

JUSTICE

Philip Thicknesse (1719–1792)

Saint Germain, 10 September 1766

Mr. Smollet somewhere says if a stranger dies in France, all his effects are seized for the King's use. This assertion alarmed me exceedingly; for though I have not much to be seized, I have more than I can in justice to my family risk upon my own life. I therefore made it my business to enquire strictly into this matter, and have reason to believe it is never done but when a stranger dies possessed of houses or land, and that their personal effects are not meddled with. Indeed I bought a second-hand coach, that was the property of an English gentleman who died in France, at the Hotel of the Duke of Richmond, where it was sent till properly claimed; and it was sold for the benefit of his English heirs, not the King of France. Besides, I am well-assured that one of our ambassadors procured an exemption from this law in favor of the English subjects who die here; and I am sure that the effects of Colonel Forrester, who died lately at Toulouse, was sold there for the benefit of his daughter in England. I do not mean to insinuate any false colouring is meant in Mr. Smollet's account; it is the general opinion and assertion of the French themselves; and an English lady, who has resided here many years, insisted upon it to me that it is so. Circumstanced, however, as I am, and known to people who partake often of the King's favour and friendship, I am in no pain about what little I have here; on the contrary, I intend very soon to come over to England in order to fetch my books and some other things I stand in need of; having obtained liberty of Madame La Comtesse de la Marck to address them to her, and her promise to procure an order that they shall be sent to my house upon a reliance that I will not abuse the confidence reposed in me; otherwise books must go to a kind of stationers' hall, and be very closely examined at Paris, and all kind of English household furniture is prohibited in France. It is much to be wondered at that so politic a nation should not remove every objection and give every encouragement to strangers to settle among them. I suppose their refusing Christian burial to all such who do not die in the faith of the church of Rome has deterred, and does continually deter, thousands from living, for fear of dying here. I think, however, I have got the better of these objections, having seen enough of life not to be over anxious how long I shall live; and quite indifferent when I am dead where I am buried. The Germans have a particular spot of ground at Paris for burying their dead under; and so might the English, if any English ambassador should ever think it worthwhile to make such a request; and it is in some measure necessary to prevent the expence of sending the dead bodies of such as myself over to England for interment.

It is very singular to observe, which every Englishman who lives at Paris must, that the most public transactions of this kingdom are first made known to the generality of people there by the English newspapers; and it is no less extraordinary to see the many flagrant falsities, and the often scandalous abuse of even the King and ministry of France lying publicly upon the tables of many coffee-houses in Paris. Were half as much said in any other manner than in an English newspaper, the publisher of such would soon shut up his shop.

What an infinite deal of abuse have I seen here thrown upon the King and people relative to the execution of the young man at Abbeville! It is true, I believe, when the relations of this unhappy youth (who are people of condition) applied to the King for his pardon, the King absolutely refused it, making (as I have been assured) this sensible and modest reply; "No. Was not Damien tore to death by horses for assaulting me, an earthly King; and shall I pardon those who insult the King of kings?" I cannot, without some degree of resentment, read the many cooked-up stories which are continually in the English newspapers reflecting so often on the severity and injustice of so humane a prince as the King of France. Those who know human nature best should rather look upon a despotic king of such a kingdom as this (whose single word is a law) with admiration and astonishment that he is not (intoxicated with such an unlimited power) abusing it every hour by acts of injustice and oppression, as other absolute princes do; instead of inflicting no punishment upon any delinquent, but by a formal course of law. If judges are corrupt, that is a king's misfortune, not his fault; and judges may be corrupt in all kingdoms.

Notwithstanding our boasted liberty in England, I will never call it a free country while the doctrine of libels stands upon the footing it now does. By the laws of England, a libel is to be tried in the county where it was published; the reason is obvious, because there the jury and neighbours are supposed to be best acquainted with the person libeled and the intention of the libeler; and therefore if the jury had a power to fine or imprison the offender according to their opinion of the heinousness of the offence, it would be a very just and proper mode of punishing libelers. In all other cases a jury knows that if they find a man guilty of felony, he must be hanged, and for petty thefts transported; but the jury that finds a man guilty of publishing a libel knows not his punishment; they not only find him guilty of publishing a certain paper, but they find him guilty of publishing whatever kind of explanation an artful, or a wicked attorney will set forth, and insinuate to be the author's meaning in the paper published; six months after the

conviction, the offender is to appear in Westminster Hall to receive judgment for the offence from a judge who knows nothing of the merits of the cause but as it is reported to him; and there may be sentenced to have his nose slit, his ears cut off, or nailed to the pillory, or both, imprisoned for life, fined, and high securities demanded that he may be unable to procure; and thus a man, who has only in print or writing exposed the wickedness or cowardice of his neighbour and, perhaps, not exceeded the truth, is liable to a more grievous punishment than even death itself. It may be said, on the other side, but what judge will inflict so grievous a punishment for so slight an offence? To which I reply, none, perhaps, of the present upright judges of the King's Bench. But suppose a wicked or corrupt judge should ever preside there, who may be libeled himself for his mal-administration of justice; such a judge would become a party concerned against every libeler; and such a judge has it in his power to inflict the punishments I have mentioned above, and that too for an offence that the jury who found the guilt would not have fined the offender twenty pounds for, had the power been vested, as it ought, in them. While this law is maintained in England, I will maintain it that no law is more, if so, grievous. However trivial the crime of the young man executed at Abbeville may appear in the eyes of us Protestants, he was certainly guilty of a high offence against the religion and laws of his country, and therefore merited punishment. Crimes are not capital in proportion to the real heinousness of the offence, but in proportion as society is injured. The man that steals a guinea from me upon the public highway is hanged; but the man that robs me of my good name in private passes with impunity, and often with applause.

Philip Thicknesse *Observations on the Customs and Manners of the French Nation* (1766):71–77.