, of whose instructions he availed himself for some time after he was called to the bar, an event which took place in Trinity term, 1778.

By a happy accident, the genius of Erskine was not doomed to languish in that obscurity which so generally involves the early fortunes of those who devote themselves to his profession. Captain Baillie, the lieutenant-governor of Greenwich hospital, having observed various abuses in the administration of that charity, presented several petitions to the directors, the governors, and, lastly, to the lords of the admiralty, praying for enquiry and redress. Not being successful in his object, he printed a statement of the case, and distributed it amongst the general governors of the hospital. In this paper he animadverted with much severity on the introduction of landsmen into the hospital, insinuating that they had been placed there to serve the election purposes of Lord Sandwich, the first lord of the admiralty. On the circulation of this pamphlet, Captain Baillie was suspended by the directions of the admiralty, and certain of the officers of the establishment, whose conduct had been the subject of his remarks, applied, in Trinity term, 1778, to the court of king's bench, for a criminal information. Amongst the counsel employed by Captain Baillie to show cause against this rule was Mr. Erskine, with whom he had become accidentally acquainted, and who had only been called to the bar in the same term in which the rule for the information had been granted. On the 23d of November, cause was shown against the rule by Captain Baillie's leading counsel, and on the following day Mr. Erskine addressed to the court, from one of the back benches, that animated and brilliant argument which at once established his reputation,—a reputation without an equal in the annals of English forensic eloquence. The speech was as remarkable for the judgment it dis-

played in the selection of the topics, and for the orderly method of its arrangement, as for the energy of its language, and the tone of high feeling by which it was characterised. In reviewing it, it seems almost incredible that it should have been the first effort of the speaker. Perhaps the most striking and forcible part of it is that in which Mr. Erskine denounces those who had ventured to come forward in the character of prosecutors.

“ In this enumeration of delinquents, the Reverend Mr. ——— looks round, as if he thought I had forgotten him. He is mistaken ; I well remember him : but his infamy is worn threadbare. Mr. Murphy has already treated him with that ridicule which his folly, and Mr. Peckham with that invective which his wickedness, deserves. I shall therefore forbear to taint the ear of the court further with his name,—a name which would bring dishonour upon his country and its religion, if human nature were not happily compelled to bear the greater part of the disgrace, and to share it amongst mankind.”

After stating that the seamen of the hospital, grateful for the exertions of Captain Baillie in their favour, had surrounded his apartments, and testified their feelings by acclamations, “ which sailors never bestow but on men who deserve them,” Mr. Erskine proceeded in that strain of excited language and sentiment, which, when skilfully applied, seldom fails to carry with it the passions of the hearers. “ This simple and honest tribute was the signal for all that has followed. The leader of these unfortunate people was turned out of office ; and the affidavit of Charles Smith is filed in court, which, I thank my God, I have not been able to read without tears ; how, indeed, could any man, when he swears that for this cause alone his place was taken from him : that he received his dismissal when languishing with sickness in the infirmary, the consequence of which was, that his unfortunate wife and several of his helpless innocent children died in want and misery, *the woman actually expiring at the gates of the hospital ?* That such wretches should escape chains

and a dungeon is a reproach to humanity, and to all order and government; but that they should become *prosecutors* is a degree of effrontery that would not be believed by any man who did not accustom himself to observe the shameless scenes which the monstrous age we live in is every day producing."

But the man whom Mr. Erskine considered the grand offender still remained untouched. At length, towards the conclusion of his speech, though that person did not stand forwards as a party to the proceeding, Mr. Erskine ventured to name him. "Indeed, Lord Sandwich has, in my mind, acted such a part——"

He was here interrupted by Lord Mansfield, who desired him to observe that Lord Sandwich was not before the court.

"I know," resumed Mr. Erskine, "that he is not before the court; but for that very reason *I will bring him before the court*. He has placed these men in the front of the battle, in hopes to escape under their shelter, but I will not join in battle with *them*: *their* vices, though screwed up to the highest pitch of human depravity, are not of dignity enough to vindicate the combat with *me*. I assert that the Earl of Sandwich has but one road to escape out of this business without pollution and disgrace; and that is, by publicly disavowing the acts of the prosecutors, and restoring Captain Baillic to his command. If he does this, then his offence will be no more than the too common one of having suffered his own personal interests to prevail over his public duty, in placing his voters in the hospital. But if, on the contrary, he continues to protect the prosecutors, in spite of the evidence of their guilt, which has excited the abhorrence of the numerous audience that crowd this court; if he keeps this injured man suspended, or dares to turn that suspension into a removal, I shall then not scruple to declare him an accomplice in their guilt, a shameless oppressor, a disgrace to his rank, and a traitor to his trust."

At the conclusion of his address, Mr. Erskine broke

out into an impetioned panegyric on his client's conduct. "FINE AND IMPRISONMENT! The man deserves a palace instead of a prison, who prevents the palace built by the bounty of his country from being converted into a dungeon, and who sacrifices his own security to the interests of humanity and virtue."

In the course of the year 1779 Mr. Erskine was employed as one of the counsel for Admiral Keppel, at the suggestion, it is said, of Mr. Dunning, who, finding himself embarrassed by his ignorance of nautical phrases and affairs, was desirous of availing himself of the superior technical information of Mr. Erskine.

In the spring of 1779 the reputation of Mr. Erskine was further advanced by the delivery, at the bar of the commons, of a speech on a subject closely connected with the interests of literature. From the reign of James I. the stationers' company and the universities of Oxford and Cambridge had claimed, under a grant from the crown, the exclusive right of printing almanacks, until at length Mr. Carnan, a bookseller in St. Paul's Churchyard, resolving to dispute the legality of this monopoly, published a variety of almanacks, which, in consequence of their superiority over the prerogative editions, obtained an extensive circulation. Legal proceedings were immediately instituted; but ultimately the court of exchequer decided that the grant from the crown could not be sustained. In consequence of this decision, the prime minister, Lord North, at that time chancellor of the university of Cambridge, introduced a bill into parliament, to vest the right in the parties who had so long usurped it; upon which Mr. Carnan petitioned to be heard against the bill at the bar of the commons, where Mr. Erskine appeared as his advocate. Although, perhaps, in the strict line of his duty, he would have been confined to the arguments immediately arising from his client's situation, he took a higher ground, and contended with great ability and eloquence against the principle of the proposed measure, pointing out the impolicy, and enlarging upon the injustice, of fettering, in any particular, the freedom

of the press, for the individual benefit of any body of men. Notwithstanding the strong interest which the bill possessed in the support of the minister and of the members for the universities, it was rejected by a majority of forty-five votes. immediately on Mr. Erskine's retiring from the bar. It has been mentioned, as a circumstance much to the credit of the then Lord Elliott, the brother-in-law of Lord North, that though he came, at the desire of his noble relative, from Cornwall, to support the bill, yet, having heard Mr. Erskine's speech, he divided against it, saying publicly in the lobby, that he found it impossible to vote otherwise. *

But, signal as had been the success which attended his exertions, the extraordinary powers of Mr. Erskine's eloquence had not yet been fully developed. He had not hitherto enjoyed the opportunity, in any important case, of addressing to the feelings of a jury that fine union of argument and passion which constituted the character of his oratory. A noble occasion, which might seem expressly designed for the display of his peculiar powers, soon occurred in the trial of Lord George Gordon for high treason. That young nobleman, as it is well known, having been elected the president of the Protestant Association, proceeded, at the head of upwards of forty thousand persons, to the house of commons, to present the petition of the associated protestants. This meeting was unfortunately the origin of the fatal riots which for so many days desolated the metropolis, and shook for a time even the foundations of the government. Shocked at these outrages, Lord George Gordon tendered his services to suppress them, and accompanied the sheriff of London into the city for that purpose; but, notwithstanding this disavowal of any illegal intent, he was afterwards committed to the Tower, and indicted for high treason, in levying war against the king. The trial took place on the 5th February, 1781, when Mr. Kenyon and Mr. Erskine appeared as counsel for the prisoner. The evidence for the crown having been concluded, Mr.

* Parl. Hist. vol. xx. p. 621. (note.)

Kenyon, as senior counsel for Lord George, addressed the jury, and, according to the usual course, would have been followed by his junior, Mr. Erskine. He, however, insisted upon reserving his address till the conclusion of the evidence on both sides, which, he said, was matter of great privilege to the prisoner, and for which, he stated, there was a precedent, the authority of which he should insist upon for his client. This being assented to, the witnesses for the defence were examined, and at the close of that evidence, about midnight, Mr. Erskine rose, and addressed to the jury a speech, which, in powerful argument, animated oratory, and successful effect, has, perhaps, never been equalled in this country. After a most argumentative and energetic attack on the dangerous doctrine of constructive treason, he applied himself to the evidence in a manner so singularly skilful, judicious, and masterly, that even in reading the speech, deprived of all the powerful auxiliaries of the presence, the voice, and the action of the speaker, the reader is irresistibly impelled to regard the prisoner as a man, who, whatever might have been his imprudence, stood, in heart and intention, wholly free from offence. The two leading principles, which pervaded the speech, were the unconstitutional nature of the doctrine of constructive treason, and the blameless intentions of the prisoner; and to the enforcing of these two arguments the whole of the speaker's powers were, with the most skilful art, directed. Satisfied that on the establishment of these arguments his client's acquittal would necessarily follow, the advocate never for a single instant lost sight of them, but to their enforcement and illustration devoted every effort of his art.

At the conclusion of his argument against constructive treason, Mr. Erskine thus pledged his individual character for the correctness of the views which he had expounded. "Gentlemen, you have now heard the law of treason; first in the abstract, and, secondly, as it applies to the general features of the case; and you have heard it with as much sincerity as if I had addressed you upon

my oath from the bench where the judges sit. I declare to you solemnly, in the presence of that Great Being, at whose bar we must all hereafter appear, that I have used no one art of an advocate, but have acted the plain unaffected part of a Christian man, instructing the consciences of his fellow-men to do justice. If I have deceived you on the subject, I am myself deceived; and if I am misled through ignorance, my ignorance is incurable, for I have spared no pains to understand it. I am not stiff in my opinions; but before I change any one of those which I have given you to-day, I must see some direct monument of justice that contradicts them, for the law of England pays no respect to theories, however ingenious, or to authors, however wise; and therefore, unless you hear me refuted by a series of direct precedents, and not by vague doctrines, if you wish to sleep in peace, *follow me!*"

In observing upon the evidence, Mr. Erskine occasionally broke out into a vehemence of expression which almost seems to overstep the bounds of good taste and discretion; but no advocate was ever less likely to be betrayed into an exhibition of passion which the jury could not share with him; and there is no doubt, that in these instances their minds were fully prepared for the reception of those passages, which in the coolness of the closet almost bear a character of extravagance. In arguing upon the construction of certain words attributed to Lord George Gordon, Mr. Erskine exclaimed—“But this I will say, that he must be a *ruffian*, and not a lawyer, who would dare to tell an English jury, that such ambiguous words, hemmed closely in between others not only innocent but meritorious, are to be adopted to constitute guilt, by rejecting both introduction and sequel, with which they are absolutely irreconcilable and inconsistent.” And again, after noticing the offer of the prisoner to government to assist in the quelling of the disturbances, he ventured upon the following bold and extraordinary sentence:—“I say, by God, that man is a *ruffian*, who shall, after this, presume to

build upon such honest, artless conduct as an evidence of guilt." By those who witnessed and felt this singular experiment upon the feelings of the jury, it is said to have been completely successful. "I may now, therefore, relieve you," said Mr. Erskine, in conclusion, "from the pain of hearing me any longer, and be myself relieved from speaking on a subject which agitates and distresses me. Since Lord George Gordon stands clear of every hostile act or purpose against the legislature of his country, or the properties of his fellow-subjects; since the whole tenor of his conduct repels the belief of the traitorous intention charged by the indictment, my task is finished. I shall make no address to your passions: I will not remind you of the long and rigorous confinement he has suffered: I will not speak to you of his great youth, of his illustrious birth, and of his uniformly animated and generous zeal in parliament for the constitution of his country. Such topics might be useful in the balance of a doubtful case, yet even then I should have trusted to the honest hearts of Englishmen to have felt them without excitation. At present, the plain and rigid rules of justice and truth are sufficient to entitle him to your verdict."

The solicitor-general having replied, and Lord Mansfield having summed up, the jury retired to deliberate, and about three in the morning returned into court, and delivered a verdict of "Not guilty."

So rapidly did the reputation and practice of Mr. Erskine increase, that, on the suggestion of Lord Mansfield, as it is said, it was thought proper, in the year 1783, when he had scarcely been five years at the bar, to confer upon him a patent of precedence.

Talents so extraordinary and eloquence so powerful as Mr. Erskine's, are, in this country, speedily engaged in the public service. His political predilections had already led him to associate himself with those celebrated men, who, during the administration of Lord North, headed the opposition, and whose characters and genius were then in their highest meridian. Fox, Burke, and

Sheridan, the three most splendid names in the modern political history of England, had hitherto preserved unblemished the fair and brilliant reputation with which they entered into public life. The " coalition " had not yet dimmed the splendour of Fox's name ; the purity of Burke's principles had not yet departed from him ; nor had the fatal web of pecuniary embarrassment been wound round the soul of Sheridan. To associate with men like these was worthy of Erskine ; but it was not until after the formation of the coalition ministry that he became the public coadjutor of this distinguished phalanx. When the ill-judged and unfortunate measure of the India bill had been introduced, it became evident that ministers would require every assistance to carry it, opposed as it was by so many and such various interests. The fame and the genius of Erskine at once pointed him out as an invaluable ally ; and it was determined to bring him without delay into the house of commons. Sir William Gordon, the member for Portsmouth, was therefore prevailed upon, for an adequate consideration, to resign his seat, to which Mr. Erskine immediately succeeded.

It has not unfrequently happened, that men of the most distinguished reputation at the bar, when introduced into the house of commons, have failed to realise the high expectations of their admirers. Such appears to have been the case with regard to Mr. Erskine, who never acquired any considerable accession of fame by his parliamentary exertions. His first speech was delivered during the debate on the first reading of the East India bill *, and, as reported, bears few marks of those extraordinary talents which distinguished his forensic efforts. The opinion of a person, opposed in principle to Mr. Erskine, who was at that time a member of the house, and who heard the speech, has been preserved. " Mr. Erskine, who, like Mr. Scott, has since attained to the highest honours and dignities of the bar, first spoke as a member of the house of commons in support of this obnoxious measure. His enemies pronounced the perform-

* Parl. Hist. vol. xxiii. p. 1245.

ance tame, and destitute of the animation which so powerfully characterised his speeches in Westminster-hall. They maintained, that, however resplendent he appeared as an advocate while addressing a jury, he fell to the level of an ordinary man, if not below it, when seated on the ministerial bench, where another species of oratory was demanded to impress conviction or to extort admiration. To me, who, having never witnessed his jurisprudential talents, could not make any such comparison, he appeared to exhibit shining powers of declamation." * On the second reading of the India bill, Mr. Erskine spoke at greater length, and concluded with calling on Mr. Fox to persevere in the measure. "Let my right honourable friend," said he, "go on with firmness, and risk his office at every step he takes, and I will combat, as I now do, by his side, at the hazard of every prospect of ambition. Let him stand upon his own manly, superior understanding, and the integrity of his heart, which I know is ever ready to guide him in the course of his duty, and I will stand for ever by him, and be ready to sink with him in his fall." †

Mr. Fox did proceed, risked his office, and lost it; and in the struggles which subsequently took place, Mr. Erskine redeemed his promise of faithfully combating by the side of his leader. The India bill having been rejected in the house of lords, the king ventured to dismiss the ministry, notwithstanding their influence in the commons. Though driven from office, Mr. Fox still continued to command the house of commons, and a dissolution was consequently expected. The administration had been broken up on the 18th of December, and on the following day Mr. Erskine moved an address to the king, praying that his majesty would be pleased not to dissolve his parliament, a motion to which the house agreed. ‡ After a short adjournment, Mr. Fox brought forwards a motion on the state of the nation, in which he was ably supported by Mr. Erskine §, who

* Wraxall's Memoirs, vol. ii. p. 436.
 ‡ Id. vol. xxv. p. 239.

† Parl. Hist. vol. xxiv. p. 1297.
 § Id. p. 272.

made a fierce attack upon the new minister, and upon that secret influence by which the crown had been awayed. On a subsequent day * he repeated his attack upon Mr. Pitt, ridiculing his junction with Lord Gower and Lord Thurlow. "He said it was an affront to human reason to say that it was inconsistent for the right honourable gentleman to act in concert with the noble lord in the blue riband (Lord North), who was yet in close contact with the more learned Lord Thurlow and the Lord Gower. Though, perhaps, the right honourable gentleman might say that he had arrayed himself with the two last lords, to give the more certain effect to his plan for the reform in the representation of the people; and that, as that great object was the ruling feature of his political life, he had agreed to overlook all lesser differences, to secure that hearty and cordial union which the notorious opinions of these noble persons would be sure to afford him in the cabinet (*Laughter*)."

In the course of the same session, Mr. Erskine opposed Mr. Pitt's India bill, on the second reading.†

In the year 1784 Mr. Erskine was called upon to defend the Dean of St. Asaph, who had been indicted for publishing the "Dialogue between a Gentleman and a Farmer," written by Sir William Jones, as already stated in the memoir of that excellent man.‡ The tract itself was a short and familiar exposition of the principles of government, illustrating, in a forcible manner, the right and duty of resistance, as recognised in the theory of the English constitution. For this publication, which the government declined to notice, an indictment was preferred against the dean, at the instigation of Mr. Fitzmaurice, brother of the late Marquis of Lansdowne, and the case ultimately came on for trial, at the summer assizes for Shrewsbury, in the year 1784. Here, as in the case of Lord George Gordon, Mr. Erskine rested his client's defence upon two great principles: first, that the jury had the right of pronouncing upon the tract, whether it was a libel or no libel; and, secondly, that the

* Parl. Hist. vol. xxv. p. 313.

† Id. p. 402.

‡ Ante, p. 320.

publication of the tract by the defendant, without any criminal motive, but, on the contrary, with a sincere desire to benefit the country, could not be construed into a libellous publication. With great eloquence also he contended that the Dialogue recommended and enforced only the principles upon which the Revolution was founded, and which had been repeatedly asserted and recognised by all our most celebrated constitutional writers.

At the commencement of his speech, Mr. Erskine identified himself in principle with the defendant in the following eloquent passage: — “ ‘This declaration of my own sentiments, even if my friend had not set me the example by giving you his, I should have considered to be my duty in this cause; for although, in ordinary cases, where the private right of the party accused is alone in discussion, and no general consequences can follow from the decision, the advocate and the private man ought in sound discretion to be kept asunder; yet there are occasions when such separation would be treachery and meanness. In a case where the dearest rights of society are involved in the resistance of a prosecution,—where the party accused is, as in this instance, a mere name,—where the whole community is wounded through his sides,—and where the conviction of the private individual is the subversion or surrender of public privileges,—the advocate has a more extensive charge;—the duty of the patriot citizen then mixes itself with his obligation to his client; and he disgraces himself, dishonours his profession, and betrays his country, if he does not step forth in his personal character, and vindicate the rights of all his fellow-citizens, which are attacked through the medium of the man he is defending. Gentlemen, I do not mean to shrink from that responsibility upon this occasion; I desire to be considered the fellow-criminal of the defendant, if by your verdict he should be found one, by publishing in advised speaking (which is substantially equal in guilt to the publication that he is accused of before you) my hearty approbation of every sentiment contained in this little book, promising

here, in the face of the world, to publish them upon every suitable occasion, amongst that part of the community within the reach of my precept, influence, and example. If there be any more prosecutors of this denomination abroad amongst us, they know how to take advantage of these declarations."

When Mr. Justice Buller, who presided at the trial, had summed up, the jury withdrew, and returned in about half an hour, with the verdict—"Guilty of publishing only." Upon this, a long and warm discussion ensued between the judge and Mr. Erskine, as to the mode in which the verdict should be taken.

"*Mr. Justice Buller.* You say he is guilty of publishing the pamphlet, and that the meaning of the innuendo is as stated in the indictment?"

"*A Juror.* Certainly.

"*Mr. Erskine.* Is the word *only* to stand as part of your verdict?"

"*A Juror.* Certainly.

"*Mr. Erskine.* Then I insist it shall be recorded.

"*Mr. Justice Buller.* Then the verdict must be misunderstood. Let me understand the jury.

"*Mr. Erskine.* The jury do understand their verdict.

"*Mr. Justice Buller.* Sir, I will not be interrupted.

"*Mr. Erskine.* I stand here as an advocate for a brother-citizen, and I desire that the word *only* may be recorded.

"*Mr. Justice Buller.* Sit down, sir! Remember your duty, or I shall be obliged to proceed in another manner.

"*Mr. Erskine.* Your lordship may proceed in what manner you think fit. I know my duty as well as your lordship knows yours. I shall not alter my conduct."

Of this reply his lordship took no notice. Ultimately the verdict of the jury was, that the Dean was guilty of publishing, but whether it was a libel or not they did not find. In the following term Mr. Erskine obtained a rule for a new trial, on the ground of a misdirection of the learned judge, who had told the jury, that the matter for them to decide was, whether the defendant was guilty

of the *fact* or not; thus excluding from their consideration, according to the practice of the judges at that day, the question of the libellous tendency of the publication. In the course of the same term the rule came on to be argued, and was supported by Mr. Erskine in a speech, which, beyond all content, displays the most perfect union of argument and eloquence ever exhibited in Westminster-hall. Such was the admiration with which Mr. Fox regarded this speech, that he repeatedly declared, he thought it the finest argument in the English language. * When the circumstances under which the speech was delivered are considered, it will appear, without doubt, to be the most extraordinary effort of Mr. Erskine's life. It was not directed to a jury whose prejudices, however strong, he might hope to shake; it was addressed to judges, whose minds he knew to be prepossessed so firmly against him as to preclude even the most distant expectation of success. It was addressed to Lord Mansfield, who had borne unmoved the bitter invectives of Junius on the same subject, and whose practice of nearly half a century had been in unwearied opposition to the doctrine. It was addressed also to Mr. Justice Buller, whose convictions had already been expressed in the strongest language. In making this appeal to the court, Mr. Erskine met with that most disheartening of all receptions, an indulgent indifference to what appeared to the judges a vain and injudicious attempt to remove the landmarks of the law. He has himself described, in his speech on the trial of Paine, the manner of his reception. "Before that late period, I ventured to maintain this very right of a jury over the question of libel under the same ancient constitution, (I do not mean before the noble judge now present, for the matter was gone to rest in the courts long before he came to sit where he does,) but before a noble and reverend magistrate, of the most exalted understanding, and of the most uncorrupted integrity. He treated me, not with contempt, indeed, for of that his nature was incapable, but he put me

* State Trials, vol. xxi. p. 971. (n.)

aside with indulgence, as you do a child when it is lisping its prattle out of season." Of the closely-knit arguments and the eloquent illustrations of this speech it is impossible, by extracting portions of it, to give any idea. The court answered it, as might have been expected, by a reference to their own practice and to that of their immediate predecessors, leaving untouched the many sound, admirable, and unanswerable arguments with which it abounded. "Such a judicial practice," said Lord Mansfield, "on the precise point, from the Revolution, as I think, down to the present day, is not to be shaken by arguments of general theory or popular declamation."

But it *was* shaken, and to its foundations, by the popular declamation upon which the chief justice set so light a price. It was the consciousness of this which supported Mr. Erskine through his despised and ungrateful office. He knew, that in offering his arguments to the unwilling ears of the judges, he was at the same time addressing them to the lively and just apprehension of the people of England, who would not endure that the freedom of the press should be thus violated, and deprived of its best protection—the trial by jury. The speech of Mr. Erskine, without doubt, prepared the way for the introduction of Mr. Fox's libel bill, which has *declared* the despised opinion of Mr. Erskine to be the law. In his own words,—“If this be not an awful lesson of caution respecting opinions, where are such lessons to be read?”

The political situation and connections of Mr. Erskine occasionally brought him, about this period, into the society of the Prince of Wales, who appears to have been warmly attached to him; and, on the establishment of his household, bestowed upon him the appointment of his attorney-general. During the king's illness, in 1788, and the negotiations for a formation of a Whig ministry under the auspices of the prince, as regent, Mr. Erskine was to have exchanged this office for that of attorney-general to the king.* But the speedy recovery of the sovereign terminated the whole project.

* New Annual Register for 1789, p. 93.

The speech delivered by Mr. Erskine, in 1789, on the trial of Stockdale for a libel reflecting on the house of commons, has been deemed by some persons the most exquisite specimen of his powers. It certainly exhibits in great perfection the grand characteristics of his oratory, —elevated sentiment, brilliant imagery, and passionate declamation, all resting upon that broad foundation of *principle* which has been noticed as invariably forming the groundwork of his speeches. In consequence of the publication of the articles of impeachment against Mr. Hastings, whilst the impeachment itself was pending, the Reverend Mr. Logan, a Scotch minister of talents and learning, composed a defence of Mr. Hastings, which was published by Mr. Stockdale in the regular course of his business. The pamphlet contained certain strong, and, as it was asserted, libellous observations on the proceedings of the commons, which were said to have proceeded “from motives of personal animosity, not from regard to public justice.” With a jealousy of their reputation which might well have been spared, the house addressed a prayer to the king, that the attorney-general might be directed to file an information against the publisher of the libel, which, coming on for trial, Mr. Erskine appeared as the counsel for the defendant. A more favourable opportunity for the display of his brilliant talents could not well have occurred, and most successfully did he avail himself of it. The impregnable position in which he intrenched himself, the *principle* of his speech, was, that the alleged libel was a *bonâ fide* defence of Mr. Hastings; and to the establishment of this position the whole of his arguments were directed. By way of collaterally strengthening that position, he touched upon the general merits of Mr. Hastings’ case, of which, had he not been himself a member of the commons, he would undoubtedly have been selected as the conductor. Of the splendid effort which the public would then have witnessed, we may form some idea from the passages in the present speech devoted to that subject.

The trial of Mr. Hastings at the bar of the lords is

thus magnificently and picturesquely described by Mr. Erskine: — “ There the most august and striking spectacle was daily exhibited that the world ever witnessed. A vast stage of justice was erected, awful from its high authority, splendid from its illustrious dignity, venerable for the learning and wisdom of its judges, captivating and affecting from the mighty concourse of all ranks and conditions which daily flocked into it as into a theatre of pleasure ; there, when the whole public mind was at once awed and softened to the impression of every human affection, there appeared, day after day, one after another, men of the most powerful and exalted talents, eclipsing by their accusing eloquence the most boasted harangues of antiquity : — rousing the pride of national resentment, by the boldest invectives against broken faith and violated treaties, and shaking the bosom with alternate pity and horror, by the most glowing pictures of insulted nature and humanity : ever animated and energetic from the love of fame, which is the inherent passion of genius ; firm and indefatigable from a strong prepossession of the justice of their cause.”

“ The accusing eloquence” of Burke and of Sheridan was hardly superior to the oratory of Erskine, in suggesting the only defence of which Mr. Hastings could successfully avail himself.

“ Gentlemen of the jury, if this be a wilfully false account of the instructions given to Mr. Hastings for his government, and of his conduct under them, the author and publisher of this defence deserve the severest punishment, for a mercenary imposition on the public. But if it be true that he was directed to make the safety and prosperity of Bengal the first object of his attention, and that under his administration it has been safe and prosperous ; if it be true that the security and preservation of our possessions and revenues in Asia were marked out to him as the great leading principle of his government, and that those possessions and revenues, amidst unexampled dangers, have been secured and preserved ; then a question may be unaccountably mixed with your consideration,

much beyond the consequence of the present prosecution, involving perhaps the merit of the impeachment itself which gave it birth — a question which the commons, as prosecutors of Mr. Hastings, should in common prudence have avoided ; unless, regretting the unwieldy length of their proceedings against him, they wished to afford him the opportunity of this strange anomalous defence. For although I am neither his counsel, nor desire to have any thing to do with his guilt or innocence, yet, in the collateral defence of my client, I am driven to state matter which may be considered by many as hostile to the impeachment. For if your dependences have been secured, and their interests promoted, I am driven, in the defence of my client, to remark, that it is mad and preposterous to bring to the standard of justice and humanity the exercise of a dominion founded upon violence and terror. It may and must be true that Mr. Hastings has repeatedly offended against the rights and privileges of Asiatic government, if he was the faithful deputy of a power which could not maintain itself for an hour without trampling upon both ; — he may and must have offended against the laws of God and nature, if he was the faithful viceroy of an empire wrested in blood from the people to whom God and nature had given it ; — he may and must have preserved that unjust dominion over timorous and abject nations by a terrifying, overbearing, and insulting superiority, if he was the faithful administrator of your government, which, having no root in consent or affection, no foundation in similarity of interests, nor support from any one principle that cements men together in society, could only be upheld by alternate stratagem and force. The unhappy people of India, feeble and effeminate as they are from the softness of their climate, and subdued and broken as they have been by the knavery and strength of civilization, still occasionally start up in all the vigour and intelligence of insulted nature : — to be governed at all, they must be governed with a rod of iron ; and our empire in the East would have been long since lost to Great Bri-

tain, if civil and military prowess had not united their efforts to support an authority, which Heaven never gave, by means which it never can sanction.

“ Gentlemen, I think I can observe that you are touched with this way of considering the subject ; and I can account for it. I have not been considering it through the cold medium of books, but have been speaking of man and his nature, and of human dominion, from what I have seen of them myself, amongst reluctant nations submitting to our authority. I know what they feel, and how such feelings can alone be repressed. I have heard them in my youth from a naked savage, in the indignant character of a prince surrounded by his subjects, addressing the governor of a British colony, holding a bundle of sticks as the notes of his unlettered eloquence. ‘ Who is it,’ said the jealous ruler over the desert encroached upon by the restless foot of English adventurers, ‘ who is it that causes this river to rise in the high mountains, and to empty itself into the ocean ? Who is it that causes to blow the loud winds of winter, and that calms them again in the summer ? Who is it that rears up the shade of those lofty forests, and blasts them with the quick lightning at his pleasure ? The same Being who gave to you a country on the other side of the waters, and gave ours to us : and by this title we will defend it,’ said the warrior, throwing down his tomahawk upon the ground, and raising the war-sound of his nation. These are the feelings of subjugated men all round the globe ; and, depend upon it, nothing but fear will control where it is vain to look for affection.

“ These reflections are the only antidotes to those anathemas of superhuman eloquence which have lately shaken these walls which surround us ; but which it unaccountably falls to my province, whether I will or no, a little to stem the torrent of, by reminding you that you have a mighty sway in Asia, which cannot be maintained by the finer sympathies of life, or the practice of its charities or affections. What will *they* do for you, when surrounded by two hundred thousand men, with

artillery, cavalry, and elephants, calling upon you for the dominions you have robbed them of? Justice may, no doubt, in such a case, forbid the levying of a fine to pay a revolting soldiery;—a treaty may stand in the way of increasing a tribute to keep up the very existence of the government;—and delicacy for women may forbid all entrance into a zenana for money, whatever may be the necessity for taking it. All these things must ever be occurring. But under the pressure of such constant difficulties, so dangerous to national honour, it might be better, perhaps, to think of effectually securing it altogether, by recalling our troops and our merchants, and abandoning our Asiatic empire. Until this be done neither religion nor philosophy can be pressed very far into the aid of reformation and punishment. If England, from a lust of ambition and dominion, will insist on maintaining despotic rule over distant and hostile nations, beyond all comparison more numerous and extended than herself, and gives commission to her viceroys to govern them, with no other instructions than to preserve them, and to secure permanently their revenues, with what colour or consistency of reason can she place herself in the moral chair, and affect to be shocked at the execution of her own orders, adverting to the exact measure of wickedness and injustice necessary to their execution, and complaining only of the *excess* as the immorality;—considering her authority as a dispensation for breaking the commands of God, and the breach of them as only punishable when contrary to the ordinances of man?

“Such a proceeding, gentlemen, begets serious reflections. It would be, perhaps, better for the masters and servants of all such governments to join in supplication that the great Author of violated humanity may not confound them together in one common judgment.”

In defending the overcharged expressions of which the writer of the tract had made use, Mr. Erskine produced one of the most eloquent apologies for *excess* existing in our language.

“ From minds thus subdued by the terrors of punishment there could issue no works of genius to expand the empire of human reason, nor any masterly compositions on the general nature of government, by the help of which the great commonwealths of mankind have founded their establishments ; much less any of those useful applications of them to critical conjunctures, by which, from time to time, our own constitution, by the exertions of patriot citizens, has been brought back to its standard. Under such terrors all the great lights of science and civilization must be extinguished : for men cannot communicate their free thoughts to one another with a lash held over their heads. It is the nature of every thing that is great and useful, both in the animate and inanimate world, to be wild and irregular ; and we must be contented to take them with the alloys which belong to them, or live without them. Genius breaks from the fetters of criticism ; but its wanderings are sanctioned by its majesty and wisdom when it advances in its path : subject it to the critic, and you tame it into dulness. Mighty rivers break down their banks in the winter, sweeping to death the flocks which are fattened on the soil that they fertilize in the summer : the few may be saved by embankments from drowning, but the flock must perish for hunger. Tempests occasionally shake our dwellings and dissipate our commerce ; but they scourge before them the lazy elements which without them would stagnate into pestilence. In like manner, Liberty herself, the last and best gift of God to his creatures, must be taken just as she is. You might pare her down into bashful regularity, and shape her into a perfect model of severe scrupulous law ; but she would then be Liberty no longer : and you must be content to die under the lash of this inexorable justice, which you had exchanged for the banners of freedom.”

The jury having withdrawn, after a consultation of about two hours, returned with a verdict of “ Not guilty.”

For several years Mr. Erskine had taken little interest in his parliamentary duties, probably from the very burthensome nature of his professional labours. But in the session of 1790 he again appeared as a speaker in the house, and delivered a very long argument on the abatement of impeachments by a dissolution.* In his first speech on this subject, after laying down what he termed the foundation of his argument at considerable length, he was proceeding to the consideration of the precedents, when, owing to his fatigues in the earlier part of the day, and to the intense heat of the house, he told the speaker that he was unable to pursue his argument.† He resumed it, however, on a subsequent evening.

Upon the motion made by Mr. Fox, in 1792, for the appointment of a minister to treat with the persons exercising the functions of the executive government in France, Mr. Erskine supported the motion with more energy and eloquence than were usually displayed in his parliamentary harangues. He painted in strong colours the fortunes of the soldier, and contrasted them with those of the persons who profited at home by the calamities of war. “The life of the modern soldier is ill represented by heroic fiction. War has means of destruction more formidable than the cannon and the sword. Of the thousands and tens of thousands that perished in our late contests with France and Spain, a very small part ever felt the stroke of an enemy; the rest languished in tents and ships, amidst damps and putrefaction—pale, torpid, spiritless, and helpless; gasping and groaning unpitied among men, made obdurate by long continuance of hopeless misery, and were at last whelmed into pits or heaved into the ocean without notice, without remembrance.” . . . “But at the conclusion of a ten years’ war how are we recompensed for the death of multitudes, and the expense of millions, but by contemplating the sudden glories of paymasters and agents, contractors and commissaries, whose equi-

* Cobbett's Parl. Deb. vol. xxviii p. 1035.

† Id. p. 1043.

pages shine like meteors, and whose palaces rise like exhalations? These are the men who, without virtue, labour, or hazard, are growing rich as their country is impoverished; they rejoice when obstinacy or ambition adds another year to slaughter and devastation; and laugh from their desks at bravery and science, while they are adding figure to figure, and cypher to cypher, hoping for a new contract from a new armament, and computing the profits of a siege or a tempest." *

In the course of the same session Mr. Erskine opposed the introduction of the traitorous correspondence bill †, and supported, at considerable length, Mr. (now Lord) Grey's motion in favour of parliamentary reform. ‡

It had hitherto been in general the good fortune of Mr. Erskine that his genius had been exerted in cases which a good man and even a prudent man might wish to defend; but in the year 1792 he was called upon to act as the advocate of one who, whatever may have been the integrity of his intentions, betrayed a grievous want of common sense and common decency in the expression of his opinions, and who by his writings cast more discredit on the cause of freedom than the pens of her most zealous enemies could have effected. In the second part of his celebrated *Rights of Man*, Thomas Paine attacked, in the most coarse and unmeasured language, the constitution and government of England, and an information was consequently filed against him, which came on to be tried in the year 1792. Mr. Erskine was retained for the defendant, at that period an odious and obnoxious duty, from which, however, with his characteristic magnanimity, he never for a moment attempted to withdraw himself. In the opening of his address to the jury he thus adverted to the calumnious reports which had been circulated on the subject: — "With regard to myself, every man within hearing at this moment, nay, the whole people of England, have been witnesses to the calumnious clamour that

* Parl. Hist. vol. xxx. p. 97.

† Id. p. 588.

‡ Id. p. 826.

by every art has been raised and kept up against me. In every place where business or pleasure collects the public together, day after day my name and character have been the topics of injurious reflection. And for what? only for not having shrunk from the discharge of a duty, which no personal advantage recommended, and which a thousand difficulties repelled. But, gentlemen, I have no complaint to make either against the printers of these libels, or even against their authors. The greater part of them, hurried away perhaps by honest prejudices, may have believed they were serving their country, by rendering me the object of its suspicion and contempt; and if there have been amongst them others, who have mixed in it from personal malice and unkindness, I thank God, I can forgive them also. Little indeed did they know me, who thought that such calumnies would influence my conduct: I will for ever, at all hazards, assert the dignity, independence, and integrity of the ENGLISH BAR, without which impartial justice, the most valuable part of the English constitution, can have no existence. From the moment that any advocate can be permitted to say that he *will* or will *not* stand between the crown and the subject arraigned in the court where he daily sits to practise, from that moment the liberties of England are at an end. If the advocate refuses to defend, from what he may think of the charge or of the defence, he assumes the character of the judge, nay, he assumes it before the hour of judgment, and in proportion to his rank and reputation puts the heavy influence of perhaps a mistaken opinion into the scale against the accused, in whose favour the benevolent principle of the English law makes all presumptions, and which commands the very judge to be his counsel."

In meeting the difficulties of this extraordinary case, Mr. Erskine adopted the only course which was open to him with any chance of success. He rested the defence entirely on "the nature and extent of the liberty of the English press," striving, although vainly, with all the powers of his energetic mind, to bring his client's case

within the operation of this great principle. Distinguishing between the attempt to inculcate a resistance to government upon the minds of individuals, and the endeavour to impress *upon the community at large* whatever principles of government the party honestly entertains, he argued that to the latter instance the doctrine of the liberty of the press extended, and that the "Rights of Man" came within the protection of that doctrine. He developed perhaps more clearly in this than in any of his other speeches his own notions of the liberty of the press in the following words:—

"The proposition which I mean to maintain as the basis of the liberty of the press, and without which it is an empty sound, is this:—that every man not intending to mislead, but seeking to enlighten others with what his own reason and conscience, however erroneously, have dictated to him as truth, may address himself to the universal reason of a whole nation, either upon the subject of governments in general, or upon that of our own particular country; that he may analyse the principles of its constitution, point out its errors and defects, examine and publish its corruptions, and warn his fellow-citizens against their ruinous consequences, and exert his whole faculties in pointing out the most advantageous changes in establishments which he considers to be radically defective, or sliding from their object by abuse. All this every subject of this country has a right to do, if he contemplates only what he thinks would be for its advantage, and but seeks to change the public mind by the conviction that flows from reasonings dictated by conscience.

"If, indeed, he writes what he does not think; if, contemplating the misery of others, he wickedly condemns what his own understanding approves; or, even admitting his real disgust against the government or its corruptions, if he calumniates living magistrates, or holds out to individuals that they have a right to run before the public mind in their conduct; that they may oppose by contumacy or force what private reason only

disapproves; that they may disobey the law because their judgment only condemns it; or resist the public will, because they honestly wish to change it,—he is then a criminal upon every principle of rational policy, as well as upon the immemorial precedents of English justice; because such a person seeks to disunite individuals from their duty to the whole, and excites to overt acts of misconduct in a part of the community, instead of endeavouring to change, by the impulse of reason, that universal assent, which in this and every country constitutes the law for all.”

Paine was convicted; and Mr. Erskine, as a reward for the brave and honest defence which his duty compelled him to make for his client, was, to the lasting disgrace and infamy of those from whom the measure proceeded, removed from his office of attorney-general to the Prince of Wales. To this removal he adverted in his defence of Horne Tooke in the following manner:—“Gentlemen, Mr. Tooke had an additional and a generous motive for appearing to be the supporter of Mr. Paine:—the constitution was wounded through his sides. I blush, as a Briton, to recollect, that a conspiracy was formed among the highest orders, to deprive this man of a British trial. This is the clue to Mr. Tooke’s conduct, and to which, if there should be no other witnesses, I will step forward to be examined. I assert, that there was a conspiracy to shut out Mr. Paine from the privilege of being defended: he was to be deprived of counsel; and I, who now speak to you, was threatened with the loss of office if I appeared as his advocate. I was told in plain terms that I must not defend Mr. Paine. I did defend him, and I did lose my office.”

Of this transaction Lord Erskine, a few years before his death, gave a detailed account, in a letter addressed to Mr. Howell, editor of the *State Trials*.* “When attorney-general to the Prince of Wales, I was retained by Thomas Paine in person to defend him on his approaching

* *State Trials*, vol. xxvi. p. 715.

trial for publishing the second part of his 'Rights of Man;' but it was soon intimated to me by high authority, that it was considered to be incompatible with my situation, and the prince himself in the most friendly manner acquainted me that it was highly displeasing to the king, and that I ought to endeavour to explain my conduct, which I immediately did in a letter to his majesty himself, in which, after expressing my sincere attachment to his person and to the constitution of the kingdom, attacked in the work which was to be defended, I took the liberty to claim, as an invaluable part of that very constitution, the unquestionable right of the subject to make his defence by any counsel of his own free choice, if not previously retained, or engaged by office from the crown; and that there was no other way of deciding whether that was or was not my own situation as attorney-general to the prince, than by referring, according to custom, that question to the bar, which I was perfectly willing and even desirous to do. In a few days afterwards I received, through my friend the late Admiral Paine, a most gracious message from the prince, expressing his deep regret in feeling himself obliged to receive my resignation, which was accordingly sent. But I owe it to his royal highness to express my opinion, that, circumstanced as he was, he had no other course to take in those disgraceful and disgusting times, and that my retainer for Paine was made a pretext by the king's ministers for my removal, because my worthy and excellent friend Sir A. Piggott was removed from the office of the prince's solicitor-general at the very same moment, although he had nothing whatever to do with Mr. Paine or his book. The fact is, that we were both, I believe, at that time members of a society for the reform of parliament, called 'The Friends of the People.'"

It was very honourable to the Prince of Wales that he subsequently made reparation to Mr. Erskine for this act of injustice. "It would, however," continues Lord Erskine, in the same letter, "be most unjust as well as ungrateful to the Prince Regent not to add, that in a few years after-

wards his royal highness, of his own mere motion, sent for me to Carlton House, whilst he was still in bed under a severe illness, and, taking me most graciously by the hand, said to me, that though he was not at all qualified to judge of retainers, nor to appreciate the correctness or incorrectness of my conduct in the instance that had separated us, yet that, being convinced I had acted from the purest motives, he wished most publicly to manifest that opinion, and therefore directed me to go immediately to Somerset House, and to bring with me, for his execution, the patent of chancellor to his royal highness, which he said he had always designed for me; adding, that owing to my being too young when his establishment was first fixed, he had declined having a chancellor at that time; that during our separation he had been more than once asked to revive it, which he had refused to do, looking forward to this occasion; and I accordingly held the revived office of chancellor to the Prince of Wales until I was appointed chancellor to the king, when I resigned it, in conformity with the only precedent in the records of the duchy of Cornwall, viz. that of Lord Bacon, who was chancellor to Henry Prince of Wales, and whose resignation is there recorded, because of his acceptance of the great seal in the reign of King James the first."

During the session of 1792, Mr. Fox brought forward his celebrated libel bill, which he supported in a most argumentative and forcible speech, in the course of which he took occasion to mention that of Mr. Erskine on the trial of the Dean of St. Asaph;—"a speech so eloquent, so luminous, and so convincing, that it wanted in opposition to it not a man but a giant."* The motion of Mr. Fox was seconded by Mr. Erskine; and his speech on this occasion may be taken as an example of the inferiority of his parliamentary eloquence. Compared with the splendid oration so justly panegyrised by Mr. Fox, it is tame, feeble, and inanimate,—a lifeless recapitulation of his former arguments.

* Cobbett's Parl. Deb. vol. xxix. p. 532.

In the course of the same session Mr. Erskine supported the motion of Lord (then Mr.) Grey for reform. This motion was made in consequence of a resolution of a society to which both the mover and seconder belonged, the Society of the Friends of the People. Of the nature of that association, and of his own objects in joining it, he has spoken in his pamphlet on the war with France.* “A few gentlemen, not above fifty in number, and consisting principally of persons of rank, talents, and character, formed themselves into a society, under the name of the Friends of the People. They had observed, with concern, as they professed in the published motives of their association, the grossly unequal representation of the people in the house of commons, its effects upon the measures of government, but, above all, its apparent tendency to lower the dignity of parliament, and to deprive it of the opinion of the people. Their avowed object was, therefore, to bring the very cause, which Mr. Pitt had so recently taken the lead in, fairly and respectfully before the house of commons, in hopes, as they declared, to tranquillise the agitated part of the public, to restore affection and respect for the legislature, so necessary to secure submission to its authority, and, by concentrating the views of all reformers to the preservation of our invaluable constitution, to prevent that fermentation of political opinion, which the French revolution had undoubtedly given rise to, from taking a republican direction in Great Britain. I declare upon my honour,” adds Mr. Erskine, in a note, “these were my reasons for becoming a member of that society. These were not only the professed objects of this association, but the truth and good faith of them received afterwards the sanction of judicial authority, when their proceedings were brought forward by government in the course of the state trials.” Mr. Grey’s motion was supported by Mr. Fox and Mr. Erskine, and opposed by Mr. Burke and Mr. Windham. Mr. Erskine’s speech was upon the whole feeble, and displayed

* Page 13.

very little of the fire and energy which distinguish his orations at the bar. It was principally confined to a vindication, or rather an apology, for the society of the Friends of the People, and for himself in becoming a member of the society. He concluded with an ungraceful reference to his own success in his profession. "The measures of the association," he said, "so much alluded to, were the most likely to preserve the peace of the country, and it was therefore he had subscribed to them. If their tendency was otherwise, he must be the worst of lunatics, his situation being considered, his unparalleled success, his prosperity so wonderful, when his origin was viewed, his present possession of every thing to make a man happy, and his prospects which there was nothing to interrupt. Why should he then waste his own constitution, when he was endeavouring to preserve that of the country, and when he might be in peace with his family, if his attempts were to endanger that prosperity which was so dear to him?" *

In the year 1793, Mr. Erskine appeared as the advocate of Mr. John Frost, an attorney, who was indicted for uttering seditious words at the Percy coffee-house. The words, which were certainly of a character sufficiently seditious, were spoken after dinner, and in the excitement of argument, and the witnesses to prove the speaking of them were certain individuals who happened to be present in the coffee-house at the time. These circumstances furnished the ingenious and skilful mind of Mr. Erskine with some admirable topics of defence, and in particular afforded him an opportunity of declaiming against that infamous system of *informing*, which about this period had become so fearfully common.

"Gentlemen, it is impossible for me to form any other judgment of the impression which such a proceeding altogether is likely to make upon your minds, than that which it makes upon my own. In the first place, is society to be protected by the breach of those confidences, and by the destruction of that security and tranquillity,

* Cobbett's Parl. Deb. vol. xxix. p. 1330.

which constitute its very essence every where, but which, till of late, most emphatically characterised the life of an Englishman? Is government to derive dignity and safety by means which render it impossible for any man who has the least spark of honour to step forward to serve it? Is the time come when obedience to the law and correctness of conduct are not a sufficient protection to the subject, but that he must measure his steps, select his expressions, and adjust his very looks, in the most common and private intercourses of life? Must an English gentleman in future fill his wine by a measure, lest in the openness of his soul, and whilst believing his neighbours are joining with him in that happy relaxation and freedom of thought which is the prime blessing of life, he should find his character blasted, and his person in a prison? Does any man put such constraint upon himself in the most private moment of his life, that he would be contented to have his loosest and lightest words recorded, and set in array against him in a court of justice? Thank God, the world lives very differently, or it would not be worth living in. There are moments when jarring opinions may be given without inconsistency, when Truth herself may be sported with without the breach of veracity, and when well-imagined nonsense is not only superior to, but is the very index to wit and wisdom. I might safely assert, taking, too, for the standard of my assertion the most honourably correct and enlightened societies in the kingdom, that if malignant spies were properly posted, scarcely a dinner would end without a duel and an indictment.

“ When I came down this morning, and found, contrary to my expectation, that we were to be stuffed into this miserable hole in the wall (*the court of common pleas*), to consume our constitutions, suppose I had muttered along through the gloomy passages, ‘ What! is this cursed trial of Hastings going on again? Are we to have no respite? Are we to die of asthma in this damned corner? I wish to God the roof would come

down, and abate the impeachment, lords, commons, and all together.' *Such a wish proceeding from the mind* would be desperate wickedness, and the serious expression of it a high and criminal contempt of parliament. Perhaps the bare utterance of such words without meaning would be irreverent and foolish ; but still if such expressions had been gravely imputed to me as the result of a malignant mind, seeking the destruction of the lords and commons of England, how would they have been treated in the house of commons on a motion for my expulsion ? How ! the witness would have been laughed out of the house before he had half finished his evidence, and would have been voted to be too great a blockhead to deserve a worse character. Many things are, indeed, wrong and reprehensible, that neither do nor can become the object of criminal justice, because the happiness and security of social life, which are the very end and object of all law and justice, forbid the communication of them ; because the spirit of a gentleman, which is the most refined morality, either shuts men's ears against what should not be heard, or closes their lips with the sacred seal of honour.

“ This tacit but well-understood and delightful compact of social life is perfectly consistent with its safety. The security of free governments, and the unsuspecting confidence of every man who lives under them, are not only compatible but inseparable. It is easy to distinguish where the public duty calls for the violation of the private one. Criminal intention—but not indecent levities—not even grave opinions, unconnected with conduct, are to be exposed to the magistrate ; and when men, which happens but seldom, without the honour or the sense to make the due distinctions, force complaints upon governments which they can neither approve of nor refuse to act upon, it becomes the office of juries—as it is yours to-day—to draw the true line in their judgments, measuring men's conduct by the safe standards of human life and experience.”

In the year 1794, Mr. Erskine was taken down spe-

cial to Lancaster, to defend a gentleman of the name of Walker, who, together with some other persons, was indicted for a conspiracy to overthrow the government. This prosecution, which arose out of the exasperated party feeling of the unhappy period when it occurred, was founded entirely on the evidence of a profligate informer, who was convicted of perjury at the very same assizes at which he had attended to give evidence. The task of the advocate was, therefore, not a very difficult one; and the trial would not have been noticed in this place, if it had not been remarkable, as containing one of the very few passages approaching to the humorous that are to be found in Lord Erskine's speeches. It had been proved on the part of the prosecution, that Mr. Walker had kept various kinds of arms in his house, for the possession of which Mr. Erskine undertook to account:—

“Gentlemen, Mr. Walker's conduct had the desired effect: he watched again on the 13th of December; but the mob returned no more, and the next morning the arms were locked up in a bedchamber in his house, and where, of course, they never could have been seen by the witness, whose whole evidence commences above a week subsequent to the 11th of December, when they were finally put aside. This is the genuine history of the business, and it must therefore not a little surprise you, that when the charge is wholly confined to the use of arms, Mr. Law should not even have hinted to you that Mr. Walker's house had been attacked, and that he was driven to stand upon his defence, as if such a thing had never had an existence. Indeed, the armoury which must have been exhibited in such a statement would have but ill suited the indictment or the evidence, and I must, therefore, undertake the description of it myself.

“The arms having been locked up, as I told you, in the bedchamber, I was shown last week into this house of conspiracy, treason, and death, and saw exposed to view this mighty armoury, which was to level the beautiful fabric of our constitution, and to destroy the lives and properties of ten millions of people. It consisted,

first, of six little swivels, purchased two years ago at the sale of Livesay, Hargrave, and Co. (of whom we have all heard so much), by Mr. Jackson, a gentleman of Manchester, who is also one of the defendants, and who gave them to Master Walker, a boy of about ten years of age. Swivels, you know, are guns so called, because they turn upon a pivot; but these were taken off their props, were painted, and put upon blocks resembling the carriages of heavy cannon, and in that shape may fairly be called children's toys. You frequently see them in the neighbourhood of London adorning the houses of sober citizens, who, strangers to Mr. Brown and his improvements, and preferring grandeur to taste, place them upon their ramparts at Mile End or at Islington. Having, like Mr. Dunn [the witness for the prosecution],—I hope I resemble him in nothing else,—having like him served his majesty as a soldier (and I am ready to serve again if my country's safety should require it), I took a close review of all I saw, and observing that the muzzle of one of them was broken off, I was curious to know how far this famous conspiracy had proceeded, and whether they had come into action, when I found that the accident had happened on firing a *feu de joie* upon his majesty's happy recovery, and that they had been afterwards fired upon the Prince of Wales's birth-day. These are the only times that, in the hands of these conspirators, these cannon, big with destruction, had opened their little mouths; once to commemorate the indulgent and benign favour of Providence in the recovery of the sovereign, and once as a congratulation to the heir apparent of his crown on the anniversary of his birth.

“ I went next, under the protection of the master-general of this ordnance (Mr. Walker's chambermaid), to visit the rest of this formidable array of death, and found a little musketoon about so high (*describing it*). I put my thumb upon it, when out started a little bayonet, like the jack-in-the-box which we buy for children at a fair. In short, not to weary you, gentlemen, there

was just such a parcel of arms, of different sorts and sizes, as a man collecting amongst his friends for his defence against the sudden violence of a riotous multitude might be expected to have collected : here lay three or four rusty guns of different dimensions, and here or there a bayonet or broadsword, covered over with dust and rust, so as to be almost undistinguishable ; for, notwithstanding what this infamous wretch has sworn, we will prove by witness after witness, till you desire us to finish, that they were principally collected on the 11th of December, the day of the riot, and that from the 12th in the evening, or the 13th in the morning, they have lain untouched as I have described them ; that their use began and ended with the necessity, and that from that time to the present there never has been a fire-arm in the warehouse of any sort or description."

In the speech on the trial of Horne Tooke a brilliant passage of the same kind occurs.

" But to give the case of Lord Lovat any bearing upon the present, you must first prove that our design was to arm, and I shall then admit the argument and the conclusion. But has such proof been given on the present trial ? It has not been attempted ; the abortive evidence of arms has been abandoned. Even the solitary pike, that formerly glared rebellion from the corner of the court, no longer makes its appearance, and the knives have retired to their ancient office of carving. Happy was it indeed for me, that they were ever produced ; for so perfectly common were they throughout all England, and so notoriously in use for the most ordinary purposes, that public justice and benevolence, shocked at the perversion of truth in the evidence concerning them, kept pouring them in upon me from all quarters. The box before me is half full of them ; and if all other trades should fail me, I might set up a cutler's shop in consequence of this cause."

In the course of the same speech Mr. Erskine accounts for that general absence of humour which is noticed above. He considered it incompatible with the

dignity of such efforts. "There is not only no evidence upon which reasonable men could deliberate between a verdict of *Guilty* and *Not guilty*, but literally *no evidence at all*: nothing that I could address myself to, but through the medium of ridicule, which, much as it would apply to the occasion in other respects, it would be indecent to indulge in, in a great state trial so deeply concerning the dignity of the country, and so seriously affecting the unfortunate persons whom I shall be called upon to defend hereafter."

Even in Lord Erskine's miscellaneous speeches few instances occur of any attempt at humour; though, in the case of *Morton v. Fenn*, which was an action brought by a middle-aged woman against an old and infirm man, for breach of promise of marriage, there occurs a sufficiently droll description of the unfortunate defendant. "It is probable," said Mr. Erskine, "that her (the plaintiff's) circumstances were very low, from the character in which she was introduced to the defendant, who, being an old and infirm man, was desirous of some elderly person as a housekeeper; and no imputation can be justly cast upon the plaintiff for consenting to such an introduction; for, by Mr. Wallace's favour, the jury had a view of this defendant, and the very sight of him rebutted every suspicion that could possibly fall upon a woman of any age, constitution, or complexion. I am sure every body who was in court must agree with me, that all the diseases catalogued in the dispensatory seemed to be running a race for his life, though the asthma appeared to have completely distanced his competitors, as the fellow was blowing like a smith's bellows the whole time of the trial. His teeth being all gone, I shall say nothing of his gums; and as to his shape, to be sure, a bass-fiddle is perfect gentility compared to it." He concluded with expressing a wish, that the young woman whom the defendant had married "would manifest her affection by furnishing him with a pair of horns, sufficient to defend himself against the sheriff, when he came to levy the money under the verdict."

The genius of Erskine seems to have been created at the very period which enabled it to shine forth in its brightest lustre. Had he lived in the generation either preceding or following his own, his eloquence would never have been called out, as it was by the extraordinary and perilous circumstances in which this country was placed at the latter end of the last century. All the great principles of human action and human government were called in question; and while, on the one hand, amongst the people, rash and ill-advised individuals were found, who pressed to their extremities those just theories of politics upon which the welfare of nations depends; the government, on the other hand, terrified at the excesses to which such speculations had led in France, under circumstances totally different from any that existed in England, grew jealous even of those liberties and privileges which were guaranteed by the constitution. Societies and affiliated societies for procuring a reform in parliament increased in rapid progression, and language was occasionally employed, of the seditious tendency of which no doubt could be entertained. At length, the subject of these dangerous associations was brought before parliament, which granted extraordinary powers to government, by an act *, reciting that a treacherous and detestable conspiracy had been formed for subverting the existing laws and constitution, and for introducing the system of anarchy and confusion which had lately prevailed in France. The popular mind being thus, by the highest authority, suitably affected with apprehensions and terrors, the minister resolved to strike a blow which should place at his absolute mercy the blood of every man who had ventured to become a member of the obnoxious associations. The attorney-general was directed to proceed against several of the more conspicuous members of these societies for high treason, as having been guilty of a conspiracy to compass and imagine the death of the king. The first person brought to trial was Mr. Thomas Hardy, a re-

* 34 G. 3. c. 54.

spectable tradesman, who had acted as the secretary of the Constitutional Society. Mr. Erskine, assisted by Mr. Gibbs, appeared as his counsel, and never in the judicial history of this country did so weighty, so overwhelming, so appalling a duty devolve upon any one man. The lives and fortunes of thousands of his countrymen, nay the liberties of his country itself, were involved in the issue. Had a conviction been obtained against Hardy, the consequences might have been most fatal. The streams of blood flowing from the scaffold must have been swelled by that shed in civil disturbances. Already the passions of the people were excited to a degree which every day threatened the public tranquillity; and nothing was wanting but some grand spectacle of blood, like that contemplated by the government, to rouse them into action. In addition to these overpowering considerations, the trial itself was of a nature to waste or to crush the energies and courage of the most constant mind. Such a proceeding was unparalleled in the annals of the state trials of England. The charge against the prisoner was to be proved from the conduct, speeches, and publications of a thousand different persons, at various periods of time and in various places. The trial commenced on Tuesday the 28th of October; and the opening of Sir John Scott, the attorney-general, occupied upwards of seven hours. The evidence for the crown was not concluded until two o'clock on the following Saturday, when Mr. Erskine, who had petitioned for and obtained an adjournment for a few hours on that morning, to afford him an opportunity of arranging the evidence, came into court, and delivered a speech which, standing alone, would place his name at the very head of the English forensic orators. The two grand objects to which he applied himself, were to cut down the law of constructive treason, and to prove the innocent and legal intentions of the accused. His argument on the first branch was even superior to that which he delivered on the trial of Lord George Gordon, and may be regarded as

the most substantial monument of his genius. Of his indignant and triumphant defence of the principles upon which the obnoxious societies were founded, it is impossible to speak in terms adequate to its skill, its force, and its splendour. The noble effort was crowned with merited success, and the verdict of the jury might have been foretold in the popular acclamations which attended the close of the speech. "When Mr. Erskine had finished his speech, an irresistible acclamation pervaded the court, and to an immense distance around. The streets were seemingly filled with the whole of the inhabitants of London; and the passages were so thronged, that it was impossible for the judges to get to their carriages. Mr. Erskine went out and addressed the multitude, desiring them to confide in the justice of the country, reminding them that the only security of Englishmen was under the inestimable laws of England, and that any attempt to overawe or bias them would not only be an affront to public justice, but would endanger the lives of the accused. He then besought them to retire, and in a few minutes there was scarcely a person to be seen near the court. No spectacle could be more interesting and affecting." *

Notwithstanding the acquittal of Hardy, so intent was the government upon convincing the country of the existence of that treasonable conspiracy, which it ought to have considered its own deep disgrace, that Mr. Horne Tooke was immediately put upon his trial, and Mr. Erskine had once more to go over the same ground which he had so triumphantly trod in his defence of Hardy. His speech was, consequently, in all its essential parts, a repetition of the brilliant oration he had just delivered. But the circumstances in which he now stood induced him to assume even a higher and more confident tone; and in one instance, where his doctrines seemed to excite something like disapprobation, he enforced them in a manner which showed his full confidence in the verdict.

* Erskine's Speeches, vol. iii. p. 502.

“To expose further the extreme absurdity of this accusation, if it be possible further to expose it, let me suppose that we were again at peace with France, while the other nations, who are now our allies, should continue to prosecute the war, — would it *then* be criminal to congratulate France upon her successes against them? When that time arrives, might I not honestly wish the triumph of the French arms? And might I not lawfully express that wish? I know certainly that I might — and I know also that I would! *I observe, that this sentiment seems a bold one*; but who is prepared to tell me that I shall not? I will assert the freedom of an Englishman; I will maintain the dignity of man; I will vindicate and glory in the principles which raised this country to her pre-eminence among the nations of the earth; and as she shone the bright star of the morning, to shed the light of liberty upon nations which now enjoy it, so may she continue in her radiant sphere to revive the ancient privileges of the world, which have been lost, and still to bring them forward to tongues and people who have never yet known them, in the mysterious progression of things.”

The principle which governed Mr. Erskine in these defences was fully developed by him afterwards in his speech, in the following year, upon Mr. Sheridan's motion for the repeal of the *habeas corpus* suspension act.* “Little reliance had we upon the law as we stated it; for though we were firmly convinced that the defence was invulnerable in point of law, not only by the statute, but even by all the authorities, yet we did not expect that the jury would prefer our statement, as advocates, to the judgment of the court, whether well or ill-founded; but we looked to the great sheet-anchor of the cause, viz. the gross falsehood and absurdity of the supposed conspiracy, on which we relied, and on which we prevailed.”

During the session of 1795–96 Mr. Erskine distinguished himself in parliament by his strenuous opposi-

* Parl. Hist. vol. xxxi. p. 109.

sion to two measures, which were, as he conceived, directed against the liberty of the subject. Upon the first of these, the seditious meetings' bill, he spoke with an energy and boldness not often exhibited within the walls of parliament. " ' If the king, & ministers, ' " said he, adopting the words of Lord Chatham, " ' will not admit a constitutional question to be decided on according to the forms and on the principles of the constitution, it must then be decided in some other manner ; and rather than that it should be given up, rather than the nation should surrender their birth-right to a despotic minister, I hope, my lords, old as I am, I shall see the question brought to issue, and fairly tried between the people and the government.' With the sanction of the sentiments of the venerable and illustrious Earl of Chatham, I will maintain that the people of England should defend their rights, if necessary, by the last extremity to which freemen can resort. For my own part, I shall never cease to struggle in support of liberty. In no situation will I desert the cause ; I was born a free man, and, by God, I will never die a slave !" * In the debates on the proceedings respecting Mr. Reeve's libel on the British constitution Mr. Erskine also took an active part.

In the first session of the new parliament which met in 1796, Mr. Erskine, having been again returned for Portsmouth, took a part in the debates on the king's message respecting the rupture of the negotiation for peace. His speech on this occasion was interrupted by a sudden attack of illness: " he suddenly stopped, and, after a pause, sat down under evident symptoms of indisposition." †

The subject of reform being again brought before parliament by Mr. Grey in 1797, Mr. Erskine supported him in a very argumentative speech ‡, his only effort in parliament in the course of that year. Nor does his name occur again in the debates until the year 1800, upon the debate on the king's message respecting overtures of peace

* Parl. Hist. vol. xxxii. p. 313.

† Id. p. 1466.

‡ Id. vol. xxxiii. p. 653.

from the consular government of France.* In the course of the same year he spoke in favour of an attempt made to repress adultery by the sanctions of criminal justice. He said, "That it never, perhaps, had fallen to the lot of any man to have conducted so many civil actions of this description, and that it was the result of that experience that had convinced him, not merely of the impropriety, but of the senseless absurdity, of considering adultery as a civil injury, instead of a high public offence."† In the following year he took a part in the debates on the eligibility of Mr. Horne Tooke to sit in the house of commons‡; and in 1802 he spoke at some length on the motion for an address respecting the removal of Mr. Pitt.§

In general all the great efforts of Mr. Erskine at the bar, especially in the political cases in which he was engaged, were on behalf of the accused; but in 1797 he appeared as counsel for the prosecution in the case of Williams, indicted for the publication of Paine's "Age of Reason." The task, which in other hands would have been easy, presented to him considerable difficulties, which, however, he avoided with great discretion and success, deserting not a single one of the principles which he had on other occasions maintained. The prosecution in this case had been instituted by the "Proclamation Society," an association for the suppression of blasphemous and seditious publications, and Mr. Erskine appeared to support it by virtue of the general retainer which he held for the society. Williams was convicted, and on the motion of Mr. Erskine was brought up for judgment. Between the time of that motion and the judgment of the court being passed upon him, some circumstances occurred which induced Mr. Erskine to suggest, to those who employed him, the propriety of instructing him to state that they were satisfied with the punishment already inflicted on the defendant by his commitment to Newgate. The answer

* Parl. Hist. vol. xxxiv. p. 1286.

† Id. p. 1335. 1397.

‡ Id. vol. xxxv. p. 312.

§ Id. vol. xxxvi. p. 616.

from the society was that though they did not wish to press for a severe judgment, they did not feel themselves justified in expressing a wish for lenity. This resolution being communicated by the secretary to Mr. Erskine, he declined being further concerned for the society, and returned their retainer. A statement of the circumstances, which induced Mr. Erskine to adopt this unusual step, was many years afterwards communicated by him to Mr. Howell, the editor of the State Trials, at the request of that gentleman.* The narrative is a very interesting one. "Having convicted Williams, as will appear by your report of his trial, and before he had notice to attend the court to receive judgment, I happened to pass one day through the Old Turnstile, from Holborn, in my way to Lincoln's Inn Fields, when in the narrowest part of it I felt something pulling me by the coat, when on turning round I saw a woman at my feet bathed in tears, and emaciated with disease and sorrow, who continued almost to drag me into a miserable hovel in the passage, where I found she was attending upon two or three unhappy children in the confluent small-pox, and in the same apartment, not above ten or twelve feet square, the wretched man whom I had convicted was sewing up little religious tracts, which had been his principal employment in his trade; and I was fully convinced that his poverty and not his will had led to the publication of this infamous book, as, without any kind of stipulation for mercy on my part, he voluntarily and eagerly engaged to find out all the copies in circulation, and to bring them to me to be destroyed.

"I was most deeply affected with what I had seen, and feeling the strongest impression that he offered a happy opportunity to the prosecutors of vindicating, and rendering universally popular, the cause in which they had succeeded, I wrote my opinion to that effect, observing (if I well remember), that mercy being the grand characteristic of the Christian religion, which

* State Trials, vol. xxvi. p. 714.

had been defamed and insulted, it might be here exercised not only safely, but more usefully to the objects of the prosecution, than by the most severe judgment, which must be attended with the ruin of this helpless family.

“ My advice was most respectfully received by the society, and I have no doubt honestly rejected, because that most excellent prelate Bishop Porteus, and many other honourable persons, concurred in rejecting it; but I had still a duty of my own to perform, considering myself not as counsel for the society, but for the crown. If I had been engaged for all or any of the individuals composing it, prosecuting by indictment for any personal injury punishable by indictment, and had convicted a defendant, I must have implicitly followed my instructions, however inconsistent with my own ideas of humanity or moderation; because every man who is injured has a clear right to demand the highest penalty which the law will inflict; but in the present instance I was in fact not retained at all, but responsible to the crown for my conduct. Such a voluntary society, however respectable or useful, having received no injury, could not erect itself into a *custos morum*, and claim a right to dictate to counsel who had consented to be employed on the part of the king for the ends of justice only.”

In the year 1797, Mr. Erskine published his *View of the Causes and Consequences of the present War with France*, a pamphlet which attracted very great attention, and in the course of the first year after its publication went through several large editions. To expose the folly and futility of that apparently interminable war of principle in which we were then engaged with France was the object of this excellent publication, which, although it produced a considerable effect upon the public mind, failed in any manner to influence the measures of government. In point of composition this pamphlet, when compared with the speeches, undoubtedly appears inferior. There is an effort in the style

by no means in all cases successful; and it wants not only the freedom, but sometimes the force, which distinguish all the speeches. The first twenty pages will be found an excellent introduction to the speeches on the cases of high treason in 1794. The origin and progress of the societies for reform are there clearly though briefly detailed; and while the excesses of some are admitted, the legality of their general object is maintained and defended.

In a letter addressed to Dr. Parr soon after the publication of the above pamphlet, Mr. Erskine says, "I cannot say how much I thank you for remarking the negligence with which it cannot but be filled. I wonder it is not nonsense from beginning to end, for I wrote it amidst constant interruption, great part of it in open court, during the trial of causes. Fifteen thousand copies have been sold in England, besides editions printed at Dublin and Edinburgh, where the sale has been unusual." *

In the speeches of Mr. Erskine already noticed there are none, with the exception of that on the trial of Lord George Gordon, exhibiting, in any prominent manner, those skilful observations upon evidence which form the chief part of our forensic oratory. The cases of libel afforded no opportunity of the kind; and in the great trials for high treason in 1794, the evidence, though most voluminous, was of a nature that admitted of nothing but general comments. It might be supposed, from the perusal of those speeches, that, however successful Mr. Erskine might be in selecting and arguing upon the principle of a defence, it was yet very possible that in cases depending upon the nice and skilful weighing of doubtful or contradictory evidence, and in the delicate task of presenting it in a proper light to the jury, he might be found not to possess the same admirable qualities which he displayed in cases involving general argument and observation. That such, however, was not the fact appeared almost daily in the course of

* Parr's Works, vol. vii. p. 628.

his large professional practice at Guildhall ; and though no few cases are to be found amongst his printed speeches in corroboration of this assertion, there is one which affords full and sufficient evidence of its correctness. In the year 1799 Lord Thanet, Mr. Fergusson a barrister, and some other gentlemen, were indicted for a misdemeanor in attempting to rescue Arthur O'Connor on his acquittal on a trial for high treason, and before he was discharged by the court. The case rested entirely on the nicest construction of evidence, it being necessary for the crown to prove the motives of the defendants from their conduct in the midst of a most sudden and alarming tumult. The judges who presided at the trial and many other honourable persons were called by the crown ; and to explain away the evidence of those witnesses, to clear up the ambiguity it occasioned, and to reconcile it with the supposition of his clients' innocence, and with the evidence of other persons equally high in character, who appeared for the defendants, required talents of a very peculiar and admirable order. Yet this task was accomplished by Mr. Erskine with a degree of skill which proves him to have been an advocate highly accomplished in this very difficult branch of his profession. Notwithstanding the great ingenuity displayed on behalf of the defendants, and the real strength of their case, the jury found a verdict of guilty, which was probably very greatly owing to the bold and skilful cross-examination of Mr. Sheridan, one of the witnesses for the defence, by Mr. Law, afterwards Lord Ellenborough.

Upon the trial of Hadfield, in April, 1800, for high treason, in shooting at the king in the theatre of Drury-lane, Mr. Erskine appeared as counsel for the prisoner ; and notwithstanding the apparent leaning of the court, at the commencement of the trial, to a contrary opinion, succeeded in establishing the derangement of the prisoner. There cannot, perhaps, be any where found a more clear and accurate commentary on insanity, as connected with the criminal law, than is contained in

this speech. The principle for which Mr. Erskine contended, and within which he successfully attempted to bring the case of his client, was, that where the act in question is the immediate unqualified offspring of the disease, and in such case only, the perpetrator of that act is not exposed to the penalties of criminal justice. Such, undoubtedly, was the crime attempted by the prisoner, who acted under the morbid delusion that he was called upon to perish for the benefit of mankind, and who, in pursuance of that delusion, purposely exposed himself to the vengeance of the law. It has been said that the counsel for the crown were dissatisfied with the view of the case ultimately taken by the court.

In the year 1802, Mr. Erskine, in common with many other distinguished Englishmen, taking advantage of the peace, visited Paris. He was presented to the first consul on the same day with Mr. Fox; but the fame of the latter seemed totally to eclipse that of all his countrymen in the estimation of Napoleon, who did not appear to be duly sensible of Mr. Erskine's great celebrity and singular merit, passing him with the simple question, *Êtes-vous légiste ?* *

During the administration of Mr. Addington, Mr. Erskine, led by the example of Lord Moira, Mr. Sheridan, Mr. Tierney, and others of the friends with whom he had usually acted, manifested a willingness to support the new minister, and was even on the point of accepting the office of attorney-general. Overtures to that effect having been transmitted to him by Mr. Addington, he thought it his duty to lay them before the Prince of Wales, whose service, in case of an acceptance of the office, it would be necessary for him to relinquish. In his answer, conveyed through Mr. Sheridan, the prince, while he expressed the most friendly feelings towards Mr. Erskine, declined at the same time giving any opinion, as to either his acceptance or refusal of the office of attorney-general, if offered to him under the present circumstances. His royal highness also added

* Trotter's Memoirs of Fox, p. 268.

the expression of his sincere regret, that a proposal of this nature should have been submitted to his consideration by one of whose attachment and fidelity to himself he was well convinced, but who ought to have felt, from the line of conduct adopted and persevered in by his royal highness, that he was the very last person who should have been applied to for either his opinion or countenance respecting the political conduct or connections of any public character, especially of one so intimately connected with him, and belonging to his family." * Upon this expression of the prince's sentiments, the offer was of course declined.

In the negotiations which took place about this time between Mr. Fox and the Grenville-Windhamites, as they were termed, Mr. Erskine adhered to the party of the *old opposition*. He formed one of those who met at Norfolk House for the purpose of presenting a friendly remonstrance to Mr. Fox, stating the various reasons which offered themselves against the formation of the contemplated alliance. The remonstrance was said to have been drawn up by Mr. Erskine. †

At length, on the formation of the Whig ministry in 1806, the consistency and integrity of Mr. Erskine were rewarded by the gift of the highest dignity which his profession could confer. Although his practice had been confined altogether to the courts of common law, his character and reputation were such, that the great seal was, without hesitation, confided to his hands, and he was immediately created a peer, by the title of Baron Erskine of Restormel Castle, in the county of Cornwall, on the suggestion, as it appears by his own narration, of the Prince of Wales. In a letter to Mr. Howell ‡, referring to his conduct with regard to his loss of office, in consequence of his defence of Paine, he says, "I have troubled you with this short history, because it may remind some who are but too apt to think that unprincipled subserviency is the surest road to prefer-

* Moore's Life of Sheridan, vol. ii. p. 323.

† State Trials, vol. xxvi. p. 716.

‡ Id. p. 324.

ment, that *honesty is the best policy*; since, when the great seal was afterwards vacant, his royal highness, in conjunction with my revered friend Charles Fox, considered my succession as indispensable to the formation of the new administration, presented me with a seal with my initial and a coronet engraved on it, and desired me to take Restormel Castle as the designation of my title, as belonging to the Duchy of Cornwall, and the seat of the most ancient Dukes of Cornwall."

On the breaking up of the administration in 1807, Lord Erskine accompanied the friends with whom he had so long acted, and resigned the great seal.

From the period of his retirement from office, Lord Erskine seldom appeared in public life. In the year 1809, however, he came forward in a cause which can never fail to engage the sympathies of every person of common feeling — the repression of wanton and malicious cruelty to animals. With this view he introduced a bill into the house of lords, which, upon the second reading, he supported in a speech which, if not glowing with the splendour of his former eloquence, was full of the most amiable and at the same time the most elevated sentiments. The bill, after passing the lords, was lost in the commons, by the influence of the false and frivolous argument to which Lord Erskine adverted in his speech. "As to the tendency of barbarous sports," said he, "of any kind or description whatsoever; to nourish the national characteristics of manliness and courage (the only shadow of argument I ever heard on such occasions), all I can say is this, that from the mercenary battles of the lowest of beasts (*viz.* human boxers) up to those of the highest and noblest that are tormented by man for his degrading pastime, I enter this public protest against it. I never knew a man remarkable for heroic bravery whose very aspect was not lighted up by gentleness and humanity, nor a kill-and-eat-him countenance, that did not cover the heart of a bully or a poltroon." * Lord Erskine had the satisfaction before he died of seeing a

* Printed Speech, p. 11.

bill embodying many of the provisions of that introduced by himself pass into a law.

Of the later years of Lord Erskine's life little remains to be told. Unfortunately, those years were not free from embarrassments and failings, which it would be painful to relate. His pecuniary circumstances involved him in difficulties from which a second marriage, into which he entered, did not tend to extricate him. Occasionally only he appeared in public. With that warm attachment to freedom which distinguished his earlier days he came forward to the assistance of the struggling Greeks, and gave to their cause the aid of his honoured but almost forgotten name. To interest the nation in their favour, he resumed his pen, and published various pamphlets on the subject. He also, a few years later, gave to the world a political romance, under the title of "*Armata*." In the year 1815, on the death of the Marquis of Lothian, the Prince Regent, in memory of his former friendship and attachment to Lord Erskine, was pleased to bestow upon him the order of the thistle.

At length that event occurred which those who loved his fame would gladly have welcomed earlier. In the year 1823, as he was accompanying one of his sons to Edinburgh by sea, he was attacked with inflammation of the chest, a complaint from which he had before suffered very severely. He was in consequence set on shore at Scarborough, whence he travelled by easy stages to Scotland. The complaint, however, gained ground, and on the 17th of November he died at Almondale, six or seven miles from Edinburgh. On the 28th of the same month he was buried in the family vault at Uphall church.

Lord Erskine had issue three sons and five daughters by his first wife. He was succeeded in his title by his eldest son, David Montague.

The eloquence of Lord Erskine was of a very high order. Though never deficient in any of those qualities, it was not indebted for its excellence either to beauty of diction, or to richness of ornament, or to felicity

city of illustration :—it was from its unrivalled strength and vigour that it derived its superior character. The intentness, the earnestness, the vehemence, the energy of the advocate, were ever present throughout his speeches, impressing his arguments upon the mind of the hearer with a force which seemed to compel conviction. Throughout even the longest of his speeches, there is no weakness, no failing, no flagging; but the same lively statement of facts, the same spirited and pointed exposition of argument. He never gave way to what he has happily termed “the Westminster Hall necessity” — of filling up his speech with common places; but invariably presented his subject in some striking or brilliant light, which never failed to rivet the attention, and to work upon the convictions of the audience.

In examining those particular qualities of Lord Erskine's speeches which contributed more obviously to their success, the most remarkable will appear to be the exact and sedulous adherence to some one great principle which they uniformly exhibit. In every case he proposed a great leading principle, to which all his efforts were referable and subsidiary, which ran through the whole of his address, arranging, governing, and elucidating every portion. As the principle thus proposed was founded in truth and justice, whatever might be its application to the particular case, it necessarily gave to the whole of his speech an air of honesty and sincerity which a jury could with difficulty resist. To bring the case before him within the operation of this principle, was, indeed, frequently an arduous task, which Mr. Erskine nevertheless performed with consummate skill and delicacy. Even when, as in Paine's case, the accomplishment of that task was impossible, the adoption of a principle which he could conscientiously defend and enforce, gave him, as an advocate, incalculable advantages. In the cursory examination of Lord Erskine's speeches which has already been given, an attempt has

been made to point out, in each particular instance, the peculiar principle upon which the defence was rested.

The style of Lord Erskine's speeches may be regarded as a model for serious forensic oratory : it is clear, animated, forcible, and polished ; never loaded with meretricious ornament, never debased by colloquial vulgarisms. It is throughout sustained in a due and dignified elevation. The illustrations which it exhibits are borrowed rather from the intellectual than the material world ; and its ornaments are rather those of sentiment than of diction. It receives little assistance from the quaintness of similes or the brilliancy of metaphors ; and is addressed rather to the reason and to the passions than to the taste and imagination of the hearer. It seldom displays any attempt at wit, or even at humour ; though occasional instances of the latter quality are to be found in the Speeches.*

Although the speeches of Lord Erskine cannot be compared with those of Mr. Burke, for the varied exposition of philosophical principles in which those extraordinary productions abound ; yet they not unfrequently display a profound acquaintance with human nature, and with the springs of human action. These reflections always arise naturally out of the subject which they enforce and illustrate. How admirable and how true are the following observations from the speech for the Council of Madras, and how worthy to be held in perpetual and cautious remembrance ! “ Some of the darkest and most dangerous prejudices of men arise from the most honourable principles of the mind. When prejudices are caught up from bad passions, the worst of men feel intervals of remorse to soften and disperse them ; but when they arise from a generous though mistaken source, they are hugged closer to the bosom, and the kindest and most compassionate natures feel a pleasure in fostering a blind and unjust resentment.” An attentive perusal of the Speeches will furnish

* Ante, p. 365.

innumerable instances of the same power of high philosophical reflection.

There probably never was an advocate who studied with nicer discrimination and more delicate tact the feelings of the jury. Even in the most impassioned passages of his oratory, when it might have been expected that his mind would have been wholly absorbed in his subject, he was intently watching the impression of his speech, as revealed in the countenances of the jury. Guided by this index, he regulated the character of his address; now rising, as he saw the feelings of the jury rise, into warm and eloquent displays of oratory; now subsiding, as he marked the passions of the jury subside, into cool and temperate argument. His speeches are full of observations, which record this singular faculty. In his speech on the trial of Lord George Gordon, he exclaimed, "Gentlemen, I see your minds revolt at such shocking propositions!"—In that for the Dean of St. Asaph, "Gentlemen, I observe an honest indignation rising in all your countenances on the subject, which, with the arts of an advocate, I might easily press into the service of my friend." On the trial of Paine, when the defendant's letter to the attorney-general was read, "I see but too plainly," said Mr. Erskine, "the impression it has made on you who are to try the cause;" and in the course of the same trial he said, "I am not asking your opinions of the doctrines themselves; you have given them already, pretty visibly, since I began to address you." In the course of that trial, the impatience of the jury, and of one of them in particular, became so visible, that Mr. Erskine broke out into the following rebuke: "When the noble judge and myself were counsel for Lord George Gordon, in 1781, it was not considered by that jury, nor imputed to us by any body, that we were contending for the privilege of overawing the house of commons, or recommending the conflagration of this city. *I* am doing the same duty now which *my lord and I* then did in concert together;

and, whatever may become of the cause, I expect to be heard; conscious that no just obloquy can be or will in the end be cast upon me, for having done my duty in the manner I have endeavoured to perform it. Sir!" continued Mr. Erskine, addressing a refractory jurymen, "I shall name you presently!" On the trial of Stockdale he said, "Gentlemen, I observe plainly, and with infinite satisfaction, that you are shocked and offended at my even supposing it possible that you should pronounce such a detestable judgment." Nay, even after he had ceased to address the jury, his eye was still fixed upon them, watching the variations of their countenances as they listened to the instructions of the judge. "I particularly observed," said he, in addressing the court of King's Bench, on the rule for a new trial on the Dean of St. Asaph's case,— "I particularly observed, how much ground I lost with the jury, when they were told from the bench, that even in Bushel's case, upon which I so greatly depended, the very reverse of my doctrine had been expressly established." Numerous other instances of this watchfulness might be collected from Mr. Erskine's speeches.

Among the characteristics of Lord Erskine's eloquence, the perpetual illustrations, derived from the writings of Burke, is very remarkable. In every one of the great state trials in which he was engaged he referred to the productions of that extraordinary person, as to a text-book of political wisdom, expounding, enforcing, and justifying all the great and noble principles of freedom and of justice. Upon one occasion he repeated from memory more than a page of those brilliant writings, which he always ushered in with high-sounding and even pompous panegyric. On the trial of Horne Tooke he cited a passage from Burke, denouncing it as dangerous in principle, but accompanying the denunciation with an encomium which proves how deeply he had studied, and how fervently he admired, the transcendent genius of the writer. "Let us try Mr. Burke's book by the same test. Though I have no doubt it was written with an honest intention, yet it contains, in my mind, a dangerous prin-

ciple, destructive of British liberty. What then?—ought I to seek its suppression?—ought I to pronounce him to be criminal who promotes its circulation? Far, far from that, I shall take care to put it into the hands of those whose principles are left to my formation. I shall take care that they have the advantage of doing, in the regular progression of youthful study, what I have done, even in the short intervals of laborious life; that they shall transcribe with their own hands from all the works of this most extraordinary person, and from the last among the rest,—the soundest truths of religion; the justest principles of morals, inculcated and rendered delightful by the most sublime eloquence; the highest reach of philosophy brought down to the level of common minds by the most captivating taste, the most enlightened observations on history, and the most copious collection of useful maxims from the experience of common life. All this they shall do, and separate for themselves the good from the evil, taking the one as far more than a counterpoise for the other.” In his *View of the Causes and Consequences of the Present War with France*, Mr. Erskine again acknowledges his obligations to the genius of Burke. “When I look,” says he, “into my own mind, and find its best lights and principles fed from that immense magazine of moral and political wisdom which he has left as an inheritance to mankind for their instruction, I feel myself repelled, by an awful and grateful sensibility, from petulantly approaching him.”

It is greatly to be lamented that so few of Lord Erskine's miscellaneous speeches at the bar have been preserved; for, though necessarily inferior in magnificence of conception and in masterly execution to his great speeches in the State Trials, they would furnish invaluable models, in each particular case, of argumentative eloquence. A few of these speeches have been preserved in a single volume, edited by Mr. Ridgway, sufficient to induce a great regret, that a more copious collection of them has not been formed. Amongst the most remarkable of them are two which require to be more particularly noticed,

from the celebrity which Lord Erskine acquired in speeches of that class:—those in the cases of *Markham v. Pawcett*, and *Howard v. Bingham*, in actions for criminal conversation; in the former of which Mr. Erskine appeared for the plaintiff, and in the latter for the defendant. Such was the success of Mr. Erskine in cases of this kind, that he was almost invariably secured by the plaintiff, and only in three or four instances appeared as advocate for the defendant. In the first-mentioned case the sheriff's jury gave the plaintiff a verdict of seven thousand pounds, in the latter of five hundred. The extenuating circumstance in that case was, the attachment subsisting before marriage between the defendant and the wife of the plaintiff; a circumstance of which Mr. Erskine availed himself with his characteristic boldness and ability.

“ If, therefore, Mr. Bingham this day could have by me addressed to you his wrongs, in the character of a plaintiff demanding reparation, what damages might I not have asked for him, and without the aid of this imputed eloquence, what damages might I not have expected? I would have brought before you a noble youth, who had fixed his affections upon one of the most beautiful of her sex, and who enjoyed hers in return. I would have shown you their suitable condition. I would have painted the expectation of an honourable union, and would have concluded by showing her to you in the arms of another by the legal prostitution of parental choice in the teeth of affection: with child by a rival, and only reclaimed at last, after so cruel and so afflicting a divorce, with her freshest charms despoiled, and her very morals, in a manner, impeached by asserting the purity and virtue of her original and spotless choice.— Good God! imagine my client to be plaintiff, and what damages are you not prepared to give him!—and yet, he is here as defendant, and damages are demanded against him. O monstrous conclusion!”

Throughout the whole course of his very distinguished professional career, Lord Erskine adhered with

constancy and fidelity to the political principles and engagements with which he began life. His ambition was of too noble a nature to look for its reward in honours meanly earned at the expense of integrity. It cannot be doubted, that many occasions occurred to him of bartering his political character for place or for emolument; but, undazzled by false splendour, he always refused to become a party to such an exchange. Nor did he ever suffer political considerations to prevent him from the due and just discharge of his professional duties, preferring, as in the case of Paine, the certain loss of office and advancement, to the sully of his high professional character.

It would be inexcusable in this place to omit the following fine observations on the professional character of Lord Erskine, from the pen, it has been said, of a most distinguished person, himself a very illustrious ornament of the profession which was once adorned by the splendid genius and elevated by the lofty reputation of Erskine. “The professional life of this eminent person, who has of late years reached the highest honours of the law, is in every respect useful as an example to future lawyers. It shows that a base time-serving demeanour towards the judges, and a corrupt or servile conduct towards the government, are not the only, though, from the frailty of human nature and the wickedness of the age, they may often prove the surest, roads to preferment. It exalts the character of the English barrister beyond what in former times it had attained, and holds out an illustrious instance of patriotism and independence, united with the highest legal excellence, and crowned in the worst of times with the most ample success. But it is doubly important, by proving how much a single man can do against the corruptions of his age, and how far he can vindicate the liberties of his country, so long as courts of justice are pure, by raising his single voice against the outcry of the people and the influence of the crown, at the time when the union of these opposite forces was bearing down all opposition in parliament, and daily setting at nought the most splendid talents, armed with the most just cause.

While the administration of the law flows in pure channels ; while the judges are incorruptible, and watched by the scrutinising eyes of an enlightened bar, as well as by the jealous attention of the country ; while juries continue to know and to exercise their high functions, and a single advocate of honesty and talents remains, thank God ! happen what will in other places, our personal safety is beyond the reach of a corrupt ministry and their venal adherents. Justice will hold her even balance in the midst of hosts armed with gold or with steel. The law will be administered steadily, while the principles of right and wrong, the evidence of the senses themselves, the very axioms of arithmetic, may seem elsewhere to be mixed in one giddy and inextricable confusion ; and after every other plank of the British constitution shall have sunk below the weight of the crown, or been stove in by the violence of popular commotion, that one will remain, to which we are ever fondest of clinging, and by which we can always most surely be saved." *

The great truths of religion were early impressed by education on the mind of Lord Erskine, and they continued to exercise, throughout his whole life, a powerful influence over his feelings. It was not the language of the advocate when, on the trial of Paine, he made the following eloquent profession :— " For my own part, I have been ever deeply devoted to the truths of Christianity ; and my firm belief in the Holy Gospel is by no means owing to the prejudices of education (though I was religiously educated by the best of parents), but has arisen from the fullest and most continued reflections of my riper years and understanding. It forms, at this moment, the great consolation of a life which, as a shadow, passes away ; and without it, I should consider my long course of health and prosperity (too long, perhaps, and too uninterrupted to be good for any man), as the dust which the wind scatters, and rather as a snare than a blessing."

It must be admitted, that in the moral character of Lord Erskine there were failings, which more thoughtful

* Edinb. Review, vol. xvi. p. 127.

and prudent men would have avoided ; and though it may be regretted, it cannot be a matter of surprise, that he did not exhibit a union of contradictory qualities, displaying at once the ardent temperament of genius, and the blameless and passionless conduct of less sensitive natures. It is unfortunately but too true, to use his own words, that “ it is the nature of every thing that is great or useful in the animate and inanimate world to be wild and irregular ; and we must be contented to take them with the alloys that belong to them, or to live without them.” He was himself as deeply sensible as any one could be of his own failings, for the pardon of which he looked with confidence to the mercy-seat of God. In his speech on the trial of Stockdale, there is a passage which may be regarded as a commentary upon his own feelings. “ Every human tribunal ought to take care to administer justice, as we look hereafter to have justice administered to ourselves: upon the principle on which the attorney-general prays sentence upon my client — God have mercy upon us ! — instead of standing before him in judgment with the hopes and consolations of Christians, we must call upon the mountains to cover us ; for which of us can present for Omniscient examination a pure, unspotted, and faultless course ? But I humbly expect that the benevolent Author of our being will judge us, as I have been pointing out for your example. Holding up the great volume of our lives in his hand, and regarding the general scope of them, if he discovers benevolence, charity, and goodwill to man, beating in the heart, where he alone can look ; if he finds that our conduct, though often forced out of the path by our infirmities, has been in general well directed, his searching eye will assuredly never pursue us into those little corners of our lives, much less will his justice select them for punishment, without the general context of our existence, by which faults may be sometimes found to have grown out of virtues, and very many of our heaviest offences to have been grafted, by human imperfection, upon the best and kindest of our affections. No, gentlemen, believe

me this is not the course of divine justice, or there is no truth in the Gospel of Heaven. If the general tenour of a man's conduct be such as I have represented, he may walk through the shadow of death, with all his faults about him, with as much cheerfulness as in the common paths of life, because he knows that, instead of a stern accuser, to expose before the Author of his nature those frail passages which, like the scored matter in the book before you, chequers the volume of the brightest and best spent life, his mercy will obscure them from the eyes of his purity, and our repentance blot them out for ever."

That Lord Erskine was not altogether free from the weakness of vanity, a weakness not unfrequently found in persons who, in other respects, possess the strongest minds, is evident even from his speeches. There is, upon various occasions, an obvious endeavour to introduce himself and his own actions to the notice of the audience; an ungraceful practice, which increased upon him in the later part of his life, and of which an instance may be seen in the debates in the house of lords of the 1st of March, 1806.* It has been said of Lord Erskine†, that "thoroughly acquainted with the world, he even condescended to have recourse to little artifices, pardonable in themselves, to aid his purposes. He examined the court the night before the trial, in order to select the most advantageous place for addressing the jury. On the cause being called, the crowded audience were, perhaps, kept waiting a few minutes before the celebrated stranger made his appearance; and when at length he gratified their impatient curiosity, a particularly nice wig, and a pair of new yellow gloves, distinguished and embellished his person, beyond the ordinary costume of the barristers of the circuit."

The demeanour of Lord Erskine in court was to the bench respectful, though never subservient; to the bar, kind, courteous, and engaging. It has been said, that during his long practice he was never known, but upon

* Cobbett's Parl. Deb. vol. vi. p. 247. † Annual Obituary, vol. ix. p. 57.

one occasion, to utter a harsh or rude word to those opposed to him, and that, in the single instance in which his temper mastered him, he made ample amends by a voluntary and instantaneous apology.*

In person, Lord Erskine possessed many advantages: his features were regular, intelligent, and animated, and his action is said to have been exceedingly graceful. His constitution was remarkably strong; and it was mentioned by himself in the house of lords †, as a singular fact, that during the twenty-seven years of his practice he had not been for a single day prevented in his attendance on the courts by any indisposition or corporeal infirmity.

SIR SAMUEL ROMILLY.

1757—1818.

SAMUEL ROMILLY was born on the first of March, 1757, in Frith-street, Soho, Westminster. His grandfather, a native of France, retired from that country on the revocation of the edict of Nantz, and settled in England, where his son, Peter Romilly, was brought up to the trade of a jeweller, and married a lady of the name of Garnault, the descendant of a French family: of this marriage the only children who attained the age of maturity were Thomas, Catherine, and Samuel, the subject of this memoir.

He was distinguished in his early youth by great vivacity and sensibility of temperament, the frequent companions of genius. Of his education little has been recorded; but he appears to have been principally indebted for his acquirements to his own exertions, aided by the suggestions and advice of his friend the Rev. John Roget, who subsequently married his only sister. Being originally destined for the profession of an attorney, he

* Annual Obituary, vol. ix. p. 59. † Cobbett's Parl. Deb. vol. vi. p. 247.