

others, conceived themselves bound, from a feeling of loyalty, which I neither make the subject of commendation or of blame, to refuse to profit by this permission. I do not, as I said, make this refusal a matter of praise or of censure; I only hope, that you will not judge too severely of my client, for what he conceives to be a just and honourable devotion to the allegiance under which he was born. Consider, gentlemen, that if we ourselves were, by any unforeseen revolution, I trust, and hope, such an event will never happen; but, if such an event were to place us in a state of dependence and destitution in a foreign land, we should not wish to be judged too unfavourably—This man, having from his youth devoted himself to literary employments, exerted his talents in the same line here, and produced a variety of works. After the peace, he abstained from all serious politics, and contented himself with the publication of this obscure journal before you, which, if the jealousy of power could ever be at rest, appeared under circumstances the least calculated to give disquiet. It could not be read here, for it was not in the language of the country. It could not be read in France, for we do not understand that the police is supine or negligent in the execution of the prohibition against the admission of periodical papers from England. Under these circumstances, this work was issued for the purpose of amusing and consoleing the fellow sufferers of Mr. Pomeroy by occasional reflections on the factions which divide, and the disturbances which agitate the land from which they are exiled. It was intended as a consolation and amusement to them to whom no consolation now remains, but in contemplating the instability of human affairs, and seeing that those by whom they were expelled were often the victims of fortune as well as they. This was the only journal that dared still to speak in favour of a family once the most august in Europe. This court affords an instance of the instability of human grandeur in that family, and it is not a little remarkable that the last instance of a prosecution by the French government, as cited by my learned friend, was for a libel on that Princess who has been since butchered and massacred by her own subjects. I say this not for the purpose of disputing the principle laid down by my learned friend; that no government recognised by our Sovereign is to be libelled with impunity. I agree with him, that in this respect all governments are on the same footing, whether they are governments of yesterday, or governments confirmed by a succession of ages. I admit that if Lord Clarendon had published some parts of his history at Paris in the year 1636; if the Marquis of Montrose had published his journals there; if Butler had published his

Hudibras; and Cowley those works in which he so ably maintained the cause of his King against the Usurper, the president Du Morlaix would have been bound on the complaint of the English Ambassador to prosecute them for libels against a government recognised by France. I mention this, that my client may feel the less repugnance at coming into this his last asylum upon earth; and it is, perhaps, owing to his Majesty's Ministers, that he enjoys even this. If it be so, I owe them my thanks, for their honourable and dignified conduct, in refusing to violate the hospitality due to an unfortunate stranger, who now appears in your presence, as the only place in which his prosecutor and he can be on equal terms. Certainly circumstanced as he is, the most refreshing prospect which his eye can rest upon, is, an English Jury, and he feels with me, gratitude to the Ruler of empires, that, after the wreck of every thing else ancient and venerable in Europe; of all established forms and acknowledged principles; of all long subsisting laws and sacred institutions; we are met here, administering justice after the manner of our forefathers, in this her ancient sanctuary. Here then parties come to judgment; one the master of the greatest empire on the earth; and the other, a weak defenceless fugitive, who waves his privilege of having half his Jury composed of foreigners, and puts himself, with confidence, upon a Jury entirely English. Gentlemen, there is another view in which this case is highly interesting, important, and momentous; and, I confess, I am animated to every exertion that I can make, not more by a sense of my duty to my client, than by a persuasion that this cause is the first of a series of contests with the freedom of the press. My learned friend, I am sure, will never disgrace his magistracy, by being instrumental to a measure so calamitous; but viewing this as I do, as the first of a series of contests between the greatest power on earth, and the only press that is now free, I cannot help calling on him and you to pause before the great earthquake swallow up all our freedom that remains among men, for though no indication has yet been made of a disposition to attack the freedom of the press in this country, yet the many other countries that have been deprived of this benefit, must forcibly impress us with the propriety of looking vigilantly to ourselves. Holland, Switzerland, and the Imperial towns participated with us the benefit of a free press. Holland and Switzerland are now no more, and near fifty of the free Imperial towns of Germany have vanished, since the commencement of this prosecution." Here Mr. Mackintosh drew an interesting picture of the former state of these free towns; exempted from the burthens of military establishments, and respected amidst the contem-