

without sufficient cause; and, that in this kingdom it cannot ever be abridged at the mere discretion of the magistrate, without the explicit permission of the laws. Here again the language of the great charterⁱ is, that no freeman shall be taken or imprisoned, but by the lawful judgment of his equals, or by the law of the land. And many subsequent old statutes^k expressly direct, that no man shall be taken or imprisoned by suggestion or petition to the king, or his council, unless it be by legal indictment, or the process of the common law. By the petition of right, 3 Car. I. it is enacted, that no freeman shall be imprisoned or detained without cause shewn, to which he may make answer according to law. By 16 Car. I. c. 10. if any person be restrained of his liberty by order or decree of any illegal court, or by command of the king's majesty in person, or by warrant of the council board, or of any of the privy council; he shall, upon demand of his counsel, have a writ of *habeas corpus*, to bring his body before the court of king's bench or common pleas; who shall determine whether the cause of his commitment be just, and thereupon do as to justice shall appertain. And by 31 Car. II. c. 2. commonly called *the habeas corpus act*, the methods of obtaining this writ are so plainly pointed out and enforced, that, so long as this statute remains unimpeached, no subject of England can be long detained in prison, except in those cases in which the law requires and justifies such detainer. And, lest this act should be evaded by demanding unreasonable bail, or sureties for the prisoner's appearance, it is declared by 1 W. & M. st. 2. c. 2. that excessive bail ought not to be required.

OF great importance to the public is the preservation of this personal liberty: for if once it were left in the power of any, the highest, magistrate to imprison arbitrarily whomever he or his officers thought proper, (as in France it is daily practiced by the crown) there would soon be an end to all other rights and immunities. Some have thought, that unjust attacks, even upon life, or property, at the arbitrary will of the magistrate, are less dan-

ⁱ c. 29.^k 5 Edw. III. c. 9. 25 Edw. III. st. 5. c. 4. 28 Edw. III. c. 3.
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