

(editor's note: This paper was transcribed from a handwritten cursive copy with various difficulties. For a perfect rendition, the reader might wish to consult the original, itself a copy, in the volume entitled *Literary Club Papers* 2, 1886 – 1887 June 5, '86 to May 21, '87)

The North Briton No. 45

When George II died and his grandson, George III, became King, England was allied with Frederick the Great; then in the midst of his seven years war; and the first William Pitt was Prime Minister. With the beginning of the new reign, "small stones from the slings of opposition," as Mr. Thomas Carlyle calls them, "began rattling on Pitt's high Olympian dwelling place, unluckily," is cynically added, "made of glass like the rest;" and in umbrage at the influence in the councils of the King greater than his own, Mr. Pitt resigned. The resignation of the Duke of Newcastle followed, and the Earl of Bute became Prime Minister.

This nobleman, with whose name and that of the Princess Dowager, the mother of the king, scandal at the time was busy; and of whom it came to be written, "His influence behind the throne is greater than the throne itself;" was a Scotchman. To sustain an administration which it might well be apprehended would meet with popular disfavor, he had recourse to the press and employed Smallett – better known to us as the author of *Roderick Random* than by his histories and political writings – who began the publication of the weekly journal called "The Briton." Upon the following Saturday appeared the Briton.

The North Briton, like the Briton, was a weekly political journal, but journalism as at present understood had not then taken its place in the world. The editor had not yet come; it was still the age of the pamphleteer.

The first number disclosed the covert irony of the name. The writer thanks his stars that he is a North Briton, with the singular circumstance that he is unplaced and unpensioned, but hopes that this reproach will soon be wiped away, and that he shall no longer be pointed at by his sneering countrymen. Although a North Briton, he will endeavor to write plain English and to avoid the numerous Scotticisms that the Briton abounds with; and then, as the world is apt to mistake, he may pass as an Englishman, while the Briton will be taken for a Scotsman.

The next number cannot conceal the joy he feels as a North Briton, and he heartily congratulates his dear countrymen on the fact of their having at length accomplished a great long sought and universally desired object of all their wishes, the placing of the Scotsman at the head of the English treasury; and he recommends as the first use of the money found there, that his Lordship build a new bridge over the Tweed.

In number three, he observes of his countrymen that like the Jews, they are scattered over the face of every country but their own, which he regards as an evil without remedy; since he has never heard that any of them was attacked with a "home-ache" and so languished until returning to Scotland. And he thinks that Dryden must have had them in mind when he wrote:

For never Hebronite though cursed and scorned
To his own country willingly returned.

In another number were printed extracts from “a description of the people and country of Scotland,” by James Howells; published, London, 1649: “Their beasts be generally small, women only excepted, of which sorts there are none greater in the world. As for fruit, for their grandsire Adam’s sake, they never planted any; and for other trees, had Christ been betrayed in their country, as doubtless he should had he, as a stranger, Judas had sooner found the grace of repentance than a tree to hang himself upon. They christen without the cross; merry without a ring; receive the sacrament without reverence; die without repentance and bury without divine service. They keep no holidays, and acknowledge no Saint, but St. Andrew.”

Throughout, the Minister was referred to as “the Scot.” His lukewarm support of the great Frederick was denounced. The vigor of Pitt was contrasted. France, it was exclaimed, would hail the news that the first Minister was no longer from their ancient enemy, England, but from their firm and unshaken ally, Scotland.

Nor was this all. With pointed allusion to the scandal affecting the throne itself, the story was recounted of the intrigue between Mortimer, the Earl of March, and Isabella, the queen mother of Edward III; closing with the apostrophe: “that Britain might never see such a day again when power acquired by profligacy should lord it over the realm, and the feeble pretensions of a court minion require the prostitution of royalty for their support.”

The North Briton ran on in consecutive issues to the forty-fourth number, the Briton had been early discontinued. Thereupon the Earl of Bute resigned. Two weeks passed without further publication, and the paper appeared to be at an end. Parliament then was prorogued with the customary speech from the throne; – and the next Saturday came from the press Number 45.

A conference of the law officers of the crown was at once called. After consultation, the Secretary of State directed to four of his Majesty's messengers the following warrant: “These are in his Majesty's name to authorize and require you, taking a constable to your assistance, to make strict and diligent search for the authors, printers and publishers of a seditious and treasonable paper entitled, ‘The North Briton, No. XLV, Saturday April 23, 1763, Printed for C. Kearsley in Ludgate Street,’ and them, or any of them, having found, to apprehend and seize, together with their papers, and to bring in safe custody before me, to be examined concerning the premises, and further dealt with according to law.”

Armed with this warrant, the messengers first arrested a Fleet Street printer and his apprentices and servants; taking him out of his bed at night. After he had been examined before the Secretaries of State, the messengers next seized the publisher, Kearsley. Upon his declaration that one Balfe in the Old Bailey was the printer, they next seized Balfe with all his workmen and papers. Finally when the same warrant had gone out four successive times and no less than forty-eight persons had been placed in custody under it, the arrest was made of John Wilkes.

John Wilkes was the second son of a wealthy distiller of London, and had been intended by his father for the law. But, the pursuits of the man of leisure were more to his liking; and upon returning from the University of Leiden where he had been sent to complete his education, he was readily persuaded to marry for her fortune a lady half as old again as himself, from whom, when her fortune was gone, he, with the same readiness, parted. "It was a sacrifice," he writes, "to Plutus and to Venus. I never lived with her in the strict sense of the word. I stumbled at the very threshold of Hymen."

The gaiety of his manners and the wit and humor of his conversation, made him welcome to the set of dissolute men of fashion, chief of whom was Sir Francis Dashwood, and whose principal claim to a place in history is from the indecent notoriety they attained by the celebration, under the name of the monks of Saint Francis, of ribald and blasphemous monastic rights, at the old abbey of Medmenham on the Thames. Through the assistance of one of this dissolute set, Potter, son of the Archbishop of Canterbury, Wilkes had obtained a seat in Parliament at a cost of seven thousand pounds, "more" he regrettingly remarks, "then it would have taken to purchase a borough;" and, upon the accession of George III, having secured his reelection, he was at the time of his arrest sitting as member from Aylesbury.

Boswell records, that Johnson once said of Wilkes "Jack has a great variety of talk; Jack is a scholar and, Jack has the manners of a gentleman." But, with all that, he was what Johnson most hated -- a demagogue and a libertine. Gibbon's Journal describes him: "Sep. 23, 1762: Dined with us today, Col. Wilks of the Buckinghamshire militia, than whom I scarcely ever met a better companion. He has inexhaustible spirits, infinite wit and humor, and a great deal of knowledge, but is a thorough profligate in principle as in practice, his life stained with every vice, and his conversation full of blasphemy and indecency. Told us himself that in this time of public dissension, he was resolved to make his fortune."

Years after, toward the close of his days, when in the seat of Parliament to which the Middlesex electors continually return him, and upon the side of the government in defending Warren Hastings, for time had brought these changes, a speaker from among the opposition was called to order for referring to him by name. The speaker paused, apologized; the name was unintentional, nor was it necessary; for the house would recognize the member as a gentleman "to whom the country owed great obligations for having at one period of his life diffused a spirit of liberty throughout the general mass of the people, unexampled." -- The speaker paused again -- "unexampled except indeed in the times of Jack Cade and Wat Tylor."

The anecdotes of this "Tribune of the People," as he came to be called, are characteristic.

Looking down from the hustings, at Brentford upon the crowd of his supporters beneath, he asked of his opponent whether he thought there were more fools than names among the number. I will tell them what you say, said the other. Then answered Wilkes, I should have merely to affirm to them you had lied, and your life would not be worth a moment's purchase.

To an inquiry of the King after a former friend of his -- this was when Wilkes had

turned courtier and was in attendance at a levee -- he replied "My friend, sire? He is no friend of mine. He is a Wilkite, your Majesty, which I never was.

Dining upon a public location, and in company with George IV, then prince of Wales and waiting not too patiently for the succession, Wilkes toasted "The King, long may he live." "And when did you become so loyal?" Asked the Prince. "Ever since I had the honor of knowing your Royal highness," was the reply.

Hypocrisy at all events was not among his failings, that homage of vice to virtue being paid, as has been remarked, not less sparingly than his other debts. And profligate as he was, his services to the cause of liberty were such as not to be obscured even by his character. No less an authority than Mr. Gladstone has declared "that his name whether we choose it or not, must be enrolled among the great champions of English freedom."

When arrested he was entering his own house, and the door being opened, the messengers forced their way in with him. Having read the warrant, he protested that it named nobody, that it might as well be against the whole English nation and wanted to know of the messengers why they did not arrest the Lord Chancellor under it or his next door neighbor. But, they replied, their instructions were to arrest Mr Wilkes; and with the constables called to their assistance, being thirteen in all, they carried him before the Secretaries of State. Here he withstood with great spirit the examination to which he was subjected; assured the Secretaries that he would answer no questions; declined all favors, as he was not used to receiving obligations except from friends; and in the end was committed to the Tower as the "author and publisher" so the commitment to read, "of a most infamous and seditious libel entitled, The North Briton, No. XLV, tending to inflame the minds and alienate the affections of the people from his Majesty and excite them to traitorous insurrections against the government."

During this time his friends had not been idle. Back of Wilkes was a powerful faction, headed by the Earl Temple, the brother-in-law of Pitt. Wilkes had found opportunity while parleying with the messengers to convey information to Temple; and no time was lost in applying for a writ of Habeas Corpus.

Mansfield was Chief Justice of the Court of King's bench. He was of Scotch birth and descent. As Mr. Murray in the House of Commons, he had been the rival of Pitt. After the accession of George III, he had supported Bute in the cabinet.

Pratt was chief justice of the court of common pleas. He had been made attorney general by Pitt; and when under George III Pitt's enemies gained the ascendant, they had removed Pratt from the house by placing him upon the bench.

The writ of habeas corpus was accordingly applied for in the Common Pleas.

Wilkes in the meantime was kept a close prisoner, "I thought this the Tower," said Lord Temple, on being refused admission, "but find it the Bastille."

The proceedings upon the return of the habeas corpus make strange reading for a long report. The approaches to West Minster Hall were thronged by a mass of people. The

court was crowded to such a degree as the reporter had never seen it before. Brought to the bar by the Constable of the tower, Wilkes made a speech to the Judges: "Happy was he to be at last in the presence of a court whose characteristic was the love of liberty. Many humble thanks had he to return for the opportunity that was given to lay his grievances before them. These were of a kind hitherto unparalleled in a free country, and the consequences he trusted would teach ministers of arbitrary principles that the liberty of an English subject was not to be sported away with impunity." He spoke for an hour.

Taken back to the tower while the judges were considering their decision, and brought again into court still attended by great crowds, he was discharged, in an opinion delivered by the Chief Justice, upon the ground that libel was only a high misdemeanor, and that the privilege of a member of Parliament protected him from arrest except in treason, felony and breach of the peace. The case of the Seven Bishops in King James' time had been cited to the contrary, but Pratt answered that one of those Judges was a papist, two others had been appointed for the occasion, and the fourth, an honest man, had been on the side of the Bishops. Whereupon, Wilkes made another speech, "Far was it from him to regret so many more days passed in captivity since it had afforded opportunity to the Judges upon reflection and examination to do more signal justice to the country. Great as was his joy at the decision, he felt it less sensibly on his own account than for the public. Their own free hearts would feel with indignation and compassion the indignities he had suffered. The thanks of the whole English nation were do them. Thanks also to his counsel, who had so ably and constitutionally pleaded his case and in his, with pleasure he said it, the cause of liberty.

And so, he took his leave with a veneration and respect, which no time could obliterate nor the most grateful heart sufficiently express.

Whereupon, says the reporter, there was a loud huzzah in West Minster Hall.

Upon which Lord Bougham remarks, "All the people of London were hanging on the lips of their leader, yet nothing could be worse, or feebler, or more out of place in a court, where the subtleties of law had prevailed. Liberty, my lords, liberty has been the object of my life. He might about as well have sung a song or lifted his hat and given three cheers."

But Wilkes had triumphed. The crowds about Westminster Hall would not disperse until he appeared, and then held him with acclamations. He was attended to his house in Great George Street by an immense concourse. There were bonfires and illuminations.

May 6, 1763 Horace Walpole writes to Conway: "Wilkes, whose case has taken its place by the side of the Seven Bishops, calls himself the eighth – not quite improperly when one remembers that Sir Jonathan Trelawney, who swore like a trooper, was one of those confessors."

Parliament met in November. At the opening of the Commons, the Chancellor of the Exchequer and Mr. Wilkes rose from their seats at the same moment. The one with a

message from the King formally to acquaint the house with the proceedings against the North Briton; the other to complain of the breach of his privilege. The message was given precedence: the North Briton No. 45 was read the house voted it a scandalous and seditious libel calculated to excite traitorous insurrection, and ordered it to be burnt by the hangman. Wilkes' complaint of breach of privilege was put off until the next day.

In the House of Lords, there was a deeper plan. Wilkes upon his discharge had set up a press in his own house and reprinted the North Briton, No. 45. At the same press, he had also printed a parody upon Pope's Essay on Man, addressed to a famous courtesan of the time and entitled an "Essay on Woman," with notes, to which was appended the name of Dr. Warburton, the annotator of Pope. It was the joint composition of Wilkes and Potter and only twelve copies – the number of the order of St. Francis – were to have been printed. But an additional copy was secretly struck off and sold to a go-between of the government. Both text and note were as blasphemous and indecent as can be imagined, and the utmost to be said an apology was that they were not intended to be published. Not that Wilkes apologized. Upon the contrary, he treated the matter with customary indifference; only asking: "If a man make a favorite essay upon woman, should all the world see it?"

Warburton being now Bishop of Gloucester, and as such prelate in the House of Lords, the ministers at the opening of their session laid before them the "Essay on Woman" with notes purporting to be by one of their number. Parts were read until the house was too shocked to hear further, and voted it a most scandalous, obscene and impious libel and a breach of privilege against the person of the bishop.

It was then announced that the author was Mr. Wilkes, and the House voted to call him before them.

But the next morning, Wilkes was wounded in a duel with Martin a former Sec. of the Treasury under Bute, who had been abused in the North Briton and had nursed his wrath and practiced with a pistol meanwhile, and the proceedings in both houses were deferred. After more than a month, however, the Commons suspecting Wilkes had sufficiently recovered, cited him to appear. He pleaded his wound. A physician and surgeon were appointed for him. He declined their attendance. The house, he said, had ordered them to visit him, but had forgot to order him to receive them. He found it prudent to retire at once to France.

Meanwhile in the Court of Common Pleas, he had recovered against one of the under Secretaries a verdict of a thousand pounds for searching his house. The printers who had been arrested and their workmen had also recovered verdicts – fifteen in all, from two hundred to three hundred pounds each. Chief Justice Pratt charged the jury that to enter a man's house by virtue of a nameless warrant in order to procure evidence was worse than the Spanish Inquisition.

On the other hand, Wilkes had been convicted in the King's Bench upon criminal informations for reprinting the North Briton, No. 45, and for the Essay on Woman. Not

appearing to answer he was outlawed. "No man in his senses," wrote he from Paris, "would stand Mansfield's sentence upon the publisher of a paper declared by both houses scandalous and seditious."

In the House of Commons he was voted guilty of writing and publishing the North Briton, No. 45, and expelled; and Lords and Commons united in the declaration that the privilege of Parliament did not extend to a seditious libel. A resolution that general warrants were not consonant to law and liberty of the subject was voted down.

But the cause was taken up by the people. When the North Briton, No. 45 was to be burnt at the Royal Exchange, Cheapside, a mob arose, with the cry of "Wilkes and Liberty," and burned instead an effigy of Bute and the Princess, a jack-boot and a petticoat. The paper was torn from the hands of the hangman, and the fagots laid to consume it thrown at his head. Numbers of gentlemen from windows and balconies encouraged the mob.

When Williams, one of the printers, stood in the pillory, another mob gathered, upon the display of the figures 45.

Walpole writes to the Earl of Hertford, Feb. 14, 1765, "Williams, the re-printer of the North Briton, stood in the pillory today in palace yard. He went in a hackney coach, the number of which was 45. The mob erected a gallows opposite to him, upon which they hung a boot with a bonnet of straw. Then a collection was made for him, which amounted to near two hundred pounds."

In the Court of Common Pleas, general warrants were declared illegal, and upon writ of error, although the case stood over for a rehearing, the same opinion was expressed by the King's Bench. But the rehearing was never pressed. Popular opinion was strongly against the crown upon the question, and although up to that time been sanctioned by practice, general warrants have been ever since held illegal. A guarantee so essential to civil liberty that, in our own state and federal constitutions, it is made part of the fundamental law. "No warrant shall issue but upon probable cause supported by each (sic) or affirmation, and particularly describing the place to be searched and the persons and things to be seized."

Wilkes remained in France until the parliament that expelled him was upon the eve of dissolution, when he returned, and at the new election stood as a candidate for the city of London. He was defeated; but presented himself at once for Middlesex County.

The morning the polls opened, all the roads to Brentford, which was the polling place, were taken possession of by his followers. No one was permitted to pass without a blue cockade, or a ticket inscribed "Wilkes and Liberty, No. 45." One of George Selwyn's correspondents writes: "Squinting Wilkes and liberty are everything to us. It is scarce safe to go to the other side of Temple Bar without having that obloquy of vision." The mob pelted the rival candidate, and broke his coach glasses. Carriages were stopped and number 45 scratched upon the panels. The Austrian ambassador – the most stately and

ceremonious of men – was taken out of his coach, and that cabalistic number chalked on the sole of his boot.

At the close of the polls, Wilkes was declared elected.

Upon first presenting himself as a candidate, he had announced that at the meeting of the court of King's Bench, which was then in adjournment, he would appear and move to reverse the judgment of outlawry. This was a judgment which the law allowed to be rendered upon failure of every process of arrest, and which made a man's goods forfeit and left him incapable of suing for an injury; but did not subject him as sometimes popularly imagined to be knocked on the head by the first comer. Accordingly at the session of the king's bench after his election, Wilkes appeared.

Never did legal proceedings more strikingly exhibit the contrasts of the law, – the sense of its judgments, the nonsense of its forms. The court heard him in a speech not at all sparing of the Chief Justice, and then held he was not before then. Said Mansfield, "The attorney general has not thought proper to issue process against him, and now he comes into court gratis, voluntarily, not by any return of process or matter of record. We cannot take any notice in all of them. Nor can we know judicially that he is the man."

And so, Wilkes went away as he came.

But the attorney general finally consenting to the issue of process, he was taken into custody in due form; and although a mob gathered and drove off the officers, and on harnessing the horses from his hackney coach dragged him in triumph to the nearest tavern, he escaped out of a back door and made his own way to the King's Bench prison.

Thence he was brought out again before the court, and the question of the reversal of his outlawry was argued; and then Mansfield delivered his celebrated judgment, – celebrated for its eloquence and its vindication of the highest duty of a court.

"Audacious addresses in print, dictate to us, from those they call the people, the judgment to be given now and afterwards upon the conviction. Reasons of policy are argued, from danger to the kingdom, by commotions and general confusion.

"Give me leave to take the opportunity of this great and respectable audience to let the whole world know that all such attempts are vain. Unless we have been able to find an error which will bear us out, to reverse the outlawry, it must be affirmed. The Constitution does not allow reasons of state to influence our judgments, God forbid it should! We must not regard political consequences, how formidable soever they might be; if rebellion was the certain consequence, we are bound to say, 'fiat justia ruat coelum!'
x x x We have no election, x x x We are to say what we take the law to be; if we do not speak our real opinions, we prevaricate with God and our own consciences.

"I pass over many anonymous letters I have received. Those in print are public; and some of them have been brought judicially before the court. Whoever the writers are,

they take the wrong way. I will do my duty unawed. What am I to fear? That mendax inflamia from the press, which daily coins false facts and false motives? The lies of calumny carry no terror to me. x x x I honor the king and respect the people, but, many things acquired by the favor of either, are, in my account, objects not worth ambition. I wish popularity, but it is that popularity which follows, not that which is run after. It is that popularity which sooner or later never fails to do justice to the pursuit of noble ends. I will not do that which my conscience tells me is wrong, upon this occasion, to gain the huzzahs of thousands, or the daily praise of all the papers which come from the press. I will not avoid doing what I think is right, though it should draw on me the whole artillery of libels; all that falsehood and malice can invent, or the credulity of a deluded populace can swallow. x x x x ."

Nevertheless, the outlawry was reversed; but being merely a question of process and the verdict against Wilkes still remaining, he was fined five hundred pounds and imprisoned ten months for republishing the North Briton, No. 45, and five hundred pounds and twelve months for publishing the Essay on Woman – the latter imprisonment to be computed from the expiration of the former.

At the short session of Parliament that year, no notice was taken of Wilkes, but at the beginning of the next year, his petition for redress of grievances forced him upon their attention.

It had happened that upon his commitment to the King's bench prison, a crowd had collected in St. George's Fields waiting for him to come out, as it was ignorantly supposed he would, to take his seat in Parliament; and a riot breaking out and troops being called, three of the soldiers pursuing one of the crowd and coming up to an innocent person killed him. Thereupon, a letter that had been written by the Secretary of State to the magistrates counseling the effectual use of military force, was published in newspapers with prefatory remarks that showed how long the design had been planned before being carried into execution.

Wilks being now brought to the bar of the House and avowing that he had sent the letter and prefatory remarks to the printer, it was resolved: "That John Wilkes, Esq., a member of this house, who hath at the bar confessed himself to be the author and publisher of what this house has resolved to be an insolent, scandalous and seditious libel; and who has been convicted in the court of Kings Bench of having printed and published a seditious libel and three obscene and impious libels, and by the judgment of said court has been sentenced to undergo twenty two months imprisonment and is now in execution under the said judgment, be expelled this house."

Here was the beginning of a memorable chapter.

Upon a new writ for the election of a member for the county of Middlesex "in the room of Mr. Wilkes expelled," a public meeting was held of the freeholders, and it was unanimously resolved to reelect him. But this election was declared by the House of Commons void, and further "that Mr. Wilkes was and is incapable of being elected to the

present Parliament."

A new election was ordered. Again Wilkes was unanimously returned, and again the election was declared void and a new one ordered.

Colonel Butrell (sic), a man of high character was then brought forward as the government candidate, and again Wilkes was returned elected. The poll standing 1143 for him and 296 for Luttrell. But the House of Commons voted that Luttrell ought to have been returned and seated him; and in defiant answer to the protests that poured in from Middlesex, London, Westminster, and Southwark, formerly resolved that Henry Luttrell Esq., is duly elected a knight of the Shire to serve in the present Parliament for the County of Middlesex.

The nation was in an uproar. Petitions were presented from every part of the kingdom, praying for the dissolution of Parliament. The press was overburdened with the discussion. There were letters upon the subject in the newspapers under the pseudo-signatures of all the orators of Greek and Roman antiquity.

Johnson, on the side of the government, wrote "The False Alarm;" and Blackstone a number of pamphlets. The most redoubtable champion of the other side was Junius.

In the House of Commons, Lord Mansfield argued: "Wherever a court of Justice is Supreme, as the House of Commons in matters of election, the determination of that court must be received and submitted to as the law of the land. A question relating to the seat of one of their members can only be determined by that house, nor is there any appeal from their decision." But Chatham thundered in reply, "What is this mysterious power undefined by law which we must not approach without leave, nor speak of without reverence, which no man may question, and to which all men must submit. I thought the slavish doctrine of passive obedience had long since been exploded; and when our kings are obliged to confess that their title to the crown and the rule of their government have no other foundation than the known laws of the land, I had never expected to hear a divine right or a divine infallibility attributed to any other branch of the legislature. Power without might is the most odious and detestable object that can be offered to the human imagination: it is not only pernicious to those who are subject to it, but tends to its own destruction. — — — Tyranny is detestable in every way; but in none is it so formidable as when it is assumed and exercised by a number of tyrants."

Junius in his third letter to the Duke of Grafton pointed out the distinction: "you cannot but know that the right of the freeholders to their choice was as clear and indisputable as that of the House of Commons to exclude one of its own members nor is it possible for you not to see the wide difference there is between the negative power of rejecting one man, and the positive power of appointing another. The right of expulsion in the most favorable sense is no more than the custom of Parliament: the right of election is the very essence of the Constitution. To violate that right, and much more to transfer it to any other set of men is a step looking immediately to the dissolution of our government. — — — A House of Commons so formed would involve a contradiction and the grossest confusion of ideas: but there are some ministers, my Lord, whose views can only be

answered by reconciling the absurdities and making the same proposition which is false and absurd in argument, true in fact."

Wilks served out the full term of his sentence. During its continuance the Society of the Supporters of the Bill of Rights was organized upon the declaration of principles "that the man who suffers for the public should be supported by the public." This Society, besides the expenses of his living paid or compounded more than £20,000 of his debts. The Colonial Assembly of South Carolina voted him a contribution of £10,500 in colonial currency. From the island of St. Christopher came a considerable subscription. All sorts, game and wild-fowl, fruit, turkeys, and poultry were sent him almost daily from everywhere in England. Upon his discharge, he entered at once upon the office of alderman in London to which he had been elected while in confinement; and became afterwards successively High Sheriff and Lord Mayor. Upon the election of a new parliament he was unanimously re-chosen from Middlesex, and continued to sit nearly up to the time of his death. During the Lord George Gordon riots he gave active support to the government.

Johnson writes to Mrs. Thrale "Lord George was last night sent to the Tower. Mr. John Wilkes was this day in my neighborhood to seize the publisher of a seditious paper."

The resolutions incapacitating him because of his expulsion were expunged by the House of Commons twelve years afterwards; and ever since, in the law and practice of Parliament it has been the settled maxim that the expulsion of a member still leaves him capable of immediate reelection.

Thus, freedom of the elector, and personal freedom were assured. Two restrictions, one against a declaration of incapacity by a single house of Parliament, the other, against general warrants came to be engrafted upon the English Constitution. It was after a struggle ventured on alone by a single individual, but which in the end built up a great constituency behind him, and, but for his private character would have secured him the united support of the nation. Burke moralizes that it was "a tragi-comedy, acted by his Majesty's servants at the desire of several persons of quality for the benefit of Mr. Wilkes and at the expense of the Constitution." Walpole flippantly observes, "The right hand of Nonsense armed the King, and her left hand defended the subject. The lawyers on either side were employed in discovering springs and loop-holes." But its part in the evolution of what we call English liberty cannot be overestimated. Nor was there anything in the reign of Geo. III, not even the events which led to our own independence, that more strongly illustrated his obstinacy. The struggle had lasted ten years. His Majesty's ministers had met only with discomfiture; but yet he was loth that they should withdraw from further prosecution of the author of the North Briton, No. 45.

What, then, was that paper?

The North Briton, No. 45, was a review of the King's speech proroguing Parliament. It had been preceded by an advertisement in the papers, "The Scottish minister has retired. Is his influence at an end?" It began with what would now be regarded as his truism, that

the king's speech was the speech of the minister. It lamented that a prince of so many great and amiable qualities could be brought to give the sanction of his name to the most unjustifiable declarations from a throne ever renowned for truth and virtue. It was sure all foreigners, and especially the King of Prussia, would hold in contempt and abhorrence the minister who had made his sovereign declare "The powers at war with my good brother to King of Prussia have been induced to agree to such terms of accommodation as that great prince has proved, and the success which has attended my negotiations has necessarily and immediately defused the blessings of peace through every part of Europe." It affirmed that this was unparalleled effrontery and an infamous fallacy apparent to all mankind, for the King of Prussia did not barely approve, but dictated as a conqueror every article of the treaty, and was known by every Court in Europe, to have been basely deserted by the Scottish prime minister and to be scarcely on better terms at London than at Vienna.

It went on to complain that the minister even in the King's speech could not forbear the dull repetition of the word "economy"; asserted that the fact was notorious, that a multitude of unnecessary expenses had been incurred only to create more lucrative jobs for his creatures; that every preferment from the crown would be found still to be obtained by his influence and to be bestowed only on the creatures of his Scottish faction; and that it would be in vain for him or the final dregs of his power, the tools of corruption, to preach up the spirit of Concord. That a nation as sensible as the English would see that the spirit of Concord, when they were oppressed, could mean nothing but tame submission, and that the spirit which ought to arise was the spirit of liberty. That a desperate minister would always endeavor to dazzle his prince with high flown ideas of prerogatives, but that the true prerogative of the crown was to extend the constitutional powers entrusted to us in a way not of blind favor and partiality, but of wisdom and judgment. That the king of England was only the first magistrate of the country, responsible for the due execution of the Royal functions equally with the meanest of his subjects. The closing lines were "The people too have their prerogative, and I hope the fine words of Dryden will be engraved on our hearts, 'Freedom is the English subject's prerogative.'"

In these modern days familiar with the thunders of our daily Jupiters, the North Briton, No. 45, it must be confessed seems tame reading. "Unparalleled effrontery," "foul dregs of power," and "tools of corruption" are the utmost expressions and. But to understand the impression upon the public at the time and the hardihood of the author, we must go back.

Wilkes was the first political writer who wrote out his names in full; and this, too, at a time when the pillory was the almost certain punishment of political writing.

Addison in one of the Spectators, has thus pleasantly satirized the pamphleteers of his day: "Our party writers are so sensible of the secret virtue of an innuendo to recommend their productions, that of late they never mentioned the Q – n or P – t at length, though they speak of them with honor and with that deference which is due them from every private person. It gives a secret satisfaction to the peruser of these mysterious words that

he is able to decipher them without help, and by the strength of his own natural parts to fill up a blank space or make out a word that has only the first or last letter to it.

But this was not a mere affectation of writers for the press. To print the proceedings of either House or the name of the member was a breach of the privilege of Parliament, to criticize public men or measures was libel. Upon the trial of Bolingbroke's paper, "The Craftsman," Chief Justice Raymond charged: "The law reckons it a greater offense when the libel is pointed at a person in a public capacity, as it is a reproach to the king to employ corrupt and incapable persons. Such charges tend to sow sedition and disturb the peace of the kingdom."

A much greater judge, the greatest perhaps in the annals of England, Chief Justice Holt, said to the jury upon the trial of another printer that he was "surprised to be told a writing is not a libel which reflects upon the government and endeavors to possess the people with a notion that the government is administered by corrupt persons. If writers should not be called to account for possessing the people with an ill opinion of the government, no government can subsist."

Nor until Mr. Fox's bill, that juries should be permitted to judge of the character and tendency of the act alleged to be a crime as in other criminal cases, was the question of guilt or innocence in trials for libel left to them.

Thus, upon Woodfall's trial for publishing the celebrated letter of Junius to the king, Lord Mansfield charged the jury that "all they had to consider was whether the defendant had published the letter set out in the information, and whether the innuendos imprinting a particular meaning to particular words (as that "K" meant his Majesty, King George III) were true; but they were not to consider whether the publication was as alleged in the information false and malicious, these being mere formal words; and that whether the letter was libelous or innocent was a pure question of law upon which the opinion of the court might be taken by demurrer or a motion in arrest of judgment."

As to the law laid down by Coke, "The greater appearance there is of truth in any malicious invective, so much the more provoking it is," condensed by Mansfield into the shorter saying, "The greater the truth, the greater the libel," that resisted much longer in the struggle for liberty of the press. Until some years after the beginning of the reign of her present Majesty, the law of England continued to be such that the same satisfaction might have been afforded to a certain unmentionable personage as in the metrical version ascribed to Moore:

"For oh, it was nuts to the Father of Lies,
(as this wiley fiend is named in the Bible);
To find it settled by laws so wise,
That the greater the truth, the worse the libel."

The dash and the asterisk have become, therefore, the only refuge of the political writer. Not that the device would deceive any one; that upon the meaning of the innuendos it might leave room for the jury. The impression of astonishment at the first publication

that threw away this sole means of defense, was still upon the public mind when No. 45 was issued. The highest names, whether of statesmen or magistrates had been printed at length and the innuendos had gone still higher. The impression had been heightened by the number recounting the story of Mortimer, and the audacity of the author was fired by the supineness of the ministers of the crown. "I have tried them with Mortimer," was his exulting exclamation.

As natural objects come to assume undue proportions under certain conditions of the atmosphere, so it was with this celebrated paper. It gave the lie to the King, was the cry. But this was from the oversensitiveness of the time to freedom of political discussion. The North Briton, No 45, was not leveled at the King, but at the minister. And the ministers of the English government today, indeed, government leaders and chief executives of government everywhere have a much harder time of it with the newspapers. The century since then has made a vast change. The fourth estate is now greater than the rest.

W. L. Avery

Rev jnm 12/2012