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978-1-108-06161-2 - Memoirs of John Horne Tooke: Interspersed with Original Documents: Volume 2

Alexander Stephens

Excerpt

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L I F E  
OF  
JOHN HORNE TOOKE

CHAPTER I.

FROM 1777 TO 1786.

*Mr. Horne's Confinement and Treatment in Jail — Letter to Mr. Dunning — Is rejected by — the Society of the Inner Temple — Writes and publishes a political Pamphlet in Conjunction with Dr. Price — Retires to the Country and becomes a Farmer — Returns to London — Joins Mr. Pitt in an Attempt to reform the House of Commons — A Plan for this Purpose — His Conduct during the Westminster Election in 1784.*

MEANWHILE, in consequence of the sentence pronounced against him, Mr. Horne had been committed to the King's Bench prison, in St. George's Fields, which, as I have often heard him observe, is far more unhealthy than Newgate, being actually built in the midst of a

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marsh. He was also accustomed to add, that the basement story is several feet below the level of the river Thames, at spring tides, and, consequently, both damp and insalubrious.

Conversant as he was, in the ordinary transactions of human life, the surprise of the subject of these memoirs cannot be supposed trifling, when, after being consigned to this jail, by the special command of the chief justice of England, he had still a habitation to seek; for, after stopping a few minutes in the lodge, he was conducted to a vacant space within the walls, and there left, in utter ignorance of his future fate, and an entire stranger to all around him! It may be supposed, perhaps, by the sons and daughters of affluence, who reside in splendid apartments, and repose every night on beds of down, that even for the most wretched prisoner there is due provision in respect to a decent lodging; where poverty, sorrow, or misfortunes, may be secluded from the gaze of mankind, and find an asylum at least, if comfort be denied them. But this would prove a grand mistake, for the captives being generally more numerous than the apartments, it is by seniority alone, that the unhappy inmates succeed to the occupancy of a small bedchamber, totally devoid of any furniture, or conveniency whatsoever.

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All this, as Mr. Horne solemnly assured me, he learned, for the first time, on the parade, whither he proceeded in charge of two tipstaves, who took their leave without condescending to give him any information whatever. On his distress being made known to the spectators, a person, who proved to be a jew, offered, for a sum of money, to accommodate him immediately. Ten guineas were accordingly deposited in his hands; but it was speedily discovered that this son of Israel had not any apartment at his command, being only the joint-tenant of a miserable little room, in common with four or five other debtors. To the honour of the prisoners, however, they immediately interposed, and obliged him to restore the money appertaining to the stranger; who, being charmed with their love of justice, and determined not to be outdone by them in point of generosity, divided the sum in question among the poorer sort of the inhabitants. The clerk of the papers, on learning this anecdote, immediately made his appearance, and offered, for five hundred pounds, delivered beforehand, to accommodate him with a small house, situate within the rules, during the whole period of his confinement; but as the payment of a weekly sum was preferred.

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the negociation was instantly concluded on that basis.

No sooner was he settled in comfortable apartments, without the walls of the prison, than Mr. Horne received visits from all his friends, particularly the aldermen Oliver, Townsend, and Sawbridge; together with sir John Bernard and Mr. Tooke. These, and several others, soon after instituted a weekly meeting at a neighbouring tavern\*; a circumstance, which gave birth, perhaps, to the Sunday dinners, at Wimbledon, many years after. Be this as it may, Wednesday was the day now fixed upon; and, on that occasion, the prisoner, who, hitherto, had either wholly abstained from wine, or, at least, partook of it with scrupulous moderation, used to indulge himself with a few glasses. In consequence of this, he constantly found himself better, during the next and succeeding day; after which his health regularly declined until the periodical return of the feast. In short, by this time, it was discovered that he had got the *jail-distemper*, which uniformly abated with the use of claret; and on ascertaining this fact, he daily recurred to that pleasant but delusive beve-

\* The Dog and Duck, in St. George's Fields.

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rage, which cured him completely of the slow fever just alluded to. But, on the other hand, there is reason to suppose, that it implanted, or rather developed another disease, to the full as disagreeable: this proved to be the gout, with which he was occasionally afflicted ever after, from this period, until the day of his death.

In the mean time, Mr. Horne was treated with great civility by the marshal, the officer to whom is confided the superintendence of the prison; and he was accustomed to relate, that, on being summoned to attend a trial at Reading, in Berkshire, it was *hinted* to him, by one in authority, “that he need not hurry himself, either going or returning.” Instead of being troubled with a tipstaff for his companion, with a view to his personal comfort, his own servant was entrusted with the custody of his master; and, in short, every thing was done for his accommodation, that could possibly be wished for. On receiving his instructions, he accordingly crossed the river, and repaired in a post-chaise to Brentford; whence, after spending a few days, in a very pleasant manner, in company with his *quondam* parishioners, he set out for the place of his destination. Thus this journey, instead of being performed, as in ordinary cases, under the inspection and control of

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an officer of the court, was converted into an excursion for health and pleasure; and, after the lapse of a considerable time, he returned, as he went, at his own leisure.

It was at this precise period, that the poor woman, who had given a night's lodging to him when a school-boy, being attracted by his reputation, waited on, and solicited his assistance. She had become both old and wretched, and had a long pitiful tale to relate, of a husband's death, and the beggary and dispersion of her little family. These incidents of domestic woe were not narrated in vain; for he immediately presented his former hostess with a small sum to relieve her present necessities, and settled on her, at the same time, an annuity of ten pounds, which was regularly paid until her death.

Meanwhile, the current of life glided quickly along, and the term for the expiration of his imprisonment was now at hand. Accordingly, at the end of twelve months, he paid his fine of two hundred pounds, and found two securities for his good behaviour, during a couple of years. On adding the sum in which he was mulcted, to that which he had expended, he was accustomed to calculate the whole at twelve hundred pounds; — no trifling loss for a man in his situation of

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life, but one at which he was never once heard to repine.

While a prisoner in the King's Bench, Mr. Horne did not entirely resign himself to the pleasures of society and his newly acquired relish for wine. On the contrary, he dedicated much of his time to study and retirement. As he deemed his sentence both unjust and illegal, in 1771, while still detained by its operation, he addressed a letter to Mr. Dunning, "which," to adopt his own language, "though published, was not written on the spur of the occasion. The substance of that letter, and of all that I have further to communicate on the subject of language, has been amongst the loose papers in my closet now upwards of twenty years; and would probably have remained there twenty years longer; and have been finally consigned with myself to oblivion, if I had not been made the miserable victim of *two prepositions and a conjunction*.

The officiating priests, indeed\*, were them-

\* "The present lord chancellor, lord Thurlow.

"The two present chief justices, lord Mansfield and sir James Eyre.

"Judge Buller.

"The late attorney-general, Mr. Wallace.

"The late solicitor-general, sir J. Mansfield, now chief justice of the common pleas; and

"Mr. Bearcroft, afterwards chief justice of Chester."

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selves of rank and eminence sufficient to dignify and grace my fall. But that the conjunction THAT, and the prepositions OF and CONCERNING, words which have hitherto been held to have NO meaning, should be made the abject instruments of my *civil extinction*, (for such was the intention, and such has been the consequence of my prosecution,) appeared to me to make my exit from civil life as degrading as if I had been brained by a lady's fan. For mankind in general are not sufficiently aware, that words, without meaning, or of equivocal meaning, are the everlasting engines of fraud and injustice; and that the *grim gribber* of Westminster Hall, is a more fertile, and a much more formidable source of imposture than the *abracadabra* of magicians.

“ Upon a motion,” adds he, “ made by me in arrest of judgment, in the court of King's Bench, in the year 1777, the chief justice adjourned the decision: and instead of arguments on the merits of my objection, (which, however, by a side wind, were falsely represented by him as merely *literal flaws*,) decided that precedents might be brought by the attorney-general on a future day. None were, however, adduced, but by the chief justice himself; who indeed produced two. (Thereby depriving me of the opportunity of combating the precedents and their



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application, which I should have had, if they had been produced by the attorney-general.) And on the strength of these two precedents alone (forgetting his own description and distinction of the crime to the jury) he decided against me.

“ I say, on the strength of these two precedents alone. For the gross perversion and misapplication of the technical term *de bene esse*, was merely *pour eblouir*, to introduce the proceedings on the trial, and to divert the attention from the only point in question—the sufficiency of the charge in the record. And I cannot believe that any man breathing, (except lord Mansfield,) either in the profession or out of it, will think it an argument against the validity of my objection; that it was brought forward only by myself, and *had not been alledged before for the learned counsel for the printers*. This, however, I can truly tell his lordship, that the most learned of them all, (*absit invidia*,) Mr. Dunning, was not aware of the objection when I first mentioned it to him, and that he would not believe the information could be so defective in all its counts, till I produced to him an office copy.

“ Strange as it may appear! one of those precedents was merely imagined by the chief

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justice, but never really existed. And the other (through ignorance of the meaning of the conjunction THAT) had never been truly understood; neither by the counsel, who originally took the exception, nor perhaps by the judges who made the decision, nor by the reporter of it, nor by the present chief justice, who quoted and misapplied it.

“Perhaps it may make my readers smile; but I mention it as a further instance of the importance of the inquiry into the meaning of words;—that in the decision of the judges in the house lords, the chief justice De Grey (who found OF and CONCERNING so comprehensive, clear, and definite) began by declaring that—the word *certainty* (which the law requires in the description of crimes) is as indefinite (that is as *uncertain*) as any word that could be used. Now, though *certainty* is so very *uncertain*, we must suppose the word *libel* to be very *definite*; and yet, if I were called upon for an equivalent term, I believe I could not find in our language any word more popularly opposite than *calumny*; which is defined by Cicero, in his Offices, to be “callida et malitiosa juris interpretatio\*.”

The letter to his friend, Mr. Dunning, after-

\* Advertisement to chap. vi of ΕΠΕΑ ΠΙΤΕΡΟΕΝΤΑ