

NERVA,

OR A

COLLECTION OF PAPERS

PUBLISHED IN

THE MONTREAL HERALD.

REPRINTED BY PARTICULAR DESIRE.

*Elleborum frustra cum jam cutis agra tumebit,
Poscentes videas. VENIENTI OCCURRITE MORBO*

PARIS. Sat. 9

Montreal:

PRINTED BY WILLIAM GRAY:

.....
JUNE—1814.

It is a great misfortune to have an Emperor under whom all things are forbidden and criminal ; but a still greater, to have one under whom all things are allowed. For in the former case, injustice proceeds from an individual ; but in the latter, the oppressors are innumerable and continually changing. All who then acquire a momentary ascendancy, become tyrants, the more eager that their power should be felt, as they know its duration will be short.

Speech of M. Junius.

NERVA,

OR

A COLLECTION OF PAPERS PUBLISHED IN
THE MONTREAL HERALD.

*"The thing which is, is that which hath been,
and there is no new thing under the sun."*

IRELAND, in 1798, by the vigour and firmness of the administration of Lord WESTMORLAND, had seen tranquility succeed to disturbance.—The seditious in office were deprived of their employment.—The agents of disaffection were restrained and punished, and the executive acted upon the just conviction, that to temporise with the turbulent would be to encourage them.

At this period, Earl Fitzwilliam succeeded to the vice-royalty, who probably with an intention of conciliating every refractory spirit, and of removing every obstacle to unanimity, adopted a course of measures diametrically opposite to those of the former viceroy. He restored to higher offices those *who had been displaced*, and seemed to consider those who had fallen under the lash of the former administration, *as peculiarly entitled to preferment under him* : forgetful that acts of

Go-

Government should be permanent, consistent, and respected, although Governors might be temporary : forgetful also that to single out, as objects of particular preference, persons particularly obnoxious in his predecessor's administration would be to render the censure of the executive in future, a subject of contempt, and that subsequent governors, by following his example would be taught to consider his censure as a matter of indifference, if not a cause for advancement.

Yet Earl Fitz-william's measures, however promising, in speculation, failed to produce the desired effect in their execution. He met with no gratitude from those he promoted, and no support from the partizans of their ancient cabals : the former, with natural self complacency, imputed their advancement to the necessity felt by government for their services ; the latter to its timidity or weakness. The latter therefore considered this first success as an earnest of future fortune, when they also should make themselves feared.

A period of distress and danger shortly after arrived, when Ireland was menaced with immediate invasion, by a French force, and was the auspicious season chosen by this patriotic band, (most of whom had been restored to their offices and many of whom were members of the Irish house of commons) for the great display of their talents, and the chief exertion of their strength, in opposing the wishes and designs of government. Headed by a party leader, who, like the demagogues of some modern republics, could
 shout

shout for rights, while he was intent on subverting all rights but his own, and who imputed all the misfortunes which took place in the Irish insurrections, wholly to the measures adopted by government in quelling them, * these worthy Legislators discarded the idea of labouring to restore tranquility to their country, or of giving effect to the exertions making for its defence, and even insinuated that they ought not to engage in wars, occasioned by interests in which they had no participation. Grievances were the only subject of their laudable investigation, and this call was published to all manner of persons "*Come unto us all ye that are heavyladen and obtain redress.*"† After such an invitation, it could not be supposed that causes of complaint would remain long undiscovered ; and indeed an abundant harvest of grievances of rapid and luxuriant growth soon ripened before them—among such a set of men, could grievances be long wanting, while the King enjoyed prerogatives, the nobles held privileges, or the judges possessed independence ? By turns were all these subjected to their zealous and loyal animadversion.

It was now perceived that a recourse to former vigorous measures, a departure from which had been productive of so much inconvenience, could alone be consistent with security ! that a body of men intent only on rendering all authority subservient to their own, and attacking at
once

* See speeches in the Irish House of Commons.

† See proceedings in Dublin in 1798.

once the prerogative of the Crown, the dignity of the Upper House, and the independence of the Judiciary, could be kept in order only by the resistance, and not by the concessions of the executive. That to silence the most clamorous by grants of power or place, would be to raise up an endless succession of new claimants of equal avidity, and that no Government can expect to have faithful servants, if the path of sedition be the road to preferment; and if it lavishes its best rewards on those who have most effectually obstructed its measures. It was considered that raising his enemies to power, had cost Charles the 1st his kingdom; that the concessions of Louis the 16th to the national convention, were the cause of his ruin; and that rulers to be long loved must also be feared—Whoever is feared by none, can protect none, and what motive can exist for attachment to a Government incapable of affording protection.

NERVA.

N. B. As the consideration of Irish affairs of recent date is not without interest, it will be resumed occasionally.

March, 1813.

No.

[No. II.]

"The thing which is, is that which hath been, and there is no new thing under the sun."

AFTER the lapse of a twelvemonth, during which indisposition has allowed no extraneous concerns, to mingle with personal sufferings, we feel with returning health, a renewal of the interest excited by the situation of others, and NERVA, according to promise, resumes the consideration of Irish affairs.

The enlightened and judicious biographer of the younger Pitt, bestows severe and unqualified censure on the administration of Ireland under Earl Fitz-William, while the friends of the latter have endeavored to palliate the errors they could not deny, and to justify his motives where they could not justify his measures. But we as *political* enquiries, ought only to examine his conduct to determine whether the blame of his censures be merited or unjust; for of his *motives* we must ever remain in ignorance, and were they even known to us, they are considerations with which we could have no concern, because the subject of our enquiry is not the character of the man, but the conduct of the ruler. We ask not what were his *intentions*, but whether his measures were judicious, and whether at the time of their adoption men of information and reflection in Ireland, considered them as calculated to produce
ad-

advantage or injury ? Whether Counsellors, grown grey in the service of their country, advised and approved them, or whether with presumptuous confidence in his personal knowledge he rejected the opinions of the well informed, to follow the suggestions of his own incapacity ? And whether he sacrificed or endangered, for the vain, specious, and delusive mockery of an unfounded & transient popularity, the real interests of his king and the future tranquility of his country ?

By these tests, as the only fair criteria, let us form our opinions of the Viceroy, and we shall have nothing to fear from the influence of prepossession or of error.

Between two systems of government proposed for adoption, theorists may often find it difficult to determine the claims to preference ; because the peculiar defects of each may be compensated by peculiar advantages ; but where a system of government is already established, there are certain rules for its exercise, from which the experience of practical politicians will pronounce all deviation to be improper and hazardous. Of these rules, the most universally admitted is, that all changes should be gradual, not abrupt, should be necessary, not experimental.—But Earl Fitz-William began his innovations upon his entrance into office, without waiting to ascertain whether Lord Westmoreland's measures were adapted to the situation of the country, without indeed knowing what the situation of the country required ; or whether a sudden change, even from what might
ori-

originally have been improper, would not produced greater evil than that which it should be intended to correct. His proper path had indeed been marked out for him, and every obstruction and difficulty removed by Lord Westmoreland, whose labours had they been turned to advantage, would have enabled his successor to pursue with perfect ease and safety, a course at once consistent with his own honor, and with the dignity of his government. Yet these advantages were overlooked or despised by the Earl who, like some rulers, in whom vanity has predominated over judgment, disdained to govern in any respect, according to the prescription or example of another. In consequence, he was speedily surrounded by men of principles, avowedly inimical to the just and long established prerogatives of the crown, who were the objects of his peculiar notice, and most graciously received at his table and his court. Situations of trust and power were accumulated upon individuals unknown before in departments of state, and incapable, as well as regardless of the performance of their official duties, while their rapacity was so insatiable, as to force from the unwilling viceroy himself, the observation, that if England and Ireland were given to them as estates, they would ask for the Isle of Man as a kitchen garden.

A viceroy with the assistance of associates, dependants, and companions of so unusual a cast, it would be natural to expect would differ in principle and in action from most representatives of Royalty. And the event fully justified the expectation.

tation. The conciliation of the worthless became his primary object and concession was considered the principal means.

In this spirit, dissaffection was in some cases suffered to pursue its work unmolested ; and in others where the sentence of the law had been formally pronounced, the punishment was remitted in a manner which exposed the administration of justice to obloquy and induced the ignorant to consider all restraints upon licentiousness as acts of oppression. We lament that he was not aware that in times of difficulty, to lessen the Majesty of the laws, is to endanger the rights of the throne, which he was sent to defend ; & to subvert the social order which he was bound to support. We lament also that he had no friend at hand to suggest to him, and no reflexion to convince him, that conciliation is not the necessary consequence of concession : The lessons of history, or a knowledge of the human heart would equally show that they are seldom cause and effect. All who from principle are interested in the preservation of the power or dignity of government, must feel irritated by concessions in favour of turbulence or sedition ; and the favour of a few heartless adherents, would be dearly purchased by the sacrifice of the good opinion of the enlightened and the loyal. He who carries his system of concession so far as to sacrifice or offend friends of tried fidelity, for the acquisition of doubtful or dangerous adherents, may if he pleases dignify his conduct by the name of conciliation, but will not have much cause to rejoice in its result, or to congratulate

late.

late himself upon the effects of his increasing popularity. He may indeed be used by the people as a tool for a time, but will certainly be thrown aside even by his greatest admirers, as wanting edge or power ; the moment the faction he has protected and advanced shall find him unwilling or unable to promote the interests of a disorganizing democracy ; or in other words shall find him unable or unwilling to aid in destroying the legitimate rights of the crown.

Whether the viceroy was influenced by feelings of personal resentment, of contempt, or of envy, towards his vigorous and energetic predecessor, or whether his conduct was the result of timidity, the biographer does not say ; but allows him to make his election between the two imputations of malevolence or of weakness.

The administration of the Earl thus commenced was continued in a manner which evinced that alteration was at least one of its objects ;—Whether improvement was another must be left to the discovery of his friends, for we are sorry to state, that our researches have, as yet left us, without information in that particular.

NERVA.

Montreal, Feb. 26, 1814.

No.

[No. III.]

“ The thing which is, is that which hath been, and there is no new thing under the sun. For the children of Belial went up against the inhabitants of Mount Sier, and when they had made an end of Mount Seir, they all helped to destroy one another.”

NERVA again, reluctantly, but as a duty, resumes the consideration of the misfortunes and troubles in Ireland—subjects ill calculated to afford satisfaction ; but, as a check to our dislike of distressing topics, we may reflect that the draught which contributes most to health is often least pleasant to the taste, and that the contemplation and injustice of past times, may not be unaccompanied with advantages.

In the most celebrated convention of Ireland, known by the name of the Back Lane Parliament, a false and acrimonious libel was drawn up against the established authorities, which they styled a *petition* to His Majesty, and caused to be presented as such by five of their delegates.

In the public assemblies of the same country the seditious few, who ruled and guided the minds of the ignorant many, by exciting and stimulating the jealousies of the envious, the projects of the ambitious, and the fears of the un-

un-

unprincipled, raised a general outcry in favor of change, and the subversion of an ancient order. It would be difficult to persuade the cautious and reflecting, that alteration necessarily implies reformation; and they would be careful never to confound change with improvement — Yet change will always possess attractions for the multitude, because in their apprehensions it will always seem to promise wealth to the poor, dignity to the mean, and authority to the weak.

But it requires no puny effort to effect a change and overturn the established order of things; to seize for the profligate the accumulations of the industrious, and invest the vile with the dignities of honour, in governments, where the courts of Justice, with a firm and steady hand, oppose the progress of confusion and innovation. The bond of society within itself, the tie which connects foreign nations with each other, the source of security to the weak against the encroachments of the strong, the characteristic which distinguishes the civilized from the savage, the support of order, power, dignity, happiness and independance, either exist in, or are formed, fostered, protected and encouraged by the administration of justice. This was seen, felt, and understood, by the seditious in Ireland, and to remove so formidable a barrier to the promotion of their views, they formed the design (a design wild in conception, great in extent, infamous in principle, and hazardous in execution) of criminating not a *single*

single Judge, not a single court, but, in one indiscriminate and undistinguished mass, *all* the courts of justice in the kingdom of Ireland. (a)

It is a rational curiosity which prompts us, even where evils will not admit of remedy, to enquire from what cause they sprung, and with what design they were perpetrated:—Here little labour of research is necessary to obtain the information. In the universality of this *proscription* we discover its object. Its cause, object, and tendency, could be but “ONE AND INDIVISIBLE.” Or if those who have charity even more than sufficient to cover all their sins, and who will never suppose improper or criminal motives for the commission of any atrocity however flagrant,—could possibly imagine its cause and object to have other than revenge and anarchy,—its tendency would still remain unaltered.

Ireland has long, and we believe justly, been considered the country of bold adventure and original character; and we consider this specimen

(a) The chancellor of Ireland, Lord Clare, at the conclusion of a speech which has been characterized as being “not only a masterly display of manly and impressive eloquence, but as a monument of genuine patriotism,” observes, “that the Irish had lately had recourse to a new revolutionary engine. When it was found that the protection afforded to the witnesses, magistrates, and jurors, ensured and established the operation of the laws, a scheme was devised to abuse the administration of justice. Every man concerned in that administration was held up as the most corrupt, tyrannical, and profligate of characters; the truth was perverted, the most scandalous misrepresentations were made of the conduct of the Courts, and the whole force of the union was bent to propagate these falsehoods.”

men of licentiousness, which was at that time without precedent or parallel in any other country, as at once original and advent'rous. In other countries confusion has been introduced by slow and often imperceptible gradation : but the Irish enthusiasts pressed it onwards with "such a blaze of impudence, as had never glared upon the world before " In other countries the pioneers to the army of misrule were contented to begin their attack upon order, by lopping off the young and tender shoots ; but in Ireland they boldly applied the axe at once to the massy and venerable trunk. Yet we would not recommend the plan for imitation—for it has now lost the merit of originality, without becoming more easy of accomplishment—it exhibits too wide a range of hostility, for the exertion of concentrated vigour. It shows too furious a rage to injure, not to call forth in opposition, the energies of the virtuous, and to rouse into action even the meekness of the peaceful.

Could the *Party Leaders* in Ireland imagine, that the men of sober reason & calm reflection, in any country, would be induced to believe, that all knowledge of the laws, and all love of justice, had, on a sudden, forsaken the courts, their proper sanctuary, in order to enlighten and to purify the minds of the evil or the illiterate ? Could the reflecting imagine, that he " whose grace passeth all understanding," had in an instant bestowed upon his elect, the Democrats of Ireland, that wisdom, which, to less favoured mortals, comes but as the fruit of study, or the
les-

lesson of experience ? Could they suppose that Heaven, after having hardened in its wrath, the hearts of the Irish Judges, had sent its “ mystic dove,” to settle on the heads of the factious ? (b)

Would not the judicious and considerate, on the contrary, be induced to believe, that those whose character and fortune are at stake ; whose aim in science is not to subserve the interests of an individual, but to promote the common good and direct the general course of justice : whose tyranny could procure for themselves no personal advantage ; whose situation leaves them nothing to hope, but every thing to fear, from insurrection and disturbance,—would not, we repeat, the judicious and considerate believe, that such men were entitled to confidence and deserving of attachment ? Would they not see with alarm, by characters of what cast it was desired, to supply the places, which those who then held them, had so long and so worthily filled ? And would they not look with contempt or abhorrence, upon the clamours or accusations of those who were without character or fortune to be lost ; or whose aims in science were merely selfish and venal ; or to whom change only held out prospects of good, without a counterpoise in the fears of evil ? Such, there can be no doubt, would be the feelings of the wise ; and such were, in Ireland, the feelings of all who were honorable in rank, eminent in learning, and respectable in worth. But they considered it their duty

c

not

[b] These are my beloved children in whom I am well pleased.

not to confine their sentiments and approbation within their own breasts. They came publicly forward to rescue from undeserved aspersions, the entire body of the judiciary, composed of men, whom past services had entitled to gratitude, whom experience had taught wisdom, whom age had rendered venerable—or for whom talents and worth had secured high and peculiar estimation. The Corporations, Grand-Juries, Nobility, and Gentry, vied with each other in addresses ; some intended for the throne, and others presented at the judicial sittings, expressive of their respect and confidence in their courts, their equal attachment to the laws, and their administration ; and their earnest desire, by every exertion, to give strength and permanence to both.

Let us hope—not with the confidence of folly, but with the diffidence of the wise, ever ready for new exertions, if new calls should make them necessary—that their virtuous efforts may not prove ineffectual—that their patriotic wishes may not be disappointed—and that when peace from foreign enemies shall again wave her “ glad Olive ” over the sons of Erin—the machinations of intestine foes may not disturb their enjoyment of the blessings of domestic tranquility.

NERVA.

[No. IV.]

*" The thing which is, is that which hath been,
& there is no new thing under the Sun."*

NERVA has written of the "days of other years," (to use the expression of a Poet, (a) of the first among nations in learning and in virtue) and under the repeated assurances, that his speculations have not been uninteresting, he offers a continuation of his observations upon Irish affairs. In the last number, some allusions were made to that convention known in Ireland by the name of the "Back Lane Parliament," and with some conjectures respecting this body the present number will commence.

Let us suppose that the Back Lane Parliament, (which we will charitably imagine to have been at least as good as the long Parliament, or that which was known by the distinguished appellation of the Rump Parliament in England) had been the third branch of the Legislature in Ireland, and as such had passed an act which it had sent for concurrence to the upper house. If approved of by the Lords, it would probably have become a law, as the benevolence of his Majesty has rarely disappointed the wishes of the rest of the legislature—and there would in that case be no doubt of its propriety. If rejected by the Lords, let us suppose the Back Lane Parliament

to

(a) Ossian.

to have resolved, that the rejection was a violation of their constitutional rights and privileges, and an additional proof of the utility of the act. In *this case*, also, it is clear, by the *resolution itself*, that the act would be proper. The approbation of the Lords, then, being a mere matter of form, since their rejection would of itself be sufficient to show that they ought to have approved; this conclusion irresistibly follows, that the Lords must be a perfect nuisance, a useless incumbrance, a clog in the wheels of the legislature, and that the whole authority, to enact laws ought to be vested in the Back Lane Parliament. Let us suppose the Back Lane Parliament to have made an address to the Viceroy of Ireland, desiring the performance of some act of the executive. If the desire should be complied with; the Parliament would of course be satisfied of its propriety. If compliance should be refused by the viceroy; let us suppose the Parliament to resolve (as was done in the time of the unfortunate Charles I.) that such refusal was a violation of their constitution and privileges; here again we should see, that they only desired what was proper: and from this last resolution we should learn that the viceroy ought to be "a slave to their power & a servant to their will." (But this could excite no surprise, as he had indeed on many occasions shown himself their servant; regardless of the interests of his master; careless of the permanent security of the country over which he presided, and desirous only of securing the appearance of tranquillity

ity during his own administration, at the expence of the reputation of all who had preceded ; and at the sacrifice of the peace of all who should succeed him,) and under these two resolutions it would become perfectly plain, that the Back Lane Parliament should be invested with the whole Legislative authority and the whole executive power. Let us then suppose both objects gained, and the the Back Lane Parliament, arrayed in all the Majesty of terror, "to reign, supreme, unbounded, and alone."——Could we then also suppose (a supposition, in such a case necessary for the security of the people of Ireland) that the individuals composing this numerous assembly would have no views of private ambition to satisfy at the expence of the public ; nor friends to advance by the ruin of others ; nor resentments to gratify ; nor avarice to satiate ; nor sycophants to deceive, nor passions to mislead them ? Could we then also suppose that "standing at a guard with envy," & guided only by the pure and steady influence of reason and of virtue, the members of this Parliament would seek no other object than the common good ? In the history of modern France a clear, although no cheering, light has been shed upon this subject, a light which has spread alarm as far as civilization extends. Aided by this, we have not now to learn that oppression of the people may come from the people itself, as well as from the throne, and that of all sovereign oppressors, the most bloody, ferocious and tyrannical, has been the sovereign people. Should we then see with pre-
 tend-

tended alarm ; & should we canvass with metaphysical subtlety, every right that has been exercised on the part of the crown, and should we not behold with real amazement and terror, the gigantic and far more dangerous strides of popular authority ? Should an incessant and deafening outcry be raised at the slightest supposed violation of the rights of an individual, even where arising from inevitable necessity—and should we perceive with calm and stoical indifference the execution of a regular and systematic plan for covering with obloquy, or contempt, every salutary exertion of power, either civil or military ?

The time has now gone by in which royalty has been looked upon as a cause of injustice, or an object of dread. It is the certain, and almost the only source of domestic peace, and of permanent and regular authority ; and the sole object of NERVA, in his disquisitions upon past times, has been to induce the worthy and enlightened to consider anew [for it must have often occupied their attention already] whether by a firmer, steadier, & more vigorous exertion of regal power, many of the evils with which the world has been visited might not have been avoided. The great body of the people in all countries, when left to themselves, are quiet, harmless and inoffensive. We believe no peasantry are possessed of more virtues than those of Ireland —But, unfortunately like other peasantry, they are composed of materials, which may be wrought to the commission of every atro-

trocity. They are necessarily ignorant for want of time, and of means to obtain information;—they are credulous, because ignorant—and changeable and inconsistent, because credulous ; and being thus ignorant, credulous, and changeable, the artful may impose upon them ; the factious may irritate, and Jacobins mislead them.—Ireland repelled foreign invasion ; but the expulsion of foreign enemies is no proof of tranquility at home—if it were, we might hail, as halcyon days, the times of Cromwell or of Robespierre. Ireland repelled foreign invasion, and yet an attempt was made to assassinate the Lords Justices Fitzgibbon and Foster at the instigation of the Jacobins.

Jacobinism has been defined to be the revolt of the enterprizing talents of a country against its property and its order. When the deliberative assemblies of a state do not make changes on account of crimes ; but make crimes, or accusations on account of changes that are desired ; let none of too soft and easy benevolence imagine, that in politics, because good is the professed object, good is therefore the desired end. The assassin warns not his intended victim before he strikes. Those who have overturned established governments, have never thought it necessary to give previous notice of their designs. It is not the concealment, but it would be the avowal of the real intention, in these cases which would excite astonishment. For expressions of inviolable loyalty, and attachment to the crown, look at the resolutions of the first meetings

ings of delegates in America. For the language of warm and enthusiastic fidelity and devotion to the king, examine the proceedings of the assemblies which were the nurseries of the Revolution in France. What then is the criterion by which we should regulate our suspicions? the answer is obvious—the times in which the changes are proposed, and the manners and characters of the deliberative bodies who propose them. Could those be said to be actuated by patriotism in Ireland, who in times of difficulty and danger, endeavored to excite jealousies and discontents, or who endeavored to destroy or weaken the confidence of the public in the administration of justice? Shall those be said to have been actuated by patriotism, in Ireland, who exulted with inhuman joy at the prospect of vengeance over their fellow beings; or who raved with savage rancour to find their intended victims withdrawn from their grasp? Who in clamorous contention for their own rights, forgot that their superiors had also rights to defend? and that those which they themselves might claim, they were entitled to, not absolutely, seperately, and independantly, but relatively, dependently, and in connexion with the rights of others, and with their own duties? Sedition has too often appeared in the guise of patriotism; treason under the mask of loyalty, for mere pretence to obtain credit;—and if the mode and tendency of a change shall be pernicious, and if the time when it is endeavored to be effected, shall increase the evil, and if in frantic zeal for rights, the in-

novators shall be regardless of propriety, decency, and duty ;—every man in his senses must suppose the intention to be infamous. The judicious will not be influenced by professions when they can judge by facts.

To find so frequently in the records of past times little more than a calendar of crimes, cannot fail to be highly distressing to all the benevolent who seek for historical information. But as “ history is philosophy teaching by example,” the reflecting may learn from the past, the little reliance they ought to place upon the present ; and if they hope at all for the future, they will learn with the humility of devotion, to hope with fear. To live, indeed, under the continual dread of great evils, would be of itself a heavy calamity ; but to live without the dread of them, would be to turn the danger into the disaster.

Hostility with a foreign power may be avoidable and accidental—but Jacobinism, a power of domestic growth, by the very condition of its existence, by its essential constitution is in a state of active, incessant and perpetual hostility with all civilized people, and with all established governments. The virtuous from principle—the wealthy from interest—the elevated from honor—those in office from gratitude—and all from patriotism, are bound to oppose its progress with unceasing vigilance, activity and energy.

Let those who hold existence too burdensome upon such terms, who hold the prosperi-

ty of their descendants & the good of the community of too little moment to be secured by constant vigilance and unwearied exertion, lie down in "the sleep of dust and disgrace," and forget their families and their country.

NERVA.

No.

[No. V.]

*"The thing which is, is that which hath been,
& there is no new thing under the Sun."*

IT was often declared in Ireland by the associates of Napper Tandy, that "any kind of *reform* might do something to please, but nothing to satisfy the *people*—it would please, inasmuch as any *reform* once made, would make every *reform* afterwards more easy. It might then be expected to move on from GRADUAL to TOTAL."—Volumes have been written upon the abuse of words, and the necessity of using them according to their settled, common, and determinate acceptation. But some departure from established rules in the use of language ought not to excite surprise, since we have long ceased to view with astonishment, deviations from propriety in conduct, wherever interest or party is concerned. The whole art used by many demagogues to acquire popularity and obtain support, has been the perpetual use, and constant misapplication of certain terms of magical influence; indeed, among the illiterate and the vulgar, but to many of which, the understanding of the ignorant, is inadequate to annex any accurate, precise, or definite idea:—Thus the name of Liberty, as prostituted by democracy, has no other signification than

than licentiousness and anarchy. Reform becomes synonymous with change or alteration, rights signify freedom from all legal restraints, and exemption from duties patriot—"in democratic sense,"

"Means one who labors to supplant his prince"
 One, who
 "Maintains the multitude can never err,
 "And seats the people in the papal chair."

And by the multitude, or the people, is understood, not the quiet, inoffensive, submissive, and industrious community, who meddle with no concerns except their own;—but the discontented few who are flagitiously seeking for power, or malignantly endeavoring to subvert it. It ought however to be constantly borne in mind, that in all countries the spirit and principles of the discontented few, have eventually pervaded, and will always *inevitably* pervade, the mass of the people, where the weakness or folly of the executive has removed or lessened the salutary checks of established power. And principally, and most fatally, will this effect be produced, where the imbecility of the executive shall have carelessly suffered, or wantonly promoted, the degradation and disgrace of judicial authority; an authority, which, as has been shewn from the experience of ages in all civilized countries, and in all established governments, it is essential to preserve amongst the first in rank, extent, permanence, and influence.

Fortu-

Fortunately for Ireland its connexion with Great Britain afforded hope of ultimate security, and the removal of Earl Fitz-William, although less speedy than was wished, and too late to prevent injury, was yet sufficiently early to allow his successor to arrest the progress of evil. Let us strip the declaration of the associates of Napper Tandy, before quoted, of the disguise which is calculated to mislead. This may be done with no further trouble than that of substituting for the words "*reform*," and "*people*," those which have been mentioned as synonymous in the mouth of a democratic patriot. The whole will then be unambiguous, will convey the precise meaning of the speakers, and will stand thus :— Any kind of *change* might do something to please, but nothing to satisfy the *discontented*, inasmuch as any *change* once made, would make every *change* afterwards more easy. It might then be expected to move on, from GRADUAL to TOTAL. In other words from *partial alteration* to *perfect revolution*, which is presumed to be the meaning of total change.

We gave in our last number, a few conjectures respecting the Back Lane Parliament in Ireland. Let us consider in what manner this *interesting & valuable* portion of the community would have been inclined to proceed thro' the untried and devious ways, the intricate and perplexing mazes, it had determined to explore, in the new and dangerous march from gradual to total alteration. NERVA has already remarked, that to effect a change and overturn the established order

der of things required no weak or puny effort in government, where the courts of Justice with a firm and steady hand opposed the progress of confusion and innovation. To destroy the power & influence, and to disgrace the character and principles of the judiciary, would therefore become an object of primary and indispensable necessity ; and if accomplished, it might reasonably be considered as the harbinger of complete success in every subsequent attempt for the acquisition of power. *In all societies, power must be placed somewhere, and democrats well know, that if its exercise be obstructed, or its existence annihilated in one quarter, it must of necessity encrease either relatively or absolutely in another.*

The example of the parliaments under Charles Ist would shew to the "*people*"* the great advantage to be derived from a new jurisdiction (before whom all should tremble, who before had been most secure in integrity, talents, station and credit) by superinducing upon the old and known legislative authority of the Lower House the distinct and separate character of *interpreters* of the laws ; and the example of the same parliaments, would afford precedents of impeachments "*ex mero motu*," without waiting for what the "*patriots*" might consider the ridiculous and unnecessary formality of previous complaints or accusations. If any lover of order should be so perverse as to deny the propriety of such proceedings.

*We use this word, and intend using all the other magical terms in the true democratic sense, according to the definitions already given.

ceedings, the friends of "*reform*" might ask him if any body of men could be so well qualified to determine the meaning of the laws as the Lower House which assists in making them? and they might also ask, whether any man could be so stupid as not to perceive, that if complaints and accusations must precede impeachments, parliamentary prosecutions might never be instituted because the persons injured might wilfully and criminally resolve never to produce any charges against their oppressors? To the advocates of "*liberty*" therefore, it would be apparent, that the Lower House ought from its own mere motion, full power, and absolute authority, to take upon itself, without the tedious preliminaries of complaint and proof, the entire assertion and punishment of all matters of delinquency. From this practice the friends of "*liberty*" would derive a double advantage; the house by its first vote might declare what was the law, and by the next vote might establish the matters of fact how and by whom it had been violated; and by these easy and expeditious measures they might avoid all the lingering delays, and endless circuities, which obstruct and impede the common and established modes of proceeding. The friends of "*reform*" would in that case be enabled to destroy, at once, all the respect and deference felt, by the lower orders (whom they would style the long oppressed and blinded people) to those in authority, and would teach them to behold with mingled horror and astonishment, as their savage tyrant and bitter enemy

mies, those very persons from whom, in what the "*patriots*" would call the days of their delusion, they had been accustomed to expect protection and justice, and whom they had been taught to regard with esteem and veneration — In the minds of the ignorant populace, to transfer the odium excited against those who are vested with judicial authority, to the Sovereign from whom that authority emanates, will always be easy, and must be the intention, as well as the tendency, where the entire body of the judiciary is attacked and persecuted ; for, if a reformation of the law itself, or of the established practice in its administration, be the real as well as pretended object, it would be, with facility, attainable, by a new legislative enactment, without a crusade against the judges, who under their oaths of office, administer justice, to the best of their apprehension, in conformity to law, authority and precedent. But this would have been a quiet and regular course which would have excited no popular feeling or commotion, and consequently would not have satisfied the "*patriots*," because its tendency from gradual to total "*reform*" would neither have been strong nor immediate.

One of the most elegant and judicious historians, of one of the most enlightened of nations, [a Scotchman] has remarked, that "the jealous innovaters in the Lower House under Charles the 1st, by promoting all measures which degraded those vested with authority from the Crown, hoped to carry the nation from a hatred of their
per-

persons to an opposition against their office, and by those means to disarm their Monarch." The Lower House, in his reign inveighed with bitterness against the courts, as "arrayed in terrors," for it was not their intention that any terrors should be felt, by the "*people*" save what the house itself might choose to occasion. In one of their resolves they openly told the Lords that "they themselves were the Representatives of the whole kingdom, and that the Peers were nothing but individuals, who held their seats in a particular capacity; and therefore if their Lordships would not consent to the passing of acts, which they should judge necessary for the preservation of the people, (of which the refusal of the Lords would prove the necessity) the Commons, with such Lords, if any, as might be willing to join them, must unite for that purpose." They also voted that "when in Parliament, which they declared was the supreme Court of *judicature*, they should determine what the law of the land was; to have the determinations not only questioned but contradicted, was a high breach of their privileges." And on another occasion they declared that the king, seduced by wicked counsel, had violated the rights and privileges of his parliament, who in all their consultations and actions, had proposed no other end than the care of his kingdoms." They offered also certain conditions on which they were willing to come to a good understanding with their Sovereign; in which they modestly

required that no man should remain in the council who was not agreeable to them ; and that no person should be called to the Upper House without their approbation, nor the principal Judges appointed unless upon their recommendation, and that they should be suspended as often as they became obnoxious to the Lower House, which they had, as before mentioned, voted to the first court of judicature in the realm. To these requisitions, the worthy and unfortunate King, who in sentiment at least differed widely from Earl Fitz-William, (although in blindness, weakness and want of judgment, a degrading resemblance, in many instances, might be discovered between them) replied, “ should I grant
 “ these demands, I may be waited on bare-headed ; the title of Majesty may be continued
 “ and the King’s authority may still be the style
 “ of *your* commands ; I may have swords and
 “ maces carried before me, and please myself
 “ with the sight of a crown and sceptre, (though
 “ even these twigs will not long flourish when
 “ the stock on which they grow is withered)
 “ but as to true and real authority, I shall remain but the outside, the picture, sign, and
 “ shadow of a king.”

NERVA is aware that he may be asked, why in enquiries concerning the affairs in Ireland, he indulges himself in excursive observations respecting the measures of other countries and more distant periods ? and that he may be told, if he allows himself in one instance, such a departure from his subject, he may in another, extend the licence

licence and fatigue his readers with remarks upon nations and times which have long ceased to be interesting, or have been long involved in obscurity. To those who may be displeased at the present, and afraid of future digressions, he can only reply—that, time, which carries into oblivion the memory of men who have long been numbered with the dead, serves also to remove the veil of prejudice and illusion from the conduct of those who have more recently departed. In the immediate glare of success there is danger that what dazzles may mislead. In periods far remote, the light of truth gleams too faintly through the gloom of antiquity, to impress with much effect. In historical disquisitions as well as in all others, the golden mean is to be sought if practical utility be the object proposed. And in such disquisitions, this golden mean may be found, in the annals of all countries, in all those national occurrences which are neither so ancient as to disappoint the labor of research, nor so recent as to be liable to misrepresentation, from the bias or prepossessions of existing and contending parties. Beyond these bounds Nerva will not wander, and while he confines his walk within them he perceives no impropriety in briefly adverting to those measures even of other countries, which may serve to explain or illustrate the intention and tendency of the proceedings of the malcontents in Ireland. Nerva is also aware, that he may be told that the back lane parliament did not proceed so far as the lower House under Charles the 1st, and that

a part

a part of the resolutions of the latter were not expressly voted by the former. To this he will answer that but a very small excess on side of the lower house under Charles the 1st will be found in what he has related, and that this small excess may probably be, by anticipation, an account of the proceedings of some future back lane parliament, in the march to *reform*.

NERVA.

NO.

[No. VI.]

*" The thing which is, is that which hath been,
& there is no new thing under the Sun."*

Let us suppose a plan to have been long established in Ireland to degrade the higher authorities in the State.

Let us suppose the Judges to have been originally eligible to the Irish House of Commons, and the friends of "reform" to have laboured to expel them from their seats, under a pretended dread of the baneful influence, of even a single member of the judiciary, in any body politic, altho' "but one against an host."

Let us suppose that afterwards, to satisfy the clamors of the "patriots" an act of disqualification had been passed with the concurrence of the rest of the legislature, by which the judges were perpetually excluded from the Lower House. Let us suppose the Lower House to have been principally composed of, or principally influenced, guided and directed by, Lawyers, Attornies, Notaries, and their Clerks;—persons, whose whole property taken collectively, would not have amounted to as much as was possessed by many an individual taken singly;—persons, who could not on that account be considered as any representation of the property of the country for which they were to legislate;—a representation
which

which practical politicians consider as essential for the preservation of tranquility in all governments ;—persons who have little or nothing at stake in the country, could consequently feel little or no interest in the maintenance of public security, or the existing order of things, save only the interest which might be excited by their native integrity and virtue. (to use a phrase of legal ambiguity) “ be the same more or less ;” persons who being more immediately under the controul, superintendence, and direction of the judiciary, would be more frequently exposed to their animadversions for improprieties in conduct ; and who would therefore find it extremely convenient to destroy the authority which restrained and kept them in order ; or who would find it highly advantageous to invest themselves with powers superior to those of the Judges of the land, from a knowledge that he whose judge is his dependant, may expect, or if he shall think proper, can even enforce, an undue portion of judicial favor and forbearance.

It must be apparent, that altho’ the exclusion of a Judge from such a house “ might do something to please, it would do nothing to satisfy” its members. Let us then suppose the Lower House, after the lapse of two or three years, in furtherance of the long established plan for degrading the higher authorities in the state,—to pass an act to disqualify the judges from sitting in the Upper House, and to deprive his Majesty of
the

the power of calling them to his councils. To the sober & enlightened it might not be perfectly clear, that a measure which might agree particularly well with the interests, prejudices, vanity, or revenge of a few Lawyers, Attornies, Notaries, and their Clerks, would, for that reason, be perfectly consistent with the interests of the rest of the community. It might indeed be suggested, that while the Lower House should be composed of, or governed by characters of such descriptions, it could not be improper to counteract the effect of their preponderance, by the admission of all those into the Upper House, to whom their designs and intrigues should be best known, and whose legal abilities and information would be requisite to provide the most constitutional and efficacious means for rendering abortive every measure of dangerous or suspicious tendency. The sober and enlightened would recollect, that needy, discontented, and turbulent Lawyers, Attornies, Notaries, and their Clerks, composed the principal portion of those Assemblies, which in a great country, and in modern times introduced the "*regna de la loi*," and from the benefits heretofore conferred by these legal and adventurous characters, they would learn to estimate the future favours to be expected from legislative bodies of a similar composition. In short, it is not improbable if they beheld the Lower House directed, impelled, and agitated solely by the harpies of the subordinate orders of the law, by mere illiberal plodders, through legal "*technicalities*," "by word catchers, who live

live by syllables, "that the worthy and enlightened would become more than ever desirous, that the Upper House should receive an accession of talents and influence in the weight and dignity of such Judges as his Majesty should think proper to select. Or if on the other hand, any reasons could influence them to wish for the exclusion of judicial wisdom, integrity, discernment, and experience from the higher branch of the Legislature, far more powerful motives would urge them to desire the expulsion of forensic ignorance, licentiousness, violence, and indiscretion, from the Lower House.

Let us suppose the last mentioned bill to deprive his Majesty of the power of calling the Judges to the Upper House, to have been rejected with the marked disapprobation it deserved. The failure of a single attempt could hardly be expected to diminish greatly the ardor of forensic and notarial enterprize, or to lessen the characteristic perseverance of these unwearied cavillers at points and particles. Such a failure would only be considered to make it necessary to vary for a moment the mode and nature of the attack.

Let us then suppose the Lower House, for the purpose of making the necessary change in operations, and of giving more effect to their hostility, to constitute itself the highest court of JUDICATURE in the realm, and to investigate the RULES OF PRACTICE of all the courts of King's Bench, and of appeals in the Kingdom ;—Rules which every court of Justice must, by the very essence and spirit of its
con-

constitution, possess, inherently and without express authority, the right of making ; but which the courts in Ireland were also authorized to make by positive and particular legislative enactments. After partial and hasty examination, by a few of the most daring of the " patriots ;" let us suppose the Lower House to resolve that all the courts of King's Bench and of Appeals had violated the laws of the land, (turning what the unreflecting multitude had considered the pure fountains of Justice), into polluted sources of iniquity, and that the Rules of Practice were unconstitutional, arbitrary, and illegal.

By such resolutions it is evident that not the Chief Justices alone would be declared culpable, but that every Judge of all the courts of King's Bench and of Appeals, must be equally guilty, equally unworthy of his dignified station, and equally deserving of punishment. For the power to make rules of Practice could reside only in the courts, and not in any individual member of them. And as the Chief Justices alone could not constitute the courts, the Chief Justices alone could not possess even the power to make Rules of Practice. The Chief Justices might preside indeed, but they could possess no more power than any other Judge. Their pre-eminence could consist only in dignity, not in authority.

Let us suppose the Judges in all the courts above mentioned to have excelled, not only in talents and integrity, but even in number, all the Attornies, Notaries, and their clerks, who presumed in the Lower House to determine upon the

F

the

the validity of their proceedings ;—and let us suppose (since it would carry an appearance of absurdity, if, from a difference of opinion, a smaller number of the under graduates, in the boundless and uncertain science of the law should boldly criminate a greater number of the higher orders in the same profession,) that the Lower House should not at once venture to prosecute all the Judges, whom by necessary and unavoidable implication, they had declared to be guilty, but should select, as objects of impeachment, only two Chief Justices, whose removal could be no more necessary, or advantageous to the inhabitants of Ireland, than the removal of all their associates in imputed iniquity. Would not so partial a measure appear ridiculous when it should be considered that the “ patriots ” would have left all their fellow subjects still exposed to the pretended tyranny of the remaining judges, which they might have hoped to prevent, if they had acted with proper consistency, and had impeached all the Chief and puisne Judges of the bench and of appeals “ *en masse* ”: Would it not in consequence be supposed, that the selection of only two Chief Justices, as the immediate victims, was made merely to prevent the too early and complete display of the designs of the friends of the “ people, ” which might be rendered more dangerous, or be liable to more obstructions in the execution, if perfect light should be allowed to shine upon the entire plan, and it could be viewed in its whole extent ?

Under circumstances similar to those which
have

have been hypothetically imagined, it would become the imperious duty of every well wisher to his country to expose to detestation, the intentions of the pretenders to loyalty, (*a*) and to break in their hands the iron rod of oppression," a scourge which they wielded only to introduce confusion, and to gratify the malignity of the mean against the high. But, however, laudable the intentions and exertions of individuals in private might be, the chief and most effectual support, which could be afforded to the administration of the laws, when attacked, could only have been expected from the Representative of Majesty. From the Viceroy himself.

Did he give that support? Did he show himself even inclined to protect those worthy servants of the crown, without whom his own authority, if he remained in office, would in the course of a few years have dwindled into insignificance,
OR

(*a*) A celebrated poet has represented one of the English Monarchs, expressing sentiments not foreign to our subject, nor unworthy the attention of his successors.

- " My pious subjects for my safety pray,
- " Which to secure, they'd take my power away.
- " Good Heav'n's how faction can a patriot paint?
- " My enemy still proves my people's saint.
- " From plots and treason, Heav'n preserve my years,
- " But save me most from my PETITIONERS:
- " Insatiate as the barren womb or grave,
- " God cannot grant so much as they can crave;
- " What then is left, but with a jealous eye,
- " To guard the small remains of Royalty?
- " The law shall still direct my peaceful sway,
- " And the same law teach faction to obey;
- " Votes shall no more establish'd power control;
- " Such votes as make a faction seem the whole;
- " No groundless clamors shall my friends remove,
- " Nor crouds have power to punish, ere they prove,

or would have required for its support, the interposition of the military arm, and the physical strength of the imperial government ?

We make no assertions—we draw no conclusions.—But let us suppose, that instead of such measures as became the Representative of Majesty—the Viceroy, forgetful that “ the great can never find safety in humiliation ; that power, eminence, and consideration, are things not to be begged ; and that the high who supplicate for favor or indulgence from the mean, can never hope for justice through themselves,” had sought for the vain shadow of popularity, by sacrifices to the discontented, and by deserting the cause of order, and of those with whom from his station, he was connected in duty and interest, and whom from honor and principle, he should have held himself bound to support.

Let us suppose, that not satisfied with being at all times accessible and submissive to the factious, he even sedulously sought them out, and always accosted them with encouraging salutations ; & even honored (as far as honour could be conferred on another by one who had disregarded it for himself) with cordial and viceroial greetings, and squeezes of the hand, the most malevolent of the crusaders against judicial authority and regal privileges. Thus practising every form and meanness of familiarity as a part of the system on which the dignified structure of his popularity was to be raised. But what, it will be asked became of this towering edifice of Plebeian favor obtained at the expence of so much time and honor

nor, and by so many sacrifices of independence and of dignity? Of this fair and frail fabric of delusion, reared in the sunshine of April day, and resting for support on the caprice and fickleness of faction? What if it should be answered, that its fate already stands recorded in words of evangelical authority,—“ The storm arose, “ the rains beat, the floods came, the winds “ blew, and the house fell, for it was built upon “ sand, and great was the fall thereof,”

NERVA has, perhaps, too long presumed to occupy the time of his readers with suppositions of possibilities, which the unreflecting may pretend to be merely the dreams of imagination. But if the dream be not devoid, it may perhaps stimulate enquiry in the causes from whence it originated; and the candid and impartial will then determine whether he has been presenting to their view, merely the visions of his own fancy, or giving too faithful a picture of modern and degrading reality.

NERVA.

.....

ERRATA.

-
- Page 13—Line 14 from the bottom, after contemplation read
of the factions
- 23—Line 1, for *for* read *from*
- 30—Line 2, for *government* read *governments*.
- 31—Line 14 for *full power* read *certain knowledge*.
- 34—Line 8, after *voted to read be*; and in line 6 from
the bottom, for *in Ireland*, read *of Ireland*
- 38—Line 3, for *have* read *having*
- 39—Line 10 from the bottom, for *regna* read *regne*
- 40—Line 1, for *by* read *on*; and line 8, for *discention*
read *discretion*.

